

E AND R AMENDMENTS TO LB 950

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 23-2306, Revised Statutes Supplement,
4 2009, is amended to read:

5 23-2306 (1) The membership of the retirement system shall
6 be composed of all persons who are or were employed by member
7 counties and who maintain an account balance with the retirement
8 system.

9 (2) The following employees of member counties are
10 authorized to participate in the retirement system: (a) All
11 permanent full-time employees shall begin participation in the
12 retirement system upon employment and full-time elected officials
13 shall begin participation in the retirement system upon taking
14 office, (b) all permanent part-time employees who have attained
15 the age of twenty years may exercise the option to begin
16 participation in the retirement system, and (c) all part-time
17 elected officials may exercise the option to begin participation
18 in the retirement system. An employee who exercises the option to
19 begin participation in the retirement system shall remain in the
20 system until termination or retirement, regardless of any change of
21 status as a permanent or temporary employee.

22 (3) On and after the operative date of this act, no
23 employee of a member county shall be authorized to participate

1 in the retirement system provided for in the County Employees
2 Retirement Act unless the employee (a) is a United States citizen
3 or (b) is a qualified alien under the federal Immigration and
4 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
5 January 1, 2009, and is lawfully present in the United States.

6 ~~(3)~~ (4) Within the first one hundred eighty days of
7 employment, a full-time employee may apply to the board for
8 vesting credit for years of participation in another Nebraska
9 governmental plan, as defined by section 414(d) of the Internal
10 Revenue Code. During the years of participation in the other
11 Nebraska governmental plan, the employee must have been a full-time
12 employee, as defined in the Nebraska governmental plan in which
13 the credit was earned. The board may adopt and promulgate rules
14 and regulations governing the assessment and granting of vesting
15 credit.

16 ~~(4)~~ (5) Any employee who qualifies for membership in the
17 retirement system pursuant to this section may not be disqualified
18 from membership in the retirement system solely because such
19 employee also maintains separate employment which qualifies the
20 employee for membership in another public retirement system,
21 nor may membership in this retirement system disqualify such an
22 employee from membership in another public retirement system solely
23 by reason of separate employment which qualifies such employee for
24 membership in this retirement system.

25 ~~(5)~~ (6) A full-time or part-time employee of a city,
26 village, or township who becomes a county employee pursuant to a
27 merger of services shall receive vesting credit for his or her

1 years of participation in a Nebraska governmental plan, as defined
2 by section 414(d) of the Internal Revenue Code, of the city,
3 village, or township.

4 ~~(6)~~ (7) A full-time or part-time employee of a city,
5 village, fire protection district, or township who becomes a
6 municipal county employee shall receive credit for his or her years
7 of employment with the city, village, fire protection district, or
8 township for purposes of the vesting provisions of this section.

9 ~~(7)~~ (8) Counties shall ensure that employees authorized
10 to participate in the retirement system pursuant to this section
11 shall enroll and make required contributions to the retirement
12 system immediately upon becoming an employee. Information necessary
13 to determine membership in the retirement system shall be provided
14 by the employer.

15 Sec. 2. Section 23-2308.01, Revised Statutes Supplement,
16 2009, is amended to read:

17 23-2308.01 (1) It is the intent of the Legislature that,
18 in order to improve the competitiveness of the retirement plan
19 for county employees, a cash balance benefit shall be added to
20 the County Employees Retirement Act on and after January 1, 2003.
21 Each member who is employed and participating in the retirement
22 system prior to January 1, 2003, may either elect to continue
23 participation in the defined contribution benefit as provided in
24 the act prior to January 1, 2003, or elect to participate in the
25 cash balance benefit as set forth in this section. The member
26 shall make the election prior to January 1, 2003, or on or after
27 November 1, 2007, but before January 1, 2008. If no election

1 is made prior to January 1, 2003, or on or after November 1,
2 2007, but before January 1, 2008, the member shall be treated as
3 though he or she elected to continue participating in the defined
4 contribution benefit as provided in the act prior to January 1,
5 2003. Members who elect to participate in the cash balance benefit
6 on or after November 1, 2007, but before January 1, 2008, shall
7 commence participation in the cash balance benefit on January 1,
8 2008. Any member who made the election prior to January 1, 2003,
9 does not have to reelect the cash balance benefit on or after
10 November 1, 2007, but before January 1, 2008. A member employed
11 and participating in the retirement system prior to January 1,
12 2003, who terminates employment on or after January 1, 2003, and
13 returns to employment prior to having a five-year break in service
14 shall participate in the cash balance benefit as set forth in this
15 section.

16 (2) For a member employed and participating in the
17 retirement system beginning on and after January 1, 2003, or a
18 member employed and participating in the retirement system on
19 January 1, 2003, who, prior to January 1, 2003, or on or after
20 November 1, 2007, but before January 1, 2008, elects to convert his
21 or her employee and employer accounts to the cash balance benefit:

22 (a) The employee cash balance account shall, at any time,
23 be equal to the following:

24 (i) The initial employee account balance, if any,
25 transferred from the defined contribution plan account described in
26 section 23-2309; plus

27 (ii) Employee contribution credits deposited in

1 accordance with section 23-2307; plus

2 (iii) Interest credits credited in accordance with
3 subdivision (19) of section 23-2301; plus

4 (iv) Dividend amounts credited in accordance with
5 subdivision (4)(c) of section 23-2317; and

6 (b) The employer cash balance account shall, at any time,
7 be equal to the following:

8 (i) The initial employer account balance, if any,
9 transferred from the defined contribution plan account described in
10 section 23-2310; plus

11 (ii) Employer contribution credits deposited in
12 accordance with section 23-2308; plus

13 (iii) Interest credits credited in accordance with
14 subdivision (19) of section 23-2301; plus

15 (iv) Dividend amounts credited in accordance with
16 subdivision (4)(c) of section 23-2317.

17 (3) In order to carry out the provisions of this section,
18 the board may enter into administrative services agreements for
19 accounting or record-keeping services. No agreement shall be
20 entered into unless the board determines that it will result
21 in administrative economy and will be in the best interests of the
22 counties and their participating employees. The board may develop
23 a schedule for the allocation of the administrative services
24 agreements costs for accounting or record-keeping services and may
25 assess the costs so that each member pays a reasonable fee as
26 determined by the board. ~~The money forfeited pursuant to section~~
27 ~~23-2319.01 shall not be used to pay the administrative costs~~

1 ~~incurred pursuant to this subsection.~~

2 Sec. 3. Section 23-2309.01, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 23-2309.01 (1) Each member employed and participating in
5 the retirement system prior to January 1, 2003, who has elected
6 not to participate in the cash balance benefit, shall be allowed
7 to allocate all contributions to his or her employee account to
8 various investment options. The investment options shall include,
9 but not be limited to, the following:

10 (a) An investor select account which shall be invested
11 under the direction of the state investment officer with an asset
12 allocation and investment strategy substantially similar to the
13 investment allocations made by the state investment officer for
14 the defined benefit plans under the retirement systems described
15 in subdivision (1)(a) of section 84-1503. Investments shall most
16 likely include domestic and international equities, fixed income
17 investments, and real estate, as well as potentially additional
18 asset classes;

19 (b) A stable return account which shall be invested by or
20 under the direction of the state investment officer in one or more
21 guaranteed investment contracts;

22 (c) An equities account which shall be invested by or
23 under the direction of the state investment officer in equities;

24 (d) A balanced account which shall be invested by or
25 under the direction of the state investment officer in equities and
26 fixed income instruments;

27 (e) An index fund account which shall be invested by or

1 under the direction of the state investment officer in a portfolio
2 of common stocks designed to closely duplicate the total return of
3 the Standard and Poor's 500 Index;

4 (f) A fixed income account which shall be invested by or
5 under the direction of the state investment officer in fixed income
6 instruments;

7 (g) A money market account which shall be invested by or
8 under the direction of the state investment officer in short-term
9 fixed income securities; and

10 (h) Beginning July 1, 2006, an age-based account which
11 shall be invested under the direction of the state investment
12 officer with an asset allocation and investment strategy that
13 changes based upon the age of the member. The board shall
14 develop an account mechanism that changes the investments as
15 the employee nears retirement age. The asset allocation and asset
16 classes utilized in the investments shall move from aggressive, to
17 moderate, and then to conservative as retirement age approaches.

18 If a member fails to select an option or combination of
19 options, all of his or her funds shall be placed in the option
20 described in subdivision (b) of this subsection. Each member shall
21 be given a detailed current description of each investment option
22 prior to making or revising his or her allocation.

23 (2) Members of the retirement system may allocate their
24 contributions to the investment options in percentage increments as
25 set by the board in any proportion, including full allocation to
26 any one option. A member under subdivision (1) of section 23-2321
27 or his or her beneficiary may transfer any portion of his or her

1 funds among the options, except for restrictions on transfers to or
2 from the stable return account pursuant to rule or regulation. The
3 board shall adopt and promulgate rules and regulations for changes
4 of a member's allocation of contributions to his or her accounts
5 after his or her most recent allocation and for transfers from one
6 investment account to another.

7 (3) The board shall develop a schedule for the allocation
8 of administrative costs of maintaining the various investment
9 options and shall assess the costs so that each member pays a
10 reasonable fee as determined by the board. ~~The money forfeited~~
11 ~~pursuant to section 23-2319.01 shall not be used to pay the~~
12 ~~administrative costs incurred pursuant to this section.~~

13 (4) In order to carry out this section, the board
14 may enter into administrative services agreements for accounting
15 or record-keeping services. No agreement shall be entered into
16 unless the board determines that it will result in administrative
17 economy and will be in the best interests of the county and its
18 participating employees.

19 (5) The state, the board, the state investment officer,
20 the members of the Nebraska Investment Council, or the county
21 shall not be liable for any investment results resulting from
22 the member's exercise of control over the assets in the employee
23 account.

24 Sec. 4. Section 23-2310.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 23-2310.04 (1) The County Employees Defined Contribution
27 Retirement Expense Fund is created. The fund shall be credited

1 with money forfeited pursuant to section 23-2319.01 and with money
2 from the retirement system assets and income sufficient to pay the
3 pro rata share of administrative expenses incurred as directed by
4 the board for the proper administration of the County Employees
5 Retirement Act and necessary in connection with the administration
6 and operation of the retirement system. ~~7 except as provided in~~
7 ~~sections 23-2308.01, 23-2309.01, 23-2310, and 23-2310.05.~~ Any money
8 in the fund available for investment shall be invested by the state
9 investment officer pursuant to the Nebraska Capital Expansion Act
10 and the Nebraska State Funds Investment Act.

11 (2) The County Employees Cash Balance Retirement Expense
12 Fund is created. The fund shall be credited with money forfeited
13 pursuant to section 23-2319.01 and with money from the retirement
14 system assets and income sufficient to pay the pro rata share of
15 administrative expenses incurred as directed by the board for the
16 proper administration of the County Employees Retirement Act and
17 necessary in connection with the administration and operation
18 of the retirement system. ~~7 except as provided in sections~~
19 ~~23-2308.01, 23-2309.01, 23-2310, and 23-2310.05.~~ Any money in
20 the fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act
22 and the Nebraska State Funds Investment Act.

23 Sec. 5. Section 23-2310.05, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 23-2310.05 (1) Each member employed and participating in
26 the retirement system prior to January 1, 2003, who has elected
27 not to participate in the cash balance benefit, shall be allowed

1 to allocate all contributions to his or her employer account to
2 various investment options. Such investment options shall be the
3 same as the investment options of the employee account as provided
4 in subsection (1) of section 23-2309.01. If a member fails to
5 select an option or combination of options, all of his or her funds
6 in the employer account shall be placed in the balanced account
7 option described in subdivision (1)(d) of section 23-2309.01.
8 Each member shall be given a detailed current description of
9 each investment option prior to making or revising his or her
10 allocation.

11 (2) Each member of the retirement system may allocate
12 contributions to his or her employer account to the investment
13 options in percentage increments as set by the board in any
14 proportion, including full allocation to any one option. A member
15 under subdivision (1) of section 23-2321 or his or her beneficiary
16 may transfer any portion of his or her funds among the options. The
17 board shall adopt and promulgate rules and regulations for changes
18 of a member's allocation of contributions to his or her accounts
19 after his or her most recent allocation and for transfers from one
20 investment account to another.

21 (3) The board shall develop a schedule for the allocation
22 of administrative costs of maintaining the various investment
23 options and shall assess the costs so that each member pays a
24 reasonable fee as determined by the board. ~~The money forfeited~~
25 ~~pursuant to section 23-2319.01 shall not be used to pay the~~
26 ~~administrative costs incurred pursuant to this section.~~

27 (4) In order to carry out the provisions of this section,

1 the board may enter into administrative services agreements for
2 accounting or record-keeping services. No agreement shall be
3 entered into unless the board determines that it will result
4 in administrative economy and will be in the best interests of the
5 state and participating employees.

6 (5) The state, the board, the state investment officer,
7 the members of the Nebraska Investment Council, or the county
8 shall not be liable for any investment results resulting from
9 the member's exercise of control over the assets in the employer
10 account.

11 Sec. 6. Section 23-2315.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 23-2315.01 (1) Any member, disregarding the length of
14 service, may be retired as a result of disability either upon
15 his or her own application or upon the application of his or her
16 employer or any person acting in his or her behalf. Before any
17 member may be so retired, a medical examination shall be made
18 at the expense of the retirement system, which examination shall
19 be conducted by a disinterested physician legally authorized to
20 practice medicine under the laws of the state in which he or she
21 practices, such physician to be selected by the retirement board,
22 and the physician shall certify to the board that the member should
23 be retired because he or she suffers from an inability to engage
24 in a substantially gainful activity by reason of any medically
25 determinable physical or mental impairment which began while the
26 member was a participant in the plan and which can be expected to
27 result in death or to be of long-continued and indefinite duration.

1 The application for disability retirement shall be made within one
2 year of termination of employment.

3 (2) The retirement board may require any disability
4 beneficiary who has not attained the age of ~~sixty-five~~ fifty-five
5 to undergo a medical examination at the expense of the board once
6 each year. Should any disability beneficiary refuse to undergo such
7 an examination, his or her disability retirement benefit may be
8 discontinued by the board.

9 Sec. 7. Section 23-2319.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 23-2319.02 ~~(1)~~ The County Employer Retirement Expense
12 Fund shall be used to meet expenses of the county employees
13 retirement system whether such expenses are incurred in
14 administering the member's employer account or in administering the
15 member's employer cash balance account when the funds available in
16 the County Employees Defined Contribution Retirement Expense Fund
17 or County Employees Cash Balance Retirement Expense Fund make such
18 use reasonably necessary.

19 ~~(2) The State Employer Retirement Expense Fund shall be~~
20 ~~used to meet expenses of the State Employees Retirement System~~
21 ~~of the State of Nebraska whether such expenses are incurred in~~
22 ~~administering the member's employer account or in administering the~~
23 ~~member's employer cash balance account when the funds available in~~
24 ~~the State Employees Defined Contribution Retirement Expense Fund or~~
25 ~~State Employees Cash Balance Retirement Expense Fund make such use~~
26 ~~reasonably necessary.~~

27 Sec. 8. Section 24-701.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 24-701.01 Sections 24-701 to 24-714 and section 9 of this
3 act shall be known and may be cited as the Judges Retirement Act.

4 Sec. 9. On and after the operative date of this act, no
5 judge shall be authorized to participate in the retirement system
6 provided for in the Judges Retirement Act unless the judge (a) is a
7 United States citizen or (b) is a qualified alien under the federal
8 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act
9 existed on January 1, 2009, and is lawfully present in the United
10 States.

11 Sec. 10. Section 24-710.07, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 24-710.07 (1) Beginning July 1, 2000, and each July 1
14 thereafter, current benefits paid to a member or beneficiary shall
15 be adjusted so that the purchasing power of the benefit being paid
16 is not less than seventy-five percent of the purchasing power of
17 the initial benefit. The purchasing power of the initial benefit in
18 any year following the year in which the initial benefit commenced
19 shall be calculated by dividing the United States Department of
20 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
21 Wage Earners and Clerical Workers factor on June 30 of the current
22 year by the Consumer Price Index for Urban Wage Earners and
23 Clerical Workers factor on June 30 of the year in which the benefit
24 commenced. The result shall be multiplied by the product that
25 results when the amount of the initial benefit is multiplied by
26 seventy-five percent. In any year in which applying the adjustment
27 provided in subsection (2) of this section results in a benefit

1 which would be less than seventy-five percent of the purchasing
2 power of the initial benefit as calculated above, the adjustment
3 shall instead be equal to the percentage change in the Consumer
4 Price Index for Urban Wage Earners and Clerical Workers factor
5 from the prior year to the current year. In all other years, the
6 adjustment provided under subsection (2) of this section shall
7 be provided. The adjustment pursuant to this subsection shall not
8 cause a current benefit to be reduced.

9 (2) Except as provided in subsection (1) of this section:

10 (a) Beginning July 1, 2000, and until July 1, 2001, the
11 current benefit of a member or the beneficiary of such a member
12 shall be increased annually by the lesser of (i) the percentage
13 change in the Consumer Price Index for Urban Wage Earners and
14 Clerical Workers factor published by the Bureau of Labor Statistics
15 of the United States Department of Labor for the prior year or (ii)
16 two percent; and

17 (b) Beginning July 1, 2001, the current benefit of a
18 member or the beneficiary of such a member shall be increased
19 annually by the lesser of (i) the percentage change in the Consumer
20 Price Index for Urban Wage Earners and Clerical Workers factor
21 published by the Bureau of Labor Statistics of the United States
22 Department of Labor for the prior year or (ii) two and one-half
23 percent.

24 (3) The state shall contribute to the Nebraska Retirement
25 Fund for Judges an annual level dollar payment certified by the
26 board. For the 1996-97 fiscal year through the ~~2010-11~~ 2012-13
27 fiscal year, the annual level dollar payment certified by the

1 board shall equal 1.04778 percent of six million eight hundred
2 ninety-five thousand dollars.

3 (4) The board shall adjust the annual benefit adjustment
4 provided in this section so that the total amount of all
5 cost-of-living adjustments provided to the eligible retiree at
6 the time of the annual benefit adjustment does not exceed the
7 percentage change in the National Consumer Price Index for Urban
8 Wage Earners and Clerical Workers factor published by the Bureau
9 of Labor Statistics for the period between June 30 of the prior
10 year to June 30 of the present year. If the consumer price index
11 used in this section is discontinued or replaced, a substitute
12 index published by the United States Department of Labor shall be
13 selected by the board which shall be a reasonable representative
14 measurement of the cost of living for retired employees.

15 Sec. 11. Section 79-902, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-902 For purposes of the School Employees Retirement
18 Act, unless the context otherwise requires:

19 (1) Accumulated contributions means the sum of all
20 amounts deducted from the compensation of a member and credited
21 to his or her individual account in the School Retirement
22 Fund together with regular interest thereon, compounded monthly,
23 quarterly, semiannually, or annually;

24 (2) Beneficiary means any person in receipt of a school
25 retirement allowance or other benefit provided by the act;

26 (3) Member means any person who has an account in the
27 School Retirement Fund;

1 (4) County school official means (a) until July 1, 2000,
2 the county superintendent or district superintendent and any person
3 serving in his or her office who is required by law to have
4 a teacher's certificate and (b) on or after July 1, 2000, the
5 county superintendent, county school administrator, or district
6 superintendent and any person serving in his or her office who is
7 required by law to have a teacher's certificate;

8 (5) Creditable service means prior service for which
9 credit is granted under sections 79-926 to 79-929, service credit
10 purchased under sections 79-933.03 to 79-933.06 and 79-933.08,
11 and all service rendered while a contributing member of the
12 retirement system. Creditable service includes working days, sick
13 days, vacation days, holidays, and any other leave days for which
14 the employee is paid regular wages as part of the employee's
15 agreement with the employer. Creditable service does not include
16 lump-sum payments to the employee upon termination or retirement
17 in lieu of accrued benefits for such days, eligibility and vesting
18 credit, nor service years for which member contributions are
19 withdrawn and not repaid. Creditable service also does not include
20 service rendered by a member for which the retirement board
21 determines that the member was paid less in compensation than the
22 minimum wage as provided in the Wage and Hour Act or service which
23 the board determines was rendered with the intent to defraud the
24 retirement system;

25 (6) Disability retirement allowance means the annuity
26 paid to a person upon retirement for disability under section
27 79-952;

1 (7) Employer means the State of Nebraska or any
2 subdivision thereof or agency of the state or subdivision
3 authorized by law to hire school employees or to pay their
4 compensation;

5 (8) Fiscal year means any year beginning July 1 and
6 ending June 30 next following;

7 (9) Regular interest means interest fixed at a rate equal
8 to the daily treasury yield curve for one-year treasury securities,
9 as published by the Secretary of the Treasury of the United States,
10 that applies on July 1 of each year, which may be credited monthly,
11 quarterly, semiannually, or annually as the board may direct;

12 (10) School employee means a contributing member who
13 earns service credit pursuant to section 79-927. For purposes of
14 this section, contributing member means the following persons who
15 receive compensation from a public school: (a) Regular employees;
16 (b) regular employees having retired pursuant to the School
17 Employees Retirement Act who subsequently provide compensated
18 service on a regular basis in any capacity; and (c) regular
19 employees hired by a public school on an ongoing basis to
20 assume the duties of other regular employees who are temporarily
21 absent. Substitute employees and temporary employees shall not be
22 considered school employees;

23 (11) Prior service means service rendered as a school
24 employee in the public schools of the State of Nebraska prior to
25 July 1, 1945;

26 (12) Public school means any and all schools offering
27 instruction in elementary or high school grades, as defined in

1 section 79-101, which schools are supported by public funds and are
2 wholly under the control and management of the State of Nebraska
3 or any subdivision thereof, including (a) schools or other entities
4 established, maintained, and controlled by the school boards of
5 local school districts, except Class V school districts, (b) any
6 educational service unit, and (c) any other educational institution
7 wholly supported by public funds, except schools under the control
8 and management of the Board of Trustees of the Nebraska State
9 Colleges, the Board of Regents of the University of Nebraska, or
10 the community college boards of governors for any community college
11 areas;

12 (13) Retirement means qualifying for and accepting a
13 school or disability retirement allowance granted under the School
14 Employees Retirement Act;

15 (14) Retirement board or board means the Public Employees
16 Retirement Board;

17 (15) Retirement system means the School Retirement System
18 of the State of Nebraska;

19 (16) Required deposit means the deduction from a member's
20 compensation as provided for in section 79-958 which shall be
21 deposited in the School Retirement Fund;

22 (17) School year means one fiscal year which includes
23 not less than one thousand instructional hours or, in the case of
24 service in the State of Nebraska prior to July 1, 1945, not less
25 than seventy-five percent of the then legal school year;

26 (18) Service means employment as a school employee and
27 shall not be deemed interrupted by (a) termination at the end of

1 the school year of the contract of employment of an employee in a
2 public school if the employee enters into a contract of employment
3 in any public school, except a school in a Class V school district,
4 for the following school year, (b) temporary or seasonal suspension
5 of service that does not terminate the employee's employment,
6 (c) leave of absence authorized by the employer for a period
7 not exceeding twelve months, (d) leave of absence because of
8 disability, or (e) military service when properly authorized by
9 the retirement board. Service does not include any period of
10 disability for which disability retirement benefits are received
11 under sections 79-951 to 79-953;

12 (19) School retirement allowance means the total of the
13 savings annuity and the service annuity or formula annuity paid a
14 person who has retired under sections 79-931 to 79-935. The monthly
15 payments shall be payable at the end of each calendar month during
16 the life of a retired member. The first payment shall include all
17 amounts accrued since the effective date of the award of annuity.
18 The last payment shall be at the end of the calendar month in which
19 such member dies or in accordance with the payment option chosen by
20 the member;

21 (20) Service annuity means payments for life, made in
22 equal monthly installments, derived from appropriations made by the
23 State of Nebraska to the retirement system;

24 (21) State deposit means the deposit by the state in the
25 retirement system on behalf of any member;

26 (22) State school official means the Commissioner of
27 Education and his or her professional staff who are required by law

1 or by the State Department of Education to hold a certificate as
2 such term is defined in section 79-807;

3 (23) Savings annuity means payments for life, made in
4 equal monthly payments, derived from the accumulated contributions
5 of a member;

6 (24) Emeritus member means a person (a) who has entered
7 retirement under the provisions of the act, including those persons
8 who have retired since July 1, 1945, under any other regularly
9 established retirement or pension system as contemplated by section
10 79-916, (b) who has thereafter been reemployed in any capacity
11 by a public school, a Class V school district, or a school
12 under the control and management of the Board of Trustees of the
13 Nebraska State Colleges, the Board of Regents of the University of
14 Nebraska, or a community college board of governors or has become
15 a state school official or county school official subsequent to
16 such retirement, and (c) who has applied to the board for emeritus
17 membership in the retirement system. The school district or agency
18 shall certify to the retirement board on forms prescribed by the
19 retirement board that the annuitant was reemployed, rendered a
20 service, and was paid by the district or agency for such services;

21 (25) Actuarial equivalent means the equality in value of
22 the aggregate amounts expected to be received under different forms
23 of payment. The determinations shall be based on the 1994 Group
24 Annuity Mortality Table reflecting sex-distinct factors blended
25 using twenty-five percent of the male table and seventy-five
26 percent of the female table. An interest rate of eight percent
27 per annum shall be reflected in making these determinations except

1 when a lump-sum settlement is made to an estate. If the lump-sum
2 settlement is made to an estate, the interest rate will be
3 determined by the Moody's Triple A Bond Index as of the prior June
4 30, rounded to the next lower quarter percent;

5 (26) Retirement date means (a) if the member has
6 terminated employment, the first day of the month following the
7 date upon which a member's request for retirement is received on
8 a retirement application provided by the retirement system or (b)
9 if the member has filed an application but has not yet terminated
10 employment, the first day of the month following the date on which
11 the member terminates employment. An application may be filed no
12 more than ninety days prior to the effective date of the member's
13 initial benefit;

14 (27) Disability retirement date means the first day of
15 the month following the date upon which a member's request for
16 disability retirement is received on a retirement application
17 provided by the retirement system if the member has terminated
18 employment in the school system and has complied with sections
19 79-951 to 79-954 as such sections refer to disability retirement;

20 (28) Retirement application means the form approved by
21 the retirement system for acceptance of a member's request for
22 either regular or disability retirement;

23 (29) Eligibility and vesting credit means credit for
24 years, or a fraction of a year, of participation in a Nebraska
25 government plan for purposes of determining eligibility for
26 benefits under the School Employees Retirement Act. Such credit
27 shall not be included as years of creditable service in the benefit

1 calculation;

2 (30) (a) Final average compensation means the sum of the
3 member's total compensation during the three twelve-month periods
4 of service as a school employee in which such compensation was the
5 greatest divided by thirty-six.

6 (b) If a member has such compensation for less than
7 thirty-six months, his or her final average compensation shall be
8 determined by dividing his or her total compensation in all months
9 by the total number of months of his or her creditable service
10 therefor.

11 (c) Payments under the Retirement Incentive Plan pursuant
12 to section 79-855 and Staff Development Assistance pursuant to
13 section 79-856 shall not be included in the determination of final
14 average compensation;

15 (31) Plan year means the twelve-month period beginning on
16 July 1 and ending on June 30 of the following year;

17 (32) Current benefit means (a) until July 1, 2000, the
18 initial benefit increased by all adjustments made pursuant to
19 section 79-947.02 and (b) on or after July 1, 2000, the initial
20 benefit increased by all adjustments made pursuant to the School
21 Employees Retirement Act;

22 (33) Initial benefit means the retirement benefit
23 calculated at the time of retirement;

24 (34) Surviving spouse means (a) the spouse married to
25 the member on the date of the member's death or (b) the spouse
26 or former spouse of the member if survivorship rights are provided
27 under a qualified domestic relations order filed with the board

1 pursuant to the Spousal Pension Rights Act. The spouse or former
2 spouse shall supersede the spouse married to the member on the
3 date of the member's death as provided under a qualified domestic
4 relations order. If the benefits payable to the spouse or former
5 spouse under a qualified domestic relations order are less than
6 the value of benefits entitled to the surviving spouse, the spouse
7 married to the member on the date of the member's death shall be
8 the surviving spouse for the balance of the benefits;

9 (35) (a) Compensation means gross wages or salaries
10 payable to the member for personal services performed during the
11 plan year and includes (i) overtime pay, (ii) member retirement
12 contributions, (iii) retroactive salary payments paid pursuant to
13 court order, arbitration, or litigation and grievance settlements,
14 and (iv) amounts contributed by the member to plans under sections
15 125, 403(b), and 457 of the Internal Revenue Code as defined in
16 section 49-801.01 or any other section of the code which defers or
17 excludes such amounts from income.

18 (b) Compensation does not include (i) fraudulently
19 obtained amounts as determined by the retirement board, (ii)
20 amounts for unused sick leave or unused vacation leave converted
21 to cash payments, (iii) insurance premiums converted into cash
22 payments, (iv) reimbursement for expenses incurred, (v) fringe
23 benefits, (vi) bonuses for services not actually rendered,
24 including, but not limited to, early retirement inducements, cash
25 awards, and severance pay, or (vii) beginning on September 4, 2005,
26 employer contributions made for the purposes of separation payments
27 made at retirement and early retirement inducements as provided for

1 in section 79-514.

2 (c) Compensation in excess of the limitations set forth
3 in section 401(a)(17) of the Internal Revenue Code as defined
4 in section 49-801.01 shall be disregarded. For an employee who
5 was a member of the retirement system before the first plan year
6 beginning after December 31, 1995, the limitation on compensation
7 shall not be less than the amount which was allowed to be taken
8 into account under the retirement system as in effect on July 1,
9 1993.

10 (d)(i) In the determination of compensation for members
11 on or after July 1, 2002, through June 30, 2005, that part of
12 a member's compensation for the fiscal year which exceeds the
13 member's compensation with the same employer for the preceding
14 fiscal year by more than ten percent shall be excluded unless
15 (A) the member experienced a substantial change in employment
16 position or (B) the excess compensation occurred as the result
17 of a collective-bargaining agreement between the employer and
18 a recognized collective-bargaining unit or category of school
19 employee.

20 (ii) For purposes of this subdivision:

21 (A) Category of school employee means either all
22 employees of the employer who are administrators or certificated
23 teachers, or all employees of the employer who are not
24 administrators or certificated teachers, or both; and

25 (B) Recognized collective-bargaining unit means a group
26 of employees similarly situated with a similar community of
27 interest appropriate for bargaining recognized as such by a school

1 board.

2 (e) (i) In the determination of compensation for members
3 on or after July 1, 2005, that part of a member's compensation
4 for the plan year which exceeds the member's compensation with
5 the same employer for the preceding plan year by more than seven
6 percent of the compensation base during the sixty months preceding
7 the member's retirement shall be excluded unless (A) the member
8 experienced a substantial change in employment position, (B) as
9 verified by the school board, the excess compensation above seven
10 percent occurred as the result of a collective-bargaining agreement
11 between the employer and a recognized collective-bargaining unit
12 or category of school employee, and the percentage increase
13 in compensation above seven percent shall not be excluded for
14 employees outside of a collective-bargaining unit or within the
15 same category of school employee, or (C) the excess compensation
16 occurred as the result of a districtwide permanent benefit change
17 made by the employer for a category of school employee in
18 accordance with subdivision (35) (a) (iv) of this section.

19 (ii) For purposes of this subdivision:

20 (A) Category of school employee means either all
21 employees of the employer who are administrators or certificated
22 teachers, or all employees of the employer who are not
23 administrators or certificated teachers, or both;

24 (B) Compensation base means (I) for current members
25 employed with the same employer, the member's compensation for the
26 plan year ending June 30, 2005, or (II) for members newly hired or
27 hired by a separate employer on or after July 1, 2005, the member's

1 compensation for the first full plan year following the member's
2 date of hiring. Thereafter, the member's compensation base shall
3 be increased each plan year by the lesser of seven percent of the
4 member's preceding plan year's compensation base or the member's
5 actual annual compensation increase during the preceding plan year;
6 and

7 (C) Recognized collective-bargaining unit means a group
8 of employees similarly situated with a similar community of
9 interest appropriate for bargaining recognized as such by a school
10 board;

11 (36) Termination of employment occurs on the date on
12 which the member experiences a bona fide separation from service of
13 employment with the member's current employer, the date of which
14 separation is determined by the employer. The employer shall notify
15 the board of the date on which such a termination has occurred.
16 ~~Termination of employment does not include ceasing employment if~~
17 ~~the member subsequently provides service on a regular basis in~~
18 ~~any capacity for any school district other than a Class V school~~
19 ~~district within one hundred eighty calendar days after ceasing~~
20 ~~employment or if the board determines that a purported termination~~
21 ~~was not a bona fide separation from service with the employer; A~~
22 member shall not be deemed to have terminated employment if the
23 member subsequently provides service to any employer participating
24 in the retirement system provided for in the School Employees
25 Retirement Act within one hundred eighty calendar days after
26 ceasing employment unless such service:

27 (a) Is voluntary or substitute service provided on an

1 intermittent basis; or

2 (b) Is as provided in subsection (2) of section 79-920.

3 A member shall not be deemed to have terminated
4 employment if the board determines that a purported termination was
5 not a bona fide separation from service with the employer;

6 (37) Disability means an inability to engage in a
7 substantially gainful activity by reason of any medically
8 determinable physical or mental impairment which can be expected to
9 result in death or be of a long and indefinite duration;

10 (38) Substitute employee means a person hired by a public
11 school as a temporary employee ~~on an intermittent basis~~ to assume
12 the duties of regular employees due to the temporary absence of the
13 regular employees. Substitute employee does not mean a person hired
14 as a regular employee on an ongoing basis to assume the duties of
15 other regular employees who are temporarily absent;

16 (39) Participation means qualifying for and making
17 required deposits to the retirement system during the course of a
18 plan year;

19 (40) Regular employee means an employee hired by a public
20 school or under contract in a regular full-time or part-time
21 position who works a full-time or part-time schedule on an ongoing
22 basis for fifteen or more hours per week. An employee hired as
23 described in this subdivision to provide service for less than
24 fifteen hours per week but who provides service for an average
25 of fifteen hours or more per week in each calendar month of any
26 three calendar months of a plan year shall immediately commence
27 contributions and shall be deemed a regular employee; and

1 (41) Temporary employee means an employee hired by a
2 public school who is not a regular employee and who is hired
3 to provide service for a limited period of time to accomplish a
4 specific purpose or task. When such specific purpose or task is
5 complete, the employment of such temporary employee shall terminate
6 and in no case shall the temporary employment period exceed one
7 year in duration.

8 Sec. 12. Section 79-910.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 79-910.01 (1) ~~Except for substitute employees,~~ Each
11 person employed by a public school who is a school employee and
12 who is qualified to participate in the retirement system shall
13 participate in the retirement system.

14 (2) Public schools shall ensure that all school employees
15 who qualify for participation pursuant to this section shall begin
16 annual participation on July 1 of each plan year or upon such
17 person's date of hire, if later than July 1, and that all required
18 deposits are made on behalf of such employees.

19 Sec. 13. Section 79-915, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 79-915 (1) Persons residing outside of the United States
22 and engaged temporarily as school employees in the State of
23 Nebraska shall not become members of the retirement system.

24 (2) On and after the operative date of this act,
25 no school employee shall be authorized to participate in the
26 retirement system provided for in the School Employees Retirement
27 Act unless the employee (a) is a United States citizen or (b) is a

1 qualified alien under the federal Immigration and Nationality Act,
2 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and
3 is lawfully present in the United States.

4 Sec. 14. Section 79-920, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 79-920 (1) An individual who was, prior to July 19, 1980,
7 a state school official and did not become a member of the State
8 Employees Retirement System of the State of Nebraska pursuant to
9 the State Employees Retirement Act may, within sixty days after
10 September 1, 1986, elect to become a member of such system. An
11 individual so electing shall pay the contributions required by such
12 system when the service and minimum age requirements have been met.

13 ~~(2)~~ (2)(a) An individual (i) who is currently or was
14 previously a school employee or who was employed in an out-of-state
15 or a Class V school district, (ii) and who becomes employed by
16 the State Department of Education after July 1, 1989, regardless
17 of position, and (iii) who is a state school official may file
18 with the retirement board within thirty days after employment an
19 election to become or remain a member of the School Retirement
20 System of the State of Nebraska. Employees electing not to
21 participate in the School Retirement System shall participate
22 in, or, within thirty days after employment in the department, the
23 individual may file an election to become a member of the State
24 Employees Retirement System of the State of Nebraska.

25 (b) An individual shall be required to participate in the
26 State Employees Retirement System if (i) the individual terminated
27 employment from a public school participating in the School

1 Retirement System and retired pursuant to the School Employees
2 Retirement Act and (ii) the employment by the State Department of
3 Education began or will begin within one hundred eighty days after
4 terminating employment from the school. The individual shall pay
5 the contributions required by the system which he or she elects
6 when all eligibility requirements are met.

7 (3) If the employee elects to join the State Employees
8 Retirement System of the State of Nebraska, such employee shall
9 be eligible for immediate participation in the State Employees
10 Retirement System of the State of Nebraska with no minimum
11 period of service if the minimum age and length of service
12 requirements under the State Employees Retirement System of the
13 State of Nebraska or the School Retirement System of the State of
14 Nebraska have been met and the requirements met are equal to the
15 requirements of the State Employees Retirement System of the State
16 of Nebraska.

17 (4) A state school official employed by the State
18 Department of Education after July 1, 1989, may elect to become a
19 member of the School Retirement System of the State of Nebraska or
20 the State Employees Retirement System of the State of Nebraska.

21 (5) (3) An employee electing not to be covered by the
22 School Retirement System of the State of Nebraska under this
23 section shall not be subject to section 79-957 but shall be allowed
24 to retain his or her accumulated contribution in the system and
25 continue to become vested in the state's accumulated contribution
26 as well as the State Employees Retirement System of the State of
27 Nebraska according to the following:

1 (a) The years of participation in the School Retirement
2 System of the State of Nebraska before an election is made plus
3 the years of participation in the State Employees Retirement System
4 of the State of Nebraska after the election is made shall both be
5 credited toward compliance with the service requirements provided
6 under section 79-931; and

7 (b) The years of participation in the School Retirement
8 System of the State of Nebraska before the election is made plus
9 the years of participation in the State Employees Retirement System
10 of the State of Nebraska after the election is made shall both be
11 credited toward compliance with section 84-1321.

12 Sec. 15. Section 79-947.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 79-947.01 (1) Beginning July 1, 2000, and each July 1
15 thereafter, current benefits paid to a member or beneficiary shall
16 be adjusted so that the purchasing power of the benefit being paid
17 is not less than seventy-five percent of the purchasing power of
18 the initial benefit. The purchasing power of the initial benefit in
19 any year following the year in which the initial benefit commenced
20 shall be calculated by dividing the United States Department of
21 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
22 Wage Earners and Clerical Workers factor on June 30 of the current
23 year by the Consumer Price Index for Urban Wage Earners and
24 Clerical Workers factor on June 30 of the year in which the benefit
25 commenced. The result shall be multiplied by the product that
26 results when the amount of the initial benefit is multiplied by
27 seventy-five percent. In any year in which applying the adjustment

1 provided in subsection (2) of this section results in a benefit
2 which would be less than seventy-five percent of the purchasing
3 power of the initial benefit as calculated above, the adjustment
4 shall instead be equal to the percentage change in the Consumer
5 Price Index for Urban Wage Earners and Clerical Workers factor
6 from the prior year to the current year. In all other years, the
7 adjustment provided under subsection (2) of this section shall
8 be provided. The adjustment pursuant to this subsection shall not
9 cause a current benefit to be reduced.

10 (2) Except as provided in subsection (1) of this section:

11 (a) Beginning July 1, 2000, and until July 1, 2001, the
12 current benefit of a member or the beneficiary of such a member
13 shall be increased annually by the lesser of (i) the percentage
14 change in the Consumer Price Index for Urban Wage Earners and
15 Clerical Workers factor published by the Bureau of Labor Statistics
16 of the United States Department of Labor for the prior year or (ii)
17 two percent; and

18 (b) Beginning July 1, 2001, the current benefit to a
19 member or the beneficiary of such a member shall be increased
20 annually by the lesser of (i) the percentage change in the Consumer
21 Price Index for Urban Wage Earners and Clerical Workers factor
22 published by the Bureau of Labor Statistics of the United States
23 Department of Labor for the prior year or (ii) two and one-half
24 percent.

25 (3) The state shall contribute to the Annuity Reserve
26 Fund an annual level dollar payment certified by the board. For
27 the 1996-97 fiscal year through the ~~2010-11~~ 2012-13 fiscal year,

1 the annual level dollar payment certified by the board shall equal
2 81.7873 percent of six million eight hundred ninety-five thousand
3 dollars.

4 (4) The retirement board shall adjust the annual benefit
5 adjustment provided in this section so that the total amount of
6 all cost-of-living adjustments provided to the eligible retiree
7 at the time of the annual benefit adjustment does not exceed the
8 percentage change in the National Consumer Price Index for Urban
9 Wage Earners and Clerical Workers factor published by the Bureau
10 of Labor Statistics for the period between June 30 of the prior
11 year to June 30 of the present year. If the consumer price index
12 used in this section is discontinued or replaced, a substitute
13 index published by the United States Department of Labor shall be
14 selected by the board which shall be a reasonable representative
15 measurement of the cost of living for retired employees.

16 (5) In addition to the adjustments provided in
17 subsections (1), (2), and (4) of this section, the current benefit
18 to a member or beneficiary of such member, and for which the first
19 payment was dated on or before June 30, 2007, shall be subject to
20 adjustment of the greater of (a) the annuity payable to the member
21 or beneficiary as adjusted, if applicable, under the provisions
22 of subsection (1), (2), or (4) of this section or (b) eighty-five
23 percent of the annuity which results when the original annuity that
24 was paid to the member or beneficiary, before any cost-of-living
25 adjustments under this section, is adjusted by the increase in the
26 Consumer Price Index for Urban Wage Earners and Clerical Workers
27 for the period between the commencement date of the annuity and

1 June 30, 2007.

2 Sec. 16. Section 79-951, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-951 (1) A member shall be retired on account of
5 disability, either upon his or her own application or the
6 application of his or her employer or a person acting in his
7 or her behalf, if a medical examination, made at the expense of
8 the retirement system and conducted by a competent disinterested
9 physician legally authorized to practice medicine under the laws of
10 the state in which he or she practices, selected by the retirement
11 board, shows and the physician certifies to the retirement board
12 that the member is unable to engage in a substantially gainful
13 activity by reason of any medically determinable physical or mental
14 impairment which began while the member was a participant in the
15 plan and which can be expected to result in death or be of
16 a long and indefinite duration. The medical examination may be
17 waived if, in the judgment of the retirement board, extraordinary
18 circumstances exist which preclude substantial gainful activity by
19 the member. Such circumstances shall include hospice placement or
20 similar confinement for a terminal illness or injury.

21 (2) The member shall have five years from the date he or
22 she terminates employment in a public school located in Nebraska
23 in which to make application for disability retirement benefits if
24 the disability is related to employment in a public school located
25 in Nebraska. If the disability is not related to a public school
26 located in Nebraska, the member shall have one year from the date
27 he or she terminates employment in which to make application for

1 disability retirement benefits. Any application for retirement on
2 account of disability shall be made on a retirement application
3 provided by the retirement system. Upon approval by the board,
4 benefits shall begin on the disability retirement date.

5 Sec. 17. Section 79-978, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-978 For purposes of the Class V School Employees
8 Retirement Act, unless the context otherwise requires:

9 (1) Retirement system or system means the School
10 Employees' Retirement System of (corporate name of the school
11 district as described in section 79-405) as provided for by the
12 act;

13 (2) Board means the board of education of the school
14 district;

15 (3) Trustee means a trustee provided for in section
16 79-980;

17 (4) Employee means the following enumerated persons
18 receiving compensation from the school district: (a) Regular
19 teachers and administrators employed on a written contract basis;
20 and (b) regular employees, not included in subdivision (4)(a) of
21 this section, hired upon a full-time basis, which basis shall
22 contemplate a workweek of not less than thirty hours;

23 (5) Member means any employee included in the membership
24 of the retirement system or any former employee who has made
25 contributions to the system and has not received a refund;

26 (6) Annuitant means any member receiving an allowance;

27 (7) Beneficiary means any person entitled to receive or

1 receiving a benefit by reason of the death of a member;

2 (8) Membership service means service on or after
3 September 1, 1951, as an employee of the school district and a
4 member of the system for which compensation is paid by the school
5 district. Credit for more than one year of membership service
6 shall not be allowed for service rendered in any fiscal year.
7 Beginning September 1, 2005, a member shall be credited with a year
8 of membership service for each fiscal year in which the member
9 performs one thousand or more hours of compensated service as an
10 employee of the school district. An hour of compensated service
11 shall include any hour for which the member is compensated by
12 the school district during periods where no service is performed
13 due to vacation or approved leave. If a member performs less
14 than one thousand hours of compensated service during a fiscal
15 year, one-tenth of a year of membership service shall be credited
16 for each one hundred hours of compensated service by the member
17 in such fiscal year. In determining a member's total membership
18 service, all periods of membership service, including fractional
19 years of membership service in one-tenth-year increments, shall be
20 aggregated;

21 (9) Prior service means service rendered prior to
22 September 1, 1951, for which credit is allowed under section
23 79-999, service rendered by retired employees receiving benefits
24 under preexisting systems, and service for which credit is allowed
25 under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

26 (10) Creditable service means the sum of the membership
27 service and the prior service, measured in one-tenth-year

1 increments;

2 (11) Compensation means salary or wages payable by the
3 school district before reduction for contributions picked up under
4 section 414(h) of the Internal Revenue Code, elective contributions
5 made pursuant to section 125 or 403(b) of the code, or amounts
6 not currently includible in income by reason of section 132(f)(4)
7 of the code, subject to the applicable limitations of section
8 401(a)(17) of the code;

9 (12) Military service means service in the uniformed
10 services as defined in 38 U.S.C. ~~chapter 43~~, 4301 et seq., as such
11 provision existed on March 27, 1997;

12 (13) Accumulated contributions means the sum of amounts
13 contributed by a member of the system together with regular
14 interest credited thereon;

15 (14) Regular interest means interest (a) on the total
16 contributions of the member prior to the close of the last
17 preceding fiscal year, (b) compounded annually, and (c) at rates
18 to be determined annually by the board, which shall have the
19 sole, absolute, and final discretionary authority to make such
20 determination, except that the rate for any given year in no event
21 shall exceed the actual percentage of net earnings of the system
22 during the last preceding fiscal year;

23 (15) Retirement date means the date of retirement of a
24 member for service or disability as fixed by the board;

25 (16) Normal retirement date means the end of the month
26 during which the member attains age sixty-five and has completed at
27 least five years of membership service;

1 (17) Early retirement date means that month and year
2 selected by a member having at least ten years of creditable
3 service which includes a minimum of five years of membership
4 service and who has attained age fifty-five;

5 (18) Retirement allowance means the total annual
6 retirement benefit payable to a member for service or disability;

7 (19) Annuity means annual payments, for both prior
8 service and membership service, for life as provided in the
9 ~~act;~~ Class V School Employees Retirement Act;

10 (20) Actuarial tables means:

11 (a) For determining the actuarial equivalent of any
12 annuities other than joint and survivorship annuities, a unisex
13 mortality table using twenty-five percent of the male mortality
14 and seventy-five percent of the female mortality from the 1994
15 Group Annuity Mortality Table with a One Year Setback and using an
16 interest rate of eight percent compounded annually; and

17 (b) For joint and survivorship annuities, a unisex
18 retiree mortality table using sixty-five percent of the male
19 mortality and thirty-five percent of the female mortality from the
20 1994 Group Annuity Mortality Table with a One Year Setback and
21 using an interest rate of eight percent compounded annually and a
22 unisex joint annuitant mortality table using thirty-five percent of
23 the male mortality and sixty-five percent of the female mortality
24 from the 1994 Group Annuity Mortality Table with a One Year Setback
25 and using an interest rate of eight percent compounded annually;

26 (21) Actuarial equivalent means the equality in value of
27 the retirement allowance for early retirement or the retirement

1 allowance for an optional form of annuity, or both, with the normal
2 form of the annuity to be paid, as determined by the application of
3 the appropriate actuarial table, except that use of such actuarial
4 tables shall not effect a reduction in benefits accrued prior to
5 September 1, 1985, as determined by the actuarial tables in use
6 prior to such date;

7 (22) Fiscal year means the period beginning September 1
8 in any year and ending on August 31 of the next succeeding year;

9 (23) Primary beneficiary means the person or persons
10 entitled to receive or receiving a benefit by reason of the death
11 of a member; and

12 (24) Secondary beneficiary means the person or persons
13 entitled to receive or receiving a benefit by reason of the death
14 of all primary beneficiaries prior to the death of the member. If
15 no primary beneficiary survives the member, secondary beneficiaries
16 shall be treated in the same manner as primary beneficiaries.

17 Sec. 18. Section 79-990, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 79-990 (1) Any member who is eligible for reemployment
20 on or after December 12, 1994, pursuant to 38 U.S.C. ~~chapter 43,~~
21 4301 et seq., as adopted under section 55-161, or who is eligible
22 for reemployment under section 55-160 may pay to the retirement
23 system after the date of his or her return from active military
24 service, and within the period required by law, not to exceed
25 five years, an amount equal to the sum of all deductions which
26 would have been made from the salary which he or she would have
27 received during the period of military service for which creditable

1 service is desired. If such payment is made, the member shall be
2 entitled to credit for membership service in determining his or
3 her annuity for the period for which contributions have been made
4 and the board shall be responsible for any funding necessary to
5 provide for the benefit which is attributable to this increase in
6 the member's creditable service. The member's payments shall be
7 paid as the trustees may direct, through direct payments to the
8 retirement system or on an installment basis pursuant to a binding
9 irrevocable payroll deduction authorization between the member and
10 the school district. Creditable service may be purchased only in
11 one-tenth-year increments, starting with the most recent years'
12 salary.

13 (2) Under such rules and regulations as the board may
14 prescribe, any member who was away from his or her position while
15 on a leave of absence from such position authorized by the board of
16 education of the school district by which he or she was employed at
17 the time of such leave of absence or pursuant to any contractual
18 agreement entered into by such school district may receive credit
19 for any or all time he or she was on leave of absence. Such
20 time shall be included in creditable service when determining
21 eligibility for death, disability, termination, and retirement
22 benefits. The member who receives the credit shall earn benefits
23 during the leave based on salary at the level received immediately
24 prior to the leave of absence. Such credit shall be received if
25 such member pays into the retirement system (a) an amount equal
26 to the sum of the deductions from his or her salary for the
27 portion of the leave for which creditable service is desired,

1 (b) any contribution which the school district would have been
2 required to make for the portion of the leave for which creditable
3 service is desired had he or she continued to receive salary at
4 the level received immediately prior to the leave of absence,
5 and (c) regular interest on these combined payments from the date
6 such deductions would have been made to the date of repayment.
7 Such amounts shall be paid as the trustees may direct, through
8 direct payments to the retirement system or on an installment basis
9 pursuant to a binding irrevocable payroll deduction authorization
10 between the member and the school district over a period not to
11 exceed five years from the date of the termination of his or her
12 leave of absence. Interest on any delayed payment shall be at
13 the rate of regular interest. Creditable service may be purchased
14 only in one-tenth-year increments, starting with the most recent
15 years' salary, and if payments are made on an installment basis,
16 creditable service will be credited only as payment has been made
17 to the retirement system to purchase each additional one-tenth-year
18 increment. Leave of absence shall be construed to include, but
19 not be limited to, sabbaticals, maternity leave, exchange teaching
20 programs, full-time leave as an elected official of a professional
21 association or collective-bargaining unit, or leave of absence to
22 pursue further education or study. A leave of absence granted
23 pursuant to this section shall not exceed four years in length, and
24 in order to receive credit for the leave of absence, the member
25 must have returned to employment with the school district within
26 one year after termination of the leave of absence.

27 (3) Until one year after May 2, 2001, any member

1 currently employed by the school district who resigned from
2 full-time employment with the school district for maternity
3 purposes prior to September 1, 1979, and was reemployed as a
4 full-time employee by the school district before the end of the
5 school year following the school year of such member's resignation
6 may have such absence treated as though the absence was a leave of
7 absence described in subsection (2) of this section. The period of
8 such absence for maternity purposes shall be included in creditable
9 service when determining the member's eligibility for death,
10 disability, termination, and retirement benefits if the member
11 submits satisfactory proof to the board that the prior resignation
12 was for maternity purposes and the member complies with the payment
13 provisions of subsection (2) of this section before the one-year
14 anniversary of May 2, 2001.

15 Sec. 19. Section 81-2016, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-2016 (1) Every member of the Nebraska State Patrol
18 who was employed by the State of Nebraska as such, on September
19 7, 1947, and every person employed as a member of such patrol
20 thereafter, shall be a member of the system, except for those
21 members of the Nebraska State Patrol who elected pursuant to
22 section 60-1304 to remain members of the State Employees Retirement
23 System of the State of Nebraska. On and after the operative date
24 of this act, no employee shall be authorized to participate in
25 the retirement system provided for in the Nebraska State Patrol
26 Retirement Act unless the employee (a) is a United States citizen
27 or (b) is a qualified alien under the federal Immigration and

1 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
2 January 1, 2009, and is lawfully present in the United States.

3 (2) Within the first thirty days of employment, a member
4 may apply to the board for eligibility and vesting credit for years
5 of participation in another Nebraska governmental plan, as defined
6 by section 414(d) of the Internal Revenue Code. During the years of
7 participation in the other Nebraska governmental plan, the employee
8 must have been a full-time employee, as defined in the Nebraska
9 governmental plan in which the credit was earned.

10 (3) Any officer who qualifies for membership pursuant
11 to subsection (1) of this section may not be disqualified from
12 membership in the retirement system solely because such officer
13 also maintains separate employment which qualifies the officer
14 for membership in another public retirement system, nor may
15 membership in this retirement system disqualify such an officer
16 from membership in another public retirement system solely by
17 reason of separate employment which qualifies such officer for
18 membership in this retirement system.

19 (4) Information necessary to determine membership shall
20 be provided by the Nebraska State Patrol.

21 (5) The board may adopt and promulgate rules and
22 regulations governing the assessment and granting of eligibility
23 and vesting credit.

24 Sec. 20. Section 81-2027.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-2027.03 (1) Beginning July 1, 2000, and each July 1
27 thereafter, current benefits paid to a member or beneficiary shall

1 be adjusted so that the purchasing power of the benefit being paid
2 is not less than sixty percent of the purchasing power of the
3 initial benefit. The purchasing power of the initial benefit in
4 any year following the year in which the initial benefit commenced
5 shall be calculated by dividing the United States Department of
6 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
7 Wage Earners and Clerical Workers factor on June 30 of the current
8 year by the Consumer Price Index for Urban Wage Earners and
9 Clerical Workers factor on June 30 of the year in which the
10 benefit commenced. The result shall be multiplied by the product
11 that results when the amount of the initial benefit is multiplied
12 by sixty percent. In any year in which applying the adjustment
13 provided in subsection (2) of this section results in a benefit
14 which would be less than sixty percent of the purchasing power
15 of the initial benefit as calculated above, the adjustment shall
16 instead be equal to the percentage change in the Consumer Price
17 Index for Urban Wage Earners and Clerical Workers factor from the
18 prior year to the current year. In all other years, the adjustment
19 provided under subsection (2) of this section shall be provided.
20 The adjustment pursuant to this subsection shall not cause a
21 current benefit to be reduced.

22 (2) Except as provided in subsection (1) of this section:

23 (a) Beginning July 1, 2000, and until July 1, 2001, the
24 current benefit of a member or the beneficiary of such a member
25 shall be increased annually by the lesser of (i) the percentage
26 change in the Consumer Price Index for Urban Wage Earners and
27 Clerical Workers factor published by the Bureau of Labor Statistics

1 of the United States Department of Labor for the prior year or (ii)
2 two percent; and

3 (b) Beginning July 1, 2001, the current benefit of a
4 member or the beneficiary of such a member shall be increased
5 annually by the lesser of (i) the percentage change in the Consumer
6 Price Index for Urban Wage Earners and Clerical Workers factor
7 published by the Bureau of Labor Statistics of the United States
8 Department of Labor for the prior year or (ii) two and one-half
9 percent.

10 (3) The state shall contribute to the State Patrol
11 Retirement Fund an annual level dollar payment certified by the
12 board. For the 1996-97 fiscal year through the ~~2010-11~~ 2012-13
13 fiscal year, the annual level dollar payment certified by the
14 board shall equal 3.04888 percent of six million eight hundred
15 ninety-five thousand dollars.

16 (4) The board shall adjust the annual benefit adjustment
17 provided in this section so that the total amount of all
18 cost-of-living adjustments provided to the eligible retiree at
19 the time of the annual benefit adjustment does not exceed the
20 percentage change in the National Consumer Price Index for Urban
21 Wage Earners and Clerical Workers factor published by the Bureau
22 of Labor Statistics for the period between June 30 of the prior
23 year to June 30 of the present year. If the consumer price index
24 used in this section is discontinued or replaced, a substitute
25 index published by the United States Department of Labor shall be
26 selected by the board which shall be a reasonable representative
27 measurement of the cost of living for retired employees.

1 Sec. 21. Section 84-1307, Revised Statutes Supplement,
2 2009, is amended to read:

3 84-1307 (1) The membership of the retirement system shall
4 be composed of all persons who are or were employed by the State
5 of Nebraska and who maintain an account balance with the retirement
6 system.

7 (2) The following employees of the State of Nebraska
8 are authorized to participate in the retirement system: (a) All
9 permanent full-time employees shall begin participation in the
10 retirement system upon employment; and (b) all permanent part-time
11 employees who have attained the age of twenty years may exercise
12 the option to begin participation in the retirement system. An
13 employee who exercises the option to begin participation in the
14 retirement system pursuant to this section shall remain in the
15 retirement system until his or her termination of employment or
16 retirement, regardless of any change of status as a permanent or
17 temporary employee.

18 (3) On and after the operative date of this act, no
19 employee shall be authorized to participate in the retirement
20 system provided for in the State Employees Retirement Act unless
21 the employee (a) is a United States citizen or (b) is a qualified
22 alien under the federal Immigration and Nationality Act, 8 U.S.C.
23 1101 et seq., as such act existed on January 1, 2009, and is
24 lawfully present in the United States.

25 ~~(3)~~ (4) For purposes of this section, (a) permanent
26 full-time employees includes employees of the Legislature or
27 Legislative Council who work one-half or more of the regularly

1 scheduled hours during each pay period of the legislative session
2 and (b) permanent part-time employees includes employees of the
3 Legislature or Legislative Council who work less than one-half
4 of the regularly scheduled hours during each pay period of the
5 legislative session.

6 ~~(4)~~ (5) Within the first one hundred eighty days of
7 employment, a full-time employee may apply to the board for
8 vesting credit for years of participation in another Nebraska
9 governmental plan, as defined by section 414(d) of the Internal
10 Revenue Code. During the years of participation in the other
11 Nebraska governmental plan, the employee must have been a full-time
12 employee, as defined in the Nebraska governmental plan in which
13 the credit was earned. The board may adopt and promulgate rules
14 and regulations governing the assessment and granting of vesting
15 credit.

16 ~~(5)~~ (6) Any employee who qualifies for membership in
17 the retirement system pursuant to this section may not be
18 disqualified for membership in the retirement system solely because
19 such employee also maintains separate employment which qualifies
20 the employee for membership in another public retirement system,
21 nor may membership in this retirement system disqualify such an
22 employee from membership in another public employment system solely
23 by reason of separate employment which qualifies such employee for
24 membership in this retirement system.

25 ~~(6)~~ (7) State agencies shall ensure that employees
26 authorized to participate in the retirement system pursuant to
27 this section shall enroll and make required contributions to

1 the retirement system immediately upon becoming an employee.
2 Information necessary to determine membership in the retirement
3 system shall be provided by the employer.

4 Sec. 22. Section 84-1309.02, Revised Statutes Supplement,
5 2009, is amended to read:

6 84-1309.02 (1) It is the intent of the Legislature that,
7 in order to improve the competitiveness of the retirement plan for
8 state employees, a cash balance benefit shall be added to the State
9 Employees Retirement Act on and after January 1, 2003. Each member
10 who is employed and participating in the retirement system prior
11 to January 1, 2003, may either elect to continue participation
12 in the defined contribution benefit as provided in the act prior
13 to January 1, 2003, or elect to participate in the cash balance
14 benefit as set forth in this section. The member shall make the
15 election prior to January 1, 2003, or on or after November 1, 2007,
16 but before January 1, 2008. If no election is made prior to January
17 1, 2003, or on or after November 1, 2007, but before January 1,
18 2008, the member shall be treated as though he or she elected
19 to continue participating in the defined contribution benefit as
20 provided in the act prior to January 1, 2003. Members who elect
21 to participate in the cash balance benefit on or after November
22 1, 2007, but before January 1, 2008, shall commence participation
23 in the cash balance benefit on January 1, 2008. Any member who
24 made the election prior to January 1, 2003, does not have to
25 reelect the cash balance benefit on or after November 1, 2007,
26 but before January 1, 2008. A member employed and participating
27 in the retirement system prior to January 1, 2003, who terminates

1 employment on or after January 1, 2003, and returns to employment
2 prior to having a five-year break in service shall participate in
3 the cash balance benefit as set forth in this section.

4 (2) For a member employed and participating in the
5 retirement system beginning on and after January 1, 2003, or a
6 member employed and participating in the retirement system on
7 January 1, 2003, who, prior to January 1, 2003, or on or after
8 November 1, 2007, but before January 1, 2008, elects to convert his
9 or her employee and employer accounts to the cash balance benefit:

10 (a) The employee cash balance account shall, at any time,
11 be equal to the following:

12 (i) The initial employee account balance, if any,
13 transferred from the defined contribution plan account described in
14 section 84-1310; plus

15 (ii) Employee contribution credits deposited in
16 accordance with section 84-1308; plus

17 (iii) Interest credits credited in accordance with
18 subdivision (18) of section 84-1301; plus

19 (iv) Dividend amounts credited in accordance with
20 subdivision (4)(c) of section 84-1319; and

21 (b) The employer cash balance account shall, at any time,
22 be equal to the following:

23 (i) The initial employer account balance, if any,
24 transferred from the defined contribution plan account described in
25 section 84-1311; plus

26 (ii) Employer contribution credits deposited in
27 accordance with section 84-1309; plus

1 (iii) Interest credits credited in accordance with
2 subdivision (18) of section 84-1301; plus

3 (iv) Dividend amounts credited in accordance with
4 subdivision (4)(c) of section 84-1319.

5 (3) In order to carry out the provisions of this section,
6 the board may enter into administrative services agreements for
7 accounting or record-keeping services. No agreement shall be
8 entered into unless the board determines that it will result
9 in administrative economy and will be in the best interests of
10 the state and its participating employees. The board may develop
11 a schedule for the allocation of the administrative services
12 agreements costs for accounting or record-keeping services and may
13 assess the costs so that each member pays a reasonable fee as
14 determined by the board. ~~The money forfeited pursuant to section~~
15 ~~84-1321.01 shall not be used to pay the administrative costs~~
16 ~~incurred pursuant to this subsection.~~

17 Sec. 23. Section 84-1310.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 84-1310.01 (1) Each member employed and participating in
20 the retirement system prior to January 1, 2003, who has elected
21 not to participate in the cash balance benefit, shall be allowed
22 to allocate all contributions to his or her employee account to
23 various investment options. Such investment options shall include,
24 but not be limited to, the following:

25 (a) An investor select account which shall be invested
26 under the direction of the state investment officer with an asset
27 allocation and investment strategy substantially similar to the

1 investment allocations made by the state investment officer for
2 the defined benefit plans under the retirement systems described
3 in subdivision (1)(a) of section 84-1503. Investments shall most
4 likely include domestic and international equities, fixed income
5 investments, and real estate, as well as potentially additional
6 asset classes;

7 (b) A stable return account which shall be invested by or
8 under the direction of the state investment officer in one or more
9 guaranteed investment contracts;

10 (c) An equities account which shall be invested by or
11 under the direction of the state investment officer in equities;

12 (d) A balanced account which shall be invested by or
13 under the direction of the state investment officer in equities and
14 fixed income instruments;

15 (e) An index fund account which shall be invested by or
16 under the direction of the state investment officer in a portfolio
17 of common stocks designed to closely duplicate the total return of
18 the Standard and Poor's 500 Index;

19 (f) A fixed income account which shall be invested by or
20 under the direction of the state investment officer in fixed income
21 instruments;

22 (g) A money market account which shall be invested by or
23 under the direction of the state investment officer in short-term
24 fixed income securities; and

25 (h) Beginning on July 1, 2006, an age-based account which
26 shall be invested under the direction of the state investment
27 officer with an asset allocation and investment strategy that

1 changes based upon the age of the member. The board shall
2 develop an account mechanism that changes the investments as
3 the employee nears retirement age. The asset allocation and asset
4 classes utilized in the investments shall move from aggressive, to
5 moderate, and then to conservative as retirement age approaches.

6 If a member fails to select an option or combination of
7 options, all of his or her funds shall be placed in the option
8 described in subdivision (b) of this subsection. Each member shall
9 be given a detailed current description of each investment option
10 prior to making or revising his or her allocation.

11 (2) Members of the retirement system may allocate their
12 contributions to the investment options in percentage increments as
13 set by the board in any proportion, including full allocation to
14 any one option. A member under subdivision (1) of section 84-1323
15 or his or her beneficiary may transfer any portion of his or her
16 funds among the options, except for restrictions on transfers to or
17 from the stable return account pursuant to rule or regulation. The
18 board shall adopt and promulgate rules and regulations for changes
19 of a member's allocation of contributions to his or her accounts
20 after his or her most recent allocation and for transfers from one
21 investment account to another.

22 (3) The board shall develop a schedule for the allocation
23 of administrative costs of maintaining the various investment
24 options and shall assess the costs so that each member pays a
25 reasonable fee as determined by the board. ~~The money forfeited~~
26 ~~pursuant to section 84-1321.01 shall not be used to pay the~~
27 ~~administrative costs incurred pursuant to this section.~~

1 (4) In order to carry out the provisions of this section,
2 the board may enter into administrative services agreements for
3 accounting or record-keeping services. No agreement shall be
4 entered into unless the board determines that it will result
5 in administrative economy and will be in the best interests of the
6 state and its participating employees.

7 (5) The state, the board, the state investment officer,
8 the members of the Nebraska Investment Council, or the agency
9 shall not be liable for any investment results resulting from
10 the member's exercise of control over the assets in the employee
11 account.

12 Sec. 24. Section 84-1311.03, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 84-1311.03 (1) Each member employed and participating in
15 the retirement system prior to January 1, 2003, who has elected
16 not to participate in the cash balance benefit, shall be allowed
17 to allocate all contributions to his or her employer account to
18 various investment options. Such investment options shall be the
19 same as the investment options of the employee account as provided
20 in subsection (1) of section 84-1310.01. If a member fails to
21 select an option or combination of options, all of his or her funds
22 in the employer account shall be placed in the balanced account
23 option described in subdivision (1)(d) of section 84-1310.01.
24 Each member shall be given a detailed current description of
25 each investment option prior to making or revising his or her
26 allocation.

27 (2) Each member of the retirement system may allocate

1 contributions to his or her employer account to the investment
2 options in percentage increments as set by the board in any
3 proportion, including full allocation to any one option. A member
4 under subdivision (1) of section 84-1323 or his or her beneficiary
5 may transfer any portion of his or her funds among the options. The
6 board shall adopt and promulgate rules and regulations for changes
7 of a member's allocation of contributions to his or her accounts
8 after his or her most recent allocation and for transfers from one
9 investment account to another.

10 (3) The board shall develop a schedule for the allocation
11 of administrative costs of maintaining the various investment
12 options and shall assess the costs so that each member pays a
13 reasonable fee as determined by the board. ~~The money forfeited~~
14 ~~pursuant to section 84-1321.01 shall not be used to pay the~~
15 ~~administrative costs incurred pursuant to this section.~~

16 (4) In order to carry out the provisions of this section,
17 the board may enter into administrative services agreements for
18 accounting or record-keeping services. No agreement shall be
19 entered into unless the board determines that it will result
20 in administrative economy and will be in the best interests of the
21 state and its participating employees.

22 (5) The state, the board, the state investment officer,
23 the members of the Nebraska Investment Council, or the agency
24 shall not be liable for any investment results resulting from
25 the member's exercise of control over the assets in the employer
26 account.

27 Sec. 25. Section 84-1314, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-1314 (1) The State Employees Defined Contribution
3 Retirement Expense Fund is created. The fund shall be credited
4 with money forfeited pursuant to section 84-1321.01 and with money
5 from the retirement system assets and income sufficient to pay
6 the pro rata share of administrative expenses incurred as directed
7 by the board for the proper administration of the State Employees
8 Retirement Act and necessary in connection with the administration
9 and operation of the retirement system. ~~___7 except as provided in~~
10 ~~sections 84-1309.02, 84-1310.01, 84-1311, and 84-1311.03.~~ Any money
11 in the fund available for investment shall be invested by the state
12 investment officer pursuant to the Nebraska Capital Expansion Act
13 and the Nebraska State Funds Investment Act.

14 (2) The State Employees Cash Balance Retirement Expense
15 Fund is created. The fund shall be credited with money forfeited
16 pursuant to section 84-1321.01 and with money from the retirement
17 system assets and income sufficient to pay the pro rata share of
18 administrative expenses incurred as directed by the board for the
19 proper administration of the State Employees Retirement Act and
20 necessary in connection with the administration and operation
21 of the retirement system. ~~___7 except as provided in sections~~
22 ~~84-1309.02, 84-1310.01, 84-1311, and 84-1311.03.~~ Any money in
23 the fund available for investment shall be invested by the state
24 investment officer pursuant to the Nebraska Capital Expansion Act
25 and the Nebraska State Funds Investment Act.

26 Sec. 26. Section 84-1321.01, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 84-1321.01 (1) For a member who has terminated employment
2 and is not vested, the balance of the member's employer account
3 or employer cash balance account shall be forfeited. The forfeited
4 account shall be credited to the State Employees Retirement Fund
5 and shall first be used to meet the expense charges incurred
6 by the retirement board in connection with administering the
7 retirement system, which charges shall be credited to the State
8 Employees Defined Contribution Retirement Expense Fund, if the
9 member participated in the defined contribution option, or to the
10 State Employees Cash Balance Retirement Expense Fund, if the member
11 participated in the cash balance option, and the remainder, if any,
12 shall then be used to reduce the state contribution which would
13 otherwise be required to fund future service retirement benefits
14 or to restore employer accounts or employer cash balance accounts.
15 No forfeited amounts shall be applied to increase the benefits any
16 member would otherwise receive under the State Employees Retirement
17 Act.

18 (2) If a member ceases to be an employee due to the
19 termination of his or her employment by the state and a grievance
20 or other appeal of the termination is filed, transactions involving
21 forfeiture of his or her employer account or employer cash balance
22 account shall be suspended pending the final outcome of the
23 grievance or other appeal.

24 (3) The State Employer Retirement Expense Fund is
25 created. The fund shall be administered by the Public Employees
26 Retirement Board. The fund shall be established and maintained
27 separate from any funds held in trust for the benefit of members

1 under the retirement system. The fund shall be used to meet
2 expenses of the State Employees Retirement System of the State
3 of Nebraska whether such expenses are incurred in administering
4 the member's employer account or in administering the member's
5 employer cash balance account when the funds available in the
6 State Employees Defined Contribution Retirement Expense Fund or
7 State Employees Cash Balance Retirement Expense Fund make such use
8 reasonably necessary.

9 (4) The director of the Nebraska Public Employees
10 Retirement Systems shall certify to the Accounting Administrator
11 of the Department of Administrative Services when accumulated
12 employer account forfeiture funds are available to reduce the
13 state contribution which would otherwise be required to fund
14 future service retirement benefits or to restore employer accounts
15 or employer cash balance accounts referred to in subsection (1)
16 of this section. Following such certification, the Accounting
17 Administrator shall transfer the amount reduced from the state
18 contribution from the Imprest Payroll Distributive Fund to the
19 State Employer Retirement Expense Fund. Expenses incurred as a
20 result of the state depositing amounts into the State Employer
21 Retirement Expense Fund shall be deducted prior to any additional
22 expenses being allocated. Any remaining amount shall be allocated
23 in accordance with ~~section 23-2319.02.~~ subsection (3) of this
24 section. Any money in the fund available for investment shall be
25 invested by the state investment officer pursuant to the Nebraska
26 Capital Expansion Act and the Nebraska State Funds Investment Act.

27 Sec. 27. Section 84-1323.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-1323.01 (1) Any member who is an employee,
3 disregarding the length of service, may be retired as a result of
4 disability either upon the member's own application or upon the
5 application of the member's employer or any person acting in the
6 member's behalf. Before any member may be so retired, a medical
7 examination shall be made at the expense of the retirement system,
8 which examination shall be conducted by a disinterested physician
9 legally authorized to practice medicine under the laws of the state
10 in which he or she practices, such physician to be selected by the
11 retirement board, and the physician shall certify to the board that
12 the member suffers from an inability to engage in a substantially
13 gainful activity by reason of any medically determinable physical
14 or mental impairment which began while the member was a participant
15 in the plan and which can be expected to result in death or to be
16 of long-continued and indefinite duration and should be retired.
17 The application for disability retirement shall be made within one
18 year of termination of employment.

19 (2) The retirement board may require any disability
20 beneficiary who has not attained the age of fifty-five to undergo a
21 medical examination at the expense of the board once each year. If
22 any disability beneficiary refuses to undergo such an examination,
23 the disability retirement benefit may be discontinued by the board.

24 Sec. 28. Section 84-1504, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 84-1504 (1) The Public Employees Retirement Board, on
27 behalf of the state, may contract with any individual to defer a

1 portion of such individual's compensation or with the Legislative
2 Council to defer any other amount that the Legislative Council
3 agrees to credit to an individual's account pursuant to section 457
4 of the Internal Revenue Code.

5 (2) The compensation to be deferred at the election of
6 the individual and any other amount credited on behalf of such
7 individual by the Legislative Council shall not exceed the total
8 compensation to be received by the individual from the employer or
9 exceed the limits established by the Internal Revenue Code for such
10 a plan.

11 (3) The deferred compensation program shall serve in
12 addition to but not be a part of any existing retirement or pension
13 system provided for state or county employees or any other benefit
14 program.

15 (4) Any compensation deferred at the election of the
16 individual under such a deferred compensation plan shall continue
17 to be included as regular compensation for the purpose of computing
18 the retirement, pension, or social security contributions made or
19 benefits earned by any employee.

20 (5) Any sum so deferred shall not be included in the
21 computation of any federal or state taxes withheld on behalf of any
22 such individual.

23 (6) The state, the board, the state investment officer,
24 the agency, or the county shall not be responsible for any
25 investment results entered into by the individual in the deferred
26 compensation agreement.

27 (7) Nothing in this section shall in any way limit,

1 restrict, alter, amend, invalidate, or nullify any deferred
2 compensation plan previously instituted by any instrumentality or
3 agency of the State of Nebraska, and any such plan is hereby
4 authorized and approved.

5 (8) On and after the operative date of this act, no
6 employee of the state or any political subdivision of the state
7 shall be authorized to participate in a deferred compensation plan
8 unless the employee (a) is a United States citizen or (b) is a
9 qualified alien under the federal Immigration and Nationality Act,
10 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and
11 is lawfully present in the United States.

12 ~~(8)~~ (9) For purposes of this section, individual means
13 (a) any state employee, whether employed on a permanent or
14 temporary basis, full-time or part-time, (b) a person under
15 contract providing services to the state who is not employed
16 by the University of Nebraska or any of the state colleges or
17 community colleges and who has entered into a contract with the
18 state to have compensation deferred prior to August 28, 1999,
19 and (c) any county employee designated as a permanent part-time
20 or full-time employee or elected official whose employer does not
21 offer a deferred compensation plan and who has entered into an
22 agreement pursuant to section 48-1401.

23 Sec. 29. This act becomes operative on July 1, 2010.

24 Sec. 30. Original sections 23-2310.04, 23-2315.01,
25 23-2319.02, 24-701.01, 24-710.07, 79-902, 79-910.01, 79-915,
26 79-920, 79-947.01, 79-951, 79-978, 79-990, 81-2016, 81-2027.03,
27 84-1310.01, 84-1311.03, 84-1314, 84-1321.01, 84-1323.01, and

1 84-1504, Reissue Revised Statutes of Nebraska, sections 23-2309.01
2 and 23-2310.05, Revised Statutes Cumulative Supplement, 2008, and
3 sections 23-2306, 23-2308.01, 84-1307, and 84-1309.02, Revised
4 Statutes Supplement, 2009, are repealed.

5 Sec. 31. Since an emergency exists, this act takes effect
6 when passed and approved according to law.

7 2. On page 1, line 2, after the third comma insert
8 "24-710.07,"; in line 3 after the second comma insert "79-947.01,"
9 and after the last comma insert "81-2027.03,"; and in line 11 after
10 the second comma insert "the Class V School Employees Retirement
11 Act,".

12 3. On page 2, line 1, after the second comma insert
13 "state contributions,".