

**ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010**  
**COMMITTEE STATEMENT**  
**LB950**

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**Hearing Date:** Tuesday February 02, 2010  
**Committee On:** Nebraska Retirement Systems  
**Introducer:** Nebraska Retirement Systems  
**One Liner:** Change provisions relating to retirement

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 5 Senators Karpisek, Louden, Mello, Nordquist, Pankonin  
**Nay:** 1 Senator Heidemann  
**Absent:**  
**Present Not Voting:**

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<b>Proponents:</b> Kate Allen Joe Schaefer Jerry Hoffman Brian Halstead	<b>Representing:</b> Introducer Public Employees Retirement Board Nebraska State Employees Association Nebraska Department of Education
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<b>Opponents:</b>	<b>Representing:</b>
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<b>Neutral:</b>	<b>Representing:</b>
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**Summary of purpose and/or changes:**

LB950 is introduced on behalf of the Nebraska Public Employees Retirement System which administers the Deferred Compensation Plan, County, State, Judges, State Patrol, School and State Employee Retirement Acts. It makes the following clarifying and technical changes to the state-administered plans:

1. Clarifies in the County, State and School Employees Plans that a disability must have occurred while the member was a participant in the Plan. In the County Employees Plan it also clarifies that medical examinations for disabled retirees are not required after age 55 -- the age of retirement eligibility. [sections 6, 14, and 24];
2. Inserts the provision from last year's LB403 into the statutory sections of each state-administered retirement plan - the Deferred Compensation Plan, County, State Judges, State Patrol, School and State Employee Retirement Acts. LB403 limits participation in public retirement plans to only those persons who are citizens or qualified aliens and who are lawfully present in the United States, [sections 1, 9, 12, 17, 18, and 25];
3. Strikes language in several sections of the County and State Employees Retirement Acts which prohibits use of forfeiture money to pay administrative costs. Permitted uses of forfeiture money are enumerated in section 23-2319.01 of the County Employees Retirement Act and section 84-1321.01 of the State Employees Retirement Act. Forfeiture funds consist of employer contribution funds that are forfeited by plan members who cease employment before they vest. [sections 2, 3, 4, 5, 7, 19, 20, 21, 22, and 23]
4. Amends definitions in the School Employees Retirement Act to clarify when termination occurs and who qualifies as

temporary, part-time, regular, and substitute employees;[section 10]

5. Clarifies which Nebraska Department of Education (NDE) employees are automatically enrolled in the State Employees Retirement System and which employees are eligible to become members of the School Employees Retirement System; [section 13]

#### Section by Section Summary of LB950

Section 1. Amends 23-2306. Inserts LB403 language into the County Employees Retirement Act prohibiting payment of benefits to non-citizens or those not lawfully in the U.S.

Section 2. Amends 23-2308.01. Strikes language prohibiting use of forfeiture money to pay for administrative costs related to employee cash balance accounts in the County Retirement Plan.

Section 3. Amends 23-2309.01. Strikes language prohibiting use of forfeiture money to pay for administrative costs related to employee defined contribution accounts in the County Retirement Plan.

Section 4. Amends 23-2310.04. Strikes references to statutory sections in the County Retirement Plan regarding use of forfeiture funds to pay administrative costs.

Section 5. Amends 23-2310.05. Strikes language prohibiting use of forfeiture money to pay for administrative costs related to employer accounts in the County Retirement Plan.

Section 6. Amends 23-2315.01. In County Employees Retirement Act clarifies that a disability must have occurred while the member was a participant in the plan. Changes age for required medical exam from 65 to 55 (to match eligible retirement age).

Section 7. Amends 23-2319.02. Strikes language related to the State Employer Retirement Expense Fund and moves it to the State Employees Retirement Act.

Section 8. Amends 24-701.01. Revisor technical change on federal citation.

Section 9. Creates new section in the Judges Retirement Act which inserts LB403 language prohibiting payment of benefits to non-citizens or those not lawfully in the U.S.

Section 10. Amends 79-902 definition section of the School Retirement Act. Amends the following definitions:

"State school official" includes certificated staff as defined in 79-807 which includes those who have been authorized by the Commission as meeting the qualifications to engage in teaching, providing special services, or administering in prekindergarten through grade twelve in the elementary and secondary schools in this state;

"Termination" of employment does not occur if a member subsequently works in any capacity for an employer participating in the School Retirement Plan within 180 days of ending employment, regardless of whether the service is provided on "a regular basis".

"Substitute employee" -- strikes "intermittent basis" from description of service provided by a temporary employee;

"Regular employee" is clarified to mean a person who works 15 hours or more per week or a part-time employee hired to work less than 15 hours a week who subsequently works 15 or more hours per week in any 3 calendar months;

"Temporary employee" is clarified to mean a person hired to provide service for a limited period of time to accomplish a specific task. Once the task is complete, employment ceases. Also clarifies that in no case may temporary employment exceed one year.

Section 11. Amends 79-910.01. Clarifies that only qualified school employees may participate in the school retirement system.

Section 12. Amends 79-915. Inserts LB403 language into the School Employees Retirement Act prohibiting payment of benefits to non-citizens or those not lawfully in the U.S.

Section 13. Amends 79-920.(1)Clarifies that only Department of Education employees who are state school officials (i.e. the Commissioner of Education and certificated staff)who fall in one of the categories below, may elect to become members of the School Retirement System. All other employees are automatically enrolled in the State Employees Retirement System.

- a.Current or previous in-state school employee;
- b.Current or previous school employee of a Class V district;
- c.Current or previous out-of-state school employee;

(2)Requires an individual who has:(a)terminated employment from a school participating in the School Retirement System; and (b)retired pursuant to that Act, to participate in the State Employees Retirement System if the employment with the Department of Education begins within 180 days of ceasing employment with the school.

Section 14. Amends 79-951. Clarifies in the School Employees Retirement Act that a disability must have occurred while the member was a participant in the plan.

Section 15. Amends 79-978. Revisor technical change on federal citation.

Section 16. Amends 79-990. Revisor technical change on federal citation.

Section 17. Amends 81-2016. Inserts LB403 language into the State Patrol Retirement Act prohibiting payment of benefits to non-citizens or those not lawfully in the U.S.

Section 18. Amends 84-1307. Inserts LB403 language into the State Employees Retirement Act prohibiting payment of benefits to non-citizens or those not lawfully in the U.S.

Section 19. Amends 84-1309.02. Strikes language prohibiting use of forfeiture money to pay for administrative costs related to state employee cash balance accounts.

Section 20. Amends 84-1310.01. Strikes language prohibiting use of forfeiture money to pay for administrative costs related to state employee defined contribution accounts.

Section 21. Amends 84-1311.03 Strikes language prohibiting use of forfeiture money to pay for administrative costs related to state employer accounts.

Section 22. Amends 84-1314. Strikes references to statutory sections in the State Retirement Plan regarding use of forfeiture funds to pay administrative costs.

Section 23. Amends 84-1321.01 Inserts language stricken from 23-2319.02 regarding the State Employer Retirement Expense Fund and moves it to the State Employees Retirement Act.

Section 24. Amends 84-1323.01. Clarifies in the State Employees Retirement Act that a disability must have occurred while the member was a participant in the plan.

Section 25. Amends 84-1504. Inserts LB403 language in the Public Employees Retirement Board statutes which prohibits payment of deferred compensation benefits to non-citizens or those not lawfully in the U.S.

Section 26. Operative date of the Act is July 1, 2010.

Section 27. Repeals original sections.

Section 28. Emergency clause.

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**Explanation of amendments:**

Committee Amendment AM2087 clarifies definitions and termination provisions in the School Employees Retirement Act as follows:

1.The definition of "school employee" clarifies that temporary and substitute employees are not plan members; [amends section 10 -- 79-902(10)]

2.Clarifies termination provisions in the School Employees Retirement Act. Termination for retirement purposes will have occurred if a member subsequently provides service for an employer participating in the School Retirement act within 180 days after ceasing employment unless such service is:

a. voluntary or substitute service provided on an intermittent basis;

b.As provided in 79-920 (2) i.e. - works for the Department of Education in a certificated position;

The Public Employee Retirement Board may also determine that a termination was not a bona fide separation from service. [amends 79-902 (36) section 10]

3.Clarifies in the School Employees Retirement Act when an employee working part-time becomes a regular employee and must begin contributing to the retirement plan. A part-time employee becomes a regular employee if he or she works an average of 15 hours per week within each calendar month of at least 3 calendar months of a plan year; [amends section 10 -- 79-902(40)]

4.Strikes redundant language describing which employees are considered "school employees";[amends section 11 -- 79-910.01]

5.Inserts "public" before "school" in order to utilize the current definition of "public school". [amends section 13 -- 79-920]

LB 899 is also incorporated into AM2087. LB899, as amended, continues state annual level dollar payments to the Judges, State Patrol and School Employees Retirement Defined Benefit Plans for purchasing power cost-of-living adjustments (COLAs) through the end of fiscal year 2012-2013. Under current state law these payments will sunset at the end of fiscal year 2010-2011.

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Dave Pankonin, Chairperson