

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 950

FINAL READING

Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49; Mello, 5; Nordquist, 7.

Read first time January 14, 2010

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2310.04,
2 23-2315.01, 23-2319.02, 24-701.01, 24-710.07, 79-902,
3 79-910.01, 79-915, 79-920, 79-947.01, 79-951, 79-978,
4 79-990, 81-2016, 81-2027.03, 84-1310.01, 84-1311.03,
5 84-1314, 84-1321.01, 84-1323.01, and 84-1504, Reissue
6 Revised Statutes of Nebraska, sections 23-2309.01 and
7 23-2310.05, Revised Statutes Cumulative Supplement,
8 2008, and sections 23-2306, 23-2308.01, 84-1307, and
9 84-1309.02, Revised Statutes Supplement, 2009; to change
10 provisions relating to the County Employees Retirement
11 Act, the Judges Retirement Act, the School Employees
12 Retirement Act, the Class V School Employees Retirement

1 Act, the Nebraska State Patrol Retirement Act, and the
2 State Employees Retirement Act regarding participation
3 eligibility, uses of funds, disability eligibility, state
4 contributions, and retirement system options; to redefine
5 terms; to harmonize provisions; to provide an operative
6 date; to repeal the original sections; and to declare an
7 emergency.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2306, Revised Statutes Supplement,
2 2009, is amended to read:

3 23-2306 (1) The membership of the retirement system shall
4 be composed of all persons who are or were employed by member
5 counties and who maintain an account balance with the retirement
6 system.

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

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

1 January 1, 2009, and is lawfully present in the United States.

2 ~~(3)~~ (4) Within the first one hundred eighty days of
3 employment, a full-time employee may apply to the board for
4 vesting credit for years of participation in another Nebraska
5 governmental plan, as defined by section 414(d) of the Internal
6 Revenue Code. During the years of participation in the other
7 Nebraska governmental plan, the employee must have been a full-time
8 employee, as defined in the Nebraska governmental plan in which
9 the credit was earned. The board may adopt and promulgate rules
10 and regulations governing the assessment and granting of vesting
11 credit.

12 ~~(4)~~ (5) Any employee who qualifies for membership in the
13 retirement system pursuant to this section may not be disqualified
14 from membership in the retirement system solely because such
15 employee also maintains separate employment which qualifies the
16 employee for membership in another public retirement system,
17 nor may membership in this retirement system disqualify such an
18 employee from membership in another public retirement system solely
19 by reason of separate employment which qualifies such employee for
20 membership in this retirement system.

21 ~~(5)~~ (6) A full-time or part-time employee of a city,
22 village, or township who becomes a county employee pursuant to a
23 merger of services shall receive vesting credit for his or her
24 years of participation in a Nebraska governmental plan, as defined
25 by section 414(d) of the Internal Revenue Code, of the city,

1 village, or township.

2 ~~(6)~~ (7) A full-time or part-time employee of a city,
3 village, fire protection district, or township who becomes a
4 municipal county employee shall receive credit for his or her years
5 of employment with the city, village, fire protection district, or
6 township for purposes of the vesting provisions of this section.

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

13 Sec. 2. Section 23-2308.01, Revised Statutes Supplement,
14 2009, is amended to read:

15 23-2308.01 (1) It is the intent of the Legislature that,
16 in order to improve the competitiveness of the retirement plan
17 for county employees, a cash balance benefit shall be added to
18 the County Employees Retirement Act on and after January 1, 2003.
19 Each member who is employed and participating in the retirement
20 system prior to January 1, 2003, may either elect to continue
21 participation in the defined contribution benefit as provided in
22 the act prior to January 1, 2003, or elect to participate in the
23 cash balance benefit as set forth in this section. The member
24 shall make the election prior to January 1, 2003, or on or after
25 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

1 section 23-2309; plus

2 (ii) Employee contribution credits deposited in
3 accordance with section 23-2307; plus

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

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

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

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

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

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

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

19 (3) In order to carry out the provisions of this section,
20 the board may enter into administrative services agreements for
21 accounting or record-keeping services. No agreement shall be
22 entered into unless the board determines that it will result
23 in administrative economy and will be in the best interests of the
24 counties and their participating employees. The board may develop
25 a schedule for the allocation of the administrative services

1 agreements costs for accounting or record-keeping services and may
2 assess the costs so that each member pays a reasonable fee as
3 determined by the board. ~~The money forfeited pursuant to section~~
4 ~~23-2319.01 shall not be used to pay the administrative costs~~
5 ~~incurred pursuant to this subsection.~~

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

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

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

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

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

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

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

10 (f) A fixed income account which shall be invested by or
11 under the direction of the state investment officer in fixed income
12 instruments;

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

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

24 If a member fails to select an option or combination of
25 options, all of his or her funds shall be placed in the option

1 described in subdivision (b) of this subsection. Each member shall
2 be given a detailed current description of each investment option
3 prior to making or revising his or her allocation.

4 (2) Members of the retirement system may allocate their
5 contributions to the investment options in percentage increments as
6 set by the board in any proportion, including full allocation to
7 any one option. A member under subdivision (1) of section 23-2321
8 or his or her beneficiary may transfer any portion of his or her
9 funds among the options, except for restrictions on transfers to or
10 from the stable return account pursuant to rule or regulation. The
11 board shall adopt and promulgate rules and regulations for changes
12 of a member's allocation of contributions to his or her accounts
13 after his or her most recent allocation and for transfers from one
14 investment account to another.

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

21 (4) In order to carry out this section, the board
22 may enter into administrative services agreements for accounting
23 or record-keeping services. No agreement shall be entered into
24 unless the board determines that it will result in administrative
25 economy and will be in the best interests of the county and its

1 participating employees.

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

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

9 23-2310.04 (1) The County Employees Defined Contribution
10 Retirement Expense Fund is created. The fund shall be credited
11 with money ~~forfeited pursuant to section 23-2319.01~~ and with money
12 from the retirement system assets and income sufficient to pay the
13 pro rata share of administrative expenses incurred as directed by
14 the board for the proper administration of the County Employees
15 Retirement Act and necessary in connection with the administration
16 and operation of the retirement system, except as provided in
17 sections 23-2308.01, 23-2309.01, ~~23-2310,~~ and 23-2310.05. Any money
18 in the fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act
20 and the Nebraska State Funds Investment Act.

21 (2) The County Employees Cash Balance Retirement Expense
22 Fund is created. The fund shall be credited with money forfeited
23 pursuant to section 23-2319.01 and with money from the retirement
24 system assets and income sufficient to pay the pro rata share of
25 administrative expenses incurred as directed by the board for

1 the proper administration of the County Employees Retirement
2 Act and necessary in connection with the administration and
3 operation of the retirement system, except as provided in sections
4 23-2308.01, 23-2309.01, ~~23-2310.7~~ and 23-2310.05. Any money in the
5 fund available for investment shall be invested by the state
6 investment officer pursuant to the Nebraska Capital Expansion Act
7 and the Nebraska State Funds Investment Act.

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

10 23-2310.05 (1) Each member employed and participating in
11 the retirement system prior to January 1, 2003, who has elected
12 not to participate in the cash balance benefit, shall be allowed
13 to allocate all contributions to his or her employer account to
14 various investment options. Such investment options shall be the
15 same as the investment options of the employee account as provided
16 in subsection (1) of section 23-2309.01. If a member fails to
17 select an option or combination of options, all of his or her funds
18 in the employer account shall be placed in the balanced account
19 option described in subdivision (1)(d) of section 23-2309.01.
20 Each member shall be given a detailed current description of
21 each investment option prior to making or revising his or her
22 allocation.

23 (2) Each member of the retirement system may allocate
24 contributions to his or her employer account to the investment
25 options in percentage increments as set by the board in any

1 proportion, including full allocation to any one option. A member
2 under subdivision (1) of section 23-2321 or his or her beneficiary
3 may transfer any portion of his or her funds among the options. The
4 board shall adopt and promulgate rules and regulations for changes
5 of a member's allocation of contributions to his or her accounts
6 after his or her most recent allocation and for transfers from one
7 investment account to another.

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

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

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

25 Sec. 6. Section 23-2315.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 23-2315.01 (1) Any member, disregarding the length of
3 service, may be retired as a result of disability either upon
4 his or her own application or upon the application of his or her
5 employer or any person acting in his or her behalf. Before any
6 member may be so retired, a medical examination shall be made
7 at the expense of the retirement system, which examination shall
8 be conducted by a disinterested physician legally authorized to
9 practice medicine under the laws of the state in which he or she
10 practices, such physician to be selected by the retirement board,
11 and the physician shall certify to the board that the member should
12 be retired because he or she suffers from an inability to engage
13 in a substantially gainful activity by reason of any medically
14 determinable physical or mental impairment which began while the
15 member was a participant in the plan and which can be expected to
16 result in death or to be of long-continued and indefinite duration.
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 ~~sixty-five~~ fifty-five
21 to undergo a medical examination at the expense of the board once
22 each year. Should any disability beneficiary refuse to undergo such
23 an examination, his or her disability retirement benefit may be
24 discontinued by the board.

25 Sec. 7. Section 23-2319.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 23-2319.02 ~~(1)~~ The County Employer Retirement Expense
3 Fund shall be used to meet expenses of the county employees
4 retirement system whether such expenses are incurred in
5 administering the member's employer account or in administering the
6 member's employer cash balance account when the funds available in
7 the County Employees Defined Contribution Retirement Expense Fund
8 or County Employees Cash Balance Retirement Expense Fund make such
9 use reasonably necessary.

10 ~~(2)~~ The State Employer Retirement Expense Fund shall be
11 used to meet expenses of the State Employees Retirement System
12 of the State of Nebraska whether such expenses are incurred in
13 administering the member's employer account or in administering the
14 member's employer cash balance account when the funds available in
15 the State Employees Defined Contribution Retirement Expense Fund or
16 State Employees Cash Balance Retirement Expense Fund make such use
17 reasonably necessary.

18 Sec. 8. Section 24-701.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 24-701.01 Sections 24-701 to 24-714 and section 9 of this
21 act shall be known and may be cited as the Judges Retirement Act.

22 Sec. 9. On and after the operative date of this act, no
23 judge shall be authorized to participate in the retirement system
24 provided for in the Judges Retirement Act unless the judge (a) is a
25 United States citizen or (b) is a qualified alien under the federal

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

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

6 24-710.07 (1) Beginning July 1, 2000, and each July 1
7 thereafter, current benefits paid to a member or beneficiary shall
8 be adjusted so that the purchasing power of the benefit being paid
9 is not less than seventy-five percent of the purchasing power of
10 the initial benefit. The purchasing power of the initial benefit in
11 any year following the year in which the initial benefit commenced
12 shall be calculated by dividing the United States Department of
13 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
14 Wage Earners and Clerical Workers factor on June 30 of the current
15 year by the Consumer Price Index for Urban Wage Earners and
16 Clerical Workers factor on June 30 of the year in which the benefit
17 commenced. The result shall be multiplied by the product that
18 results when the amount of the initial benefit is multiplied by
19 seventy-five percent. In any year in which applying the adjustment
20 provided in subsection (2) of this section results in a benefit
21 which would be less than seventy-five percent of the purchasing
22 power of the initial benefit as calculated above, the adjustment
23 shall instead be equal to the percentage change in the Consumer
24 Price Index for Urban Wage Earners and Clerical Workers factor
25 from the prior year to the current year. In all other years, the

1 adjustment provided under subsection (2) of this section shall
2 be provided. The adjustment pursuant to this subsection shall not
3 cause a current benefit to be reduced.

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

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

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

19 (3) The state shall contribute to the Nebraska Retirement
20 Fund for Judges an annual level dollar payment certified by the
21 board. For the 1996-97 fiscal year through the ~~2010-11~~ 2012-13
22 fiscal year, the annual level dollar payment certified by the
23 board shall equal 1.04778 percent of six million eight hundred
24 ninety-five thousand dollars.

25 (4) The board shall adjust the annual benefit adjustment

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

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

14 79-902 For purposes of the School Employees Retirement
15 Act, unless the context otherwise requires:

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

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

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

25 (4) County school official means (a) until July 1, 2000,

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

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

24 (6) Disability retirement allowance means the annuity
25 paid to a person upon retirement for disability under section

1 79-952;

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

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

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

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

24 (11) Prior service means service rendered as a school
25 employee in the public schools of the State of Nebraska prior to

1 July 1, 1945;

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

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

18 (14) Retirement board or board means the Public Employees
19 Retirement Board;

20 (15) Retirement system means the School Retirement System
21 of the State of Nebraska;

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

25 (17) School year means one fiscal year which includes

1 not less than one thousand instructional hours or, in the case of
2 service in the State of Nebraska prior to July 1, 1945, not less
3 than seventy-five percent of the then legal school year;

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

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

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

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

6 (22) State school official means the Commissioner of
7 Education and his or her professional staff who are required by law
8 or by the State Department of Education to hold a certificate as
9 such term is defined in section 79-807;

10 (23) Savings annuity means payments for life, made in
11 equal monthly payments, derived from the accumulated contributions
12 of a member;

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

1 retirement board that the annuitant was reemployed, rendered a
2 service, and was paid by the district or agency for such services;

3 (25) Actuarial equivalent means the equality in value of
4 the aggregate amounts expected to be received under different forms
5 of payment. The determinations shall be based on the 1994 Group
6 Annuity Mortality Table reflecting sex-distinct factors blended
7 using twenty-five percent of the male table and seventy-five
8 percent of the female table. An interest rate of eight percent
9 per annum shall be reflected in making these determinations except
10 when a lump-sum settlement is made to an estate. If the lump-sum
11 settlement is made to an estate, the interest rate will be
12 determined by the Moody's Triple A Bond Index as of the prior June
13 30, rounded to the next lower quarter percent;

14 (26) Retirement date means (a) if the member has
15 terminated employment, the first day of the month following the
16 date upon which a member's request for retirement is received on
17 a retirement application provided by the retirement system or (b)
18 if the member has filed an application but has not yet terminated
19 employment, the first day of the month following the date on which
20 the member terminates employment. An application may be filed no
21 more than ninety days prior to the effective date of the member's
22 initial benefit;

23 (27) Disability retirement date means the first day of
24 the month following the date upon which a member's request for
25 disability retirement is received on a retirement application

1 provided by the retirement system if the member has terminated
2 employment in the school system and has complied with sections
3 79-951 to 79-954 as such sections refer to disability retirement;

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

7 (29) Eligibility and vesting credit means credit for
8 years, or a fraction of a year, of participation in a Nebraska
9 government plan for purposes of determining eligibility for
10 benefits under the School Employees Retirement Act. Such credit
11 shall not be included as years of creditable service in the benefit
12 calculation;

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

17 (b) If a member has such compensation for less than
18 thirty-six months, his or her final average compensation shall be
19 determined by dividing his or her total compensation in all months
20 by the total number of months of his or her creditable service
21 therefor.

22 (c) Payments under the Retirement Incentive Plan pursuant
23 to section 79-855 and Staff Development Assistance pursuant to
24 section 79-856 shall not be included in the determination of final
25 average compensation;

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

3 (32) Current benefit means (a) until July 1, 2000, the
4 initial benefit increased by all adjustments made pursuant to
5 section 79-947.02 and (b) on or after July 1, 2000, the initial
6 benefit increased by all adjustments made pursuant to the School
7 Employees Retirement Act;

8 (33) Initial benefit means the retirement benefit
9 calculated at the time of retirement;

10 (34) Surviving spouse means (a) the spouse married to
11 the member on the date of the member's death or (b) the spouse
12 or former spouse of the member if survivorship rights are provided
13 under a qualified domestic relations order filed with the board
14 pursuant to the Spousal Pension Rights Act. The spouse or former
15 spouse shall supersede the spouse married to the member on the
16 date of the member's death as provided under a qualified domestic
17 relations order. If the benefits payable to the spouse or former
18 spouse under a qualified domestic relations order are less than
19 the value of benefits entitled to the surviving spouse, the spouse
20 married to the member on the date of the member's death shall be
21 the surviving spouse for the balance of the benefits;

22 (35)(a) Compensation means gross wages or salaries
23 payable to the member for personal services performed during the
24 plan year and includes (i) overtime pay, (ii) member retirement
25 contributions, (iii) retroactive salary payments paid pursuant to

1 court order, arbitration, or litigation and grievance settlements,
2 and (iv) amounts contributed by the member to plans under sections
3 125, 403(b), and 457 of the Internal Revenue Code as defined in
4 section 49-801.01 or any other section of the code which defers or
5 excludes such amounts from income.

6 (b) Compensation does not include (i) fraudulently
7 obtained amounts as determined by the retirement board, (ii)
8 amounts for unused sick leave or unused vacation leave converted
9 to cash payments, (iii) insurance premiums converted into cash
10 payments, (iv) reimbursement for expenses incurred, (v) fringe
11 benefits, (vi) bonuses for services not actually rendered,
12 including, but not limited to, early retirement inducements, cash
13 awards, and severance pay, or (vii) beginning on September 4, 2005,
14 employer contributions made for the purposes of separation payments
15 made at retirement and early retirement inducements as provided for
16 in section 79-514.

17 (c) Compensation in excess of the limitations set forth
18 in section 401(a)(17) of the Internal Revenue Code as defined
19 in section 49-801.01 shall be disregarded. For an employee who
20 was a member of the retirement system before the first plan year
21 beginning after December 31, 1995, the limitation on compensation
22 shall not be less than the amount which was allowed to be taken
23 into account under the retirement system as in effect on July 1,
24 1993.

25 (d)(i) In the determination of compensation for members

1 on or after July 1, 2002, through June 30, 2005, that part of
2 a member's compensation for the fiscal year which exceeds the
3 member's compensation with the same employer for the preceding
4 fiscal year by more than ten percent shall be excluded unless
5 (A) the member experienced a substantial change in employment
6 position or (B) the excess compensation occurred as the result
7 of a collective-bargaining agreement between the employer and
8 a recognized collective-bargaining unit or category of school
9 employee.

10 (ii) For purposes of this subdivision:

11 (A) Category of school employee means either all
12 employees of the employer who are administrators or certificated
13 teachers, or all employees of the employer who are not
14 administrators or certificated teachers, or both; and

15 (B) Recognized collective-bargaining unit means a group
16 of employees similarly situated with a similar community of
17 interest appropriate for bargaining recognized as such by a school
18 board.

19 (e)(i) In the determination of compensation for members
20 on or after July 1, 2005, that part of a member's compensation
21 for the plan year which exceeds the member's compensation with
22 the same employer for the preceding plan year by more than seven
23 percent of the compensation base during the sixty months preceding
24 the member's retirement shall be excluded unless (A) the member
25 experienced a substantial change in employment position, (B) as

1 verified by the school board, the excess compensation above seven
2 percent occurred as the result of a collective-bargaining agreement
3 between the employer and a recognized collective-bargaining unit
4 or category of school employee, and the percentage increase
5 in compensation above seven percent shall not be excluded for
6 employees outside of a collective-bargaining unit or within the
7 same category of school employee, or (C) the excess compensation
8 occurred as the result of a districtwide permanent benefit change
9 made by the employer for a category of school employee in
10 accordance with subdivision (35)(a)(iv) of this section.

11 (ii) For purposes of this subdivision:

12 (A) Category of school employee means either all
13 employees of the employer who are administrators or certificated
14 teachers, or all employees of the employer who are not
15 administrators or certificated teachers, or both;

16 (B) Compensation base means (I) for current members
17 employed with the same employer, the member's compensation for the
18 plan year ending June 30, 2005, or (II) for members newly hired or
19 hired by a separate employer on or after July 1, 2005, the member's
20 compensation for the first full plan year following the member's
21 date of hiring. Thereafter, the member's compensation base shall
22 be increased each plan year by the lesser of seven percent of the
23 member's preceding plan year's compensation base or the member's
24 actual annual compensation increase during the preceding plan year;
25 and

1 (C) Recognized collective-bargaining unit means a group
2 of employees similarly situated with a similar community of
3 interest appropriate for bargaining recognized as such by a school
4 board;

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

21 (a) Is voluntary or substitute service provided on an
22 intermittent basis; or

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

24 A member shall not be deemed to have terminated
25 employment if the board determines that a purported termination was

1 not a bona fide separation from service with the employer;

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

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

12 (39) Participation means qualifying for and making
13 required deposits to the retirement system during the course of a
14 plan year;

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

24 (41) Temporary employee means an employee hired by a
25 public school who is not a regular employee and who is hired

1 to provide service for a limited period of time to accomplish a
2 specific purpose or task. When such specific purpose or task is
3 complete, the employment of such temporary employee shall terminate
4 and in no case shall the temporary employment period exceed one
5 year in duration.

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

8 79-910.01 (1) ~~Except for substitute employees,~~ Each
9 person employed by a public school who is a school employee and
10 who is qualified to participate in the retirement system shall
11 participate in the retirement system.

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

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

19 79-915 (1) Persons residing outside of the United States
20 and engaged temporarily as school employees in the State of
21 Nebraska shall not become members of the retirement system.

22 (2) On and after the operative date of this act,
23 no school employee shall be authorized to participate in the
24 retirement system provided for in the School Employees Retirement
25 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

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

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

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

23 ~~(5)~~ (3) An employee electing not to be covered by the
24 School Retirement System of the State of Nebraska under this
25 section shall not be subject to section 79-957 but shall be allowed

1 to retain his or her accumulated contribution in the system and
2 continue to become vested in the state's accumulated contribution
3 as well as the State Employees Retirement System of the State of
4 Nebraska according to the following:

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

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

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

18 79-947.01 (1) Beginning July 1, 2000, and each July 1
19 thereafter, current benefits paid to a member or beneficiary shall
20 be adjusted so that the purchasing power of the benefit being paid
21 is not less than seventy-five percent of the purchasing power of
22 the initial benefit. The purchasing power of the initial benefit in
23 any year following the year in which the initial benefit commenced
24 shall be calculated by dividing the United States Department of
25 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban

1 Wage Earners and Clerical Workers factor on June 30 of the current
2 year by the Consumer Price Index for Urban Wage Earners and
3 Clerical Workers factor on June 30 of the year in which the benefit
4 commenced. The result shall be multiplied by the product that
5 results when the amount of the initial benefit is multiplied by
6 seventy-five percent. In any year in which applying the adjustment
7 provided in subsection (2) of this section results in a benefit
8 which would be less than seventy-five percent of the purchasing
9 power of the initial benefit as calculated above, the adjustment
10 shall instead be equal to the percentage change in the Consumer
11 Price Index for Urban Wage Earners and Clerical Workers factor
12 from the prior year to the current year. In all other years, the
13 adjustment provided under subsection (2) of this section shall
14 be provided. The adjustment pursuant to this subsection shall not
15 cause a current benefit to be reduced.

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

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

24 (b) Beginning July 1, 2001, the current benefit to a
25 member or the beneficiary of such a member shall be increased

1 annually by the lesser of (i) the percentage change in the Consumer
2 Price Index for Urban Wage Earners and Clerical Workers factor
3 published by the Bureau of Labor Statistics of the United States
4 Department of Labor for the prior year or (ii) two and one-half
5 percent.

6 (3) The state shall contribute to the Annuity Reserve
7 Fund an annual level dollar payment certified by the board. For
8 the 1996-97 fiscal year through the ~~2010-11~~ 2012-13 fiscal year,
9 the annual level dollar payment certified by the board shall equal
10 81.7873 percent of six million eight hundred ninety-five thousand
11 dollars.

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

24 (5) In addition to the adjustments provided in
25 subsections (1), (2), and (4) of this section, the current benefit

1 to a member or beneficiary of such member, and for which the first
2 payment was dated on or before June 30, 2007, shall be subject to
3 adjustment of the greater of (a) the annuity payable to the member
4 or beneficiary as adjusted, if applicable, under the provisions
5 of subsection (1), (2), or (4) of this section or (b) eighty-five
6 percent of the annuity which results when the original annuity that
7 was paid to the member or beneficiary, before any cost-of-living
8 adjustments under this section, is adjusted by the increase in the
9 Consumer Price Index for Urban Wage Earners and Clerical Workers
10 for the period between the commencement date of the annuity and
11 June 30, 2007.

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

14 79-951 (1) A member shall be retired on account of
15 disability, either upon his or her own application or the
16 application of his or her employer or a person acting in his
17 or her behalf, if a medical examination, made at the expense of
18 the retirement system and conducted by a competent disinterested
19 physician legally authorized to practice medicine under the laws of
20 the state in which he or she practices, selected by the retirement
21 board, shows and the physician certifies to the retirement board
22 that the member is unable to engage in a substantially gainful
23 activity by reason of any medically determinable physical or mental
24 impairment which began while the member was a participant in the
25 plan and which can be expected to result in death or be of

1 a long and indefinite duration. The medical examination may be
2 waived if, in the judgment of the retirement board, extraordinary
3 circumstances exist which preclude substantial gainful activity by
4 the member. Such circumstances shall include hospice placement or
5 similar confinement for a terminal illness or injury.

6 (2) The member shall have five years from the date he or
7 she terminates employment in a public school located in Nebraska
8 in which to make application for disability retirement benefits if
9 the disability is related to employment in a public school located
10 in Nebraska. If the disability is not related to a public school
11 located in Nebraska, the member shall have one year from the date
12 he or she terminates employment in which to make application for
13 disability retirement benefits. Any application for retirement on
14 account of disability shall be made on a retirement application
15 provided by the retirement system. Upon approval by the board,
16 benefits shall begin on the disability retirement date.

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

19 79-978 For purposes of the Class V School Employees
20 Retirement Act, unless the context otherwise requires:

21 (1) Retirement system or system means the School
22 Employees' Retirement System of (corporate name of the school
23 district as described in section 79-405) as provided for by the
24 act;

25 (2) Board means the board of education of the school

1 district;

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

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

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

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

14 (7) Beneficiary means any person entitled to receive or
15 receiving a benefit by reason of the death of a member;

16 (8) Membership service means service on or after
17 September 1, 1951, as an employee of the school district and a
18 member of the system for which compensation is paid by the school
19 district. Credit for more than one year of membership service
20 shall not be allowed for service rendered in any fiscal year.
21 Beginning September 1, 2005, a member shall be credited with a year
22 of membership service for each fiscal year in which the member
23 performs one thousand or more hours of compensated service as an
24 employee of the school district. An hour of compensated service
25 shall include any hour for which the member is compensated by

1 the school district during periods where no service is performed
2 due to vacation or approved leave. If a member performs less
3 than one thousand hours of compensated service during a fiscal
4 year, one-tenth of a year of membership service shall be credited
5 for each one hundred hours of compensated service by the member
6 in such fiscal year. In determining a member's total membership
7 service, all periods of membership service, including fractional
8 years of membership service in one-tenth-year increments, shall be
9 aggregated;

10 (9) Prior service means service rendered prior to
11 September 1, 1951, for which credit is allowed under section
12 79-999, service rendered by retired employees receiving benefits
13 under preexisting systems, and service for which credit is allowed
14 under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

15 (10) Creditable service means the sum of the membership
16 service and the prior service, measured in one-tenth-year
17 increments;

18 (11) Compensation means salary or wages payable by the
19 school district before reduction for contributions picked up under
20 section 414(h) of the Internal Revenue Code, elective contributions
21 made pursuant to section 125 or 403(b) of the code, or amounts
22 not currently includible in income by reason of section 132(f)(4)
23 of the code, subject to the applicable limitations of section
24 401(a)(17) of the code;

25 (12) Military service means service in the uniformed

1 services as defined in 38 U.S.C. ~~chapter 43,~~ 4301 et seq., as such
2 provision existed on March 27, 1997;

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

6 (14) Regular interest means interest (a) on the total
7 contributions of the member prior to the close of the last
8 preceding fiscal year, (b) compounded annually, and (c) at rates
9 to be determined annually by the board, which shall have the
10 sole, absolute, and final discretionary authority to make such
11 determination, except that the rate for any given year in no event
12 shall exceed the actual percentage of net earnings of the system
13 during the last preceding fiscal year;

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

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

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

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

25 (19) Annuity means annual payments, for both prior

1 service and membership service, for life as provided in the
2 ~~act,~~ Class V School Employees Retirement Act;

3 (20) Actuarial tables means:

4 (a) For determining the actuarial equivalent of any
5 annuities other than joint and survivorship annuities, a unisex
6 mortality table using twenty-five percent of the male mortality
7 and seventy-five percent of the female mortality from the 1994
8 Group Annuity Mortality Table with a One Year Setback and using an
9 interest rate of eight percent compounded annually; and

10 (b) For joint and survivorship annuities, a unisex
11 retiree mortality table using sixty-five percent of the male
12 mortality and thirty-five percent of the female mortality from the
13 1994 Group Annuity Mortality Table with a One Year Setback and
14 using an interest rate of eight percent compounded annually and a
15 unisex joint annuitant mortality table using thirty-five percent of
16 the male mortality and sixty-five percent of the female mortality
17 from the 1994 Group Annuity Mortality Table with a One Year Setback
18 and using an interest rate of eight percent compounded annually;

19 (21) Actuarial equivalent means the equality in value of
20 the retirement allowance for early retirement or the retirement
21 allowance for an optional form of annuity, or both, with the normal
22 form of the annuity to be paid, as determined by the application of
23 the appropriate actuarial table, except that use of such actuarial
24 tables shall not effect a reduction in benefits accrued prior to
25 September 1, 1985, as determined by the actuarial tables in use

1 prior to such date;

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

4 (23) Primary beneficiary means the person or persons
5 entitled to receive or receiving a benefit by reason of the death
6 of a member; and

7 (24) Secondary beneficiary means the person or persons
8 entitled to receive or receiving a benefit by reason of the death
9 of all primary beneficiaries prior to the death of the member. If
10 no primary beneficiary survives the member, secondary beneficiaries
11 shall be treated in the same manner as primary beneficiaries.

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

14 79-990 (1) Any member who is eligible for reemployment
15 on or after December 12, 1994, pursuant to 38 U.S.C. ~~chapter 43,~~
16 4301 et seq., as adopted under section 55-161, or who is eligible
17 for reemployment under section 55-160 may pay to the retirement
18 system after the date of his or her return from active military
19 service, and within the period required by law, not to exceed
20 five years, an amount equal to the sum of all deductions which
21 would have been made from the salary which he or she would have
22 received during the period of military service for which creditable
23 service is desired. If such payment is made, the member shall be
24 entitled to credit for membership service in determining his or
25 her annuity for the period for which contributions have been made

1 and the board shall be responsible for any funding necessary to
2 provide for the benefit which is attributable to this increase in
3 the member's creditable service. The member's payments shall be
4 paid as the trustees may direct, through direct payments to the
5 retirement system or on an installment basis pursuant to a binding
6 irrevocable payroll deduction authorization between the member and
7 the school district. Creditable service may be purchased only in
8 one-tenth-year increments, starting with the most recent years'
9 salary.

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

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

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

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

18 81-2016 (1) Every member of the Nebraska State Patrol
19 who was employed by the State of Nebraska as such, on September
20 7, 1947, and every person employed as a member of such patrol
21 thereafter, shall be a member of the system, except for those
22 members of the Nebraska State Patrol who elected pursuant to
23 section 60-1304 to remain members of the State Employees Retirement
24 System of the State of Nebraska. On and after the operative date
25 of this act, no employee shall be authorized to participate in

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

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

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

24 (5) The board may adopt and promulgate rules and
25 regulations governing the assessment and granting of eligibility

1 and vesting credit.

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

4 81-2027.03 (1) Beginning July 1, 2000, and each July 1
5 thereafter, current benefits paid to a member or beneficiary shall
6 be adjusted so that the purchasing power of the benefit being paid
7 is not less than sixty percent of the purchasing power of the
8 initial benefit. The purchasing power of the initial benefit in
9 any year following the year in which the initial benefit commenced
10 shall be calculated by dividing the United States Department of
11 Labor, Bureau of Labor Statistics, Consumer Price Index for Urban
12 Wage Earners and Clerical Workers factor on June 30 of the current
13 year by the Consumer Price Index for Urban Wage Earners and
14 Clerical Workers factor on June 30 of the year in which the
15 benefit commenced. The result shall be multiplied by the product
16 that results when the amount of the initial benefit is multiplied
17 by sixty percent. In any year in which applying the adjustment
18 provided in subsection (2) of this section results in a benefit
19 which would be less than sixty percent of the purchasing power
20 of the initial benefit as calculated above, the adjustment shall
21 instead be equal to the percentage change in the Consumer Price
22 Index for Urban Wage Earners and Clerical Workers factor from the
23 prior year to the current year. In all other years, the adjustment
24 provided under subsection (2) of this section shall be provided.
25 The adjustment pursuant to this subsection shall not cause a

1 current benefit to be reduced.

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

3 (a) Beginning July 1, 2000, and until July 1, 2001, the
4 current benefit of a member or the beneficiary of such a member
5 shall be increased annually by the lesser of (i) the percentage
6 change in the Consumer Price Index for Urban Wage Earners and
7 Clerical Workers factor published by the Bureau of Labor Statistics
8 of the United States Department of Labor for the prior year or (ii)
9 two percent; and

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

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

23 (4) The board shall adjust the annual benefit adjustment
24 provided in this section so that the total amount of all
25 cost-of-living adjustments provided to the eligible retiree at

1 the time of the annual benefit adjustment does not exceed the
2 percentage change in the National Consumer Price Index for Urban
3 Wage Earners and Clerical Workers factor published by the Bureau
4 of Labor Statistics for the period between June 30 of the prior
5 year to June 30 of the present year. If the consumer price index
6 used in this section is discontinued or replaced, a substitute
7 index published by the United States Department of Labor shall be
8 selected by the board which shall be a reasonable representative
9 measurement of the cost of living for retired employees.

10 Sec. 21. Section 84-1307, Revised Statutes Supplement,
11 2009, is amended to read:

12 84-1307 (1) The membership of the retirement system shall
13 be composed of all persons who are or were employed by the State
14 of Nebraska and who maintain an account balance with the retirement
15 system.

16 (2) The following employees of the State of Nebraska
17 are authorized to participate in the retirement system: (a) All
18 permanent full-time employees shall begin participation in the
19 retirement system upon employment; and (b) all permanent part-time
20 employees who have attained the age of twenty years may exercise
21 the option to begin participation in the retirement system. An
22 employee who exercises the option to begin participation in the
23 retirement system pursuant to this section shall remain in the
24 retirement system until his or her termination of employment or
25 retirement, regardless of any change of status as a permanent or

1 temporary employee.

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

9 ~~(3)~~ (4) For purposes of this section, (a) permanent
10 full-time employees includes employees of the Legislature or
11 Legislative Council who work one-half or more of the regularly
12 scheduled hours during each pay period of the legislative session
13 and (b) permanent part-time employees includes employees of the
14 Legislature or Legislative Council who work less than one-half
15 of the regularly scheduled hours during each pay period of the
16 legislative session.

17 ~~(4)~~ (5) Within the first one hundred eighty days of
18 employment, a full-time employee may apply to the board for
19 vesting credit for years of participation in another Nebraska
20 governmental plan, as defined by section 414(d) of the Internal
21 Revenue Code. During the years of participation in the other
22 Nebraska governmental plan, the employee must have been a full-time
23 employee, as defined in the Nebraska governmental plan in which
24 the credit was earned. The board may adopt and promulgate rules
25 and regulations governing the assessment and granting of vesting

1 credit.

2 ~~(5)~~ (6) Any employee who qualifies for membership in
3 the retirement system pursuant to this section may not be
4 disqualified for membership in the retirement system solely because
5 such employee also maintains separate employment which qualifies
6 the employee for membership in another public retirement system,
7 nor may membership in this retirement system disqualify such an
8 employee from membership in another public employment system solely
9 by reason of separate employment which qualifies such employee for
10 membership in this retirement system.

11 ~~(6)~~ (7) State agencies shall ensure that employees
12 authorized to participate in the retirement system pursuant to
13 this section shall enroll and make required contributions to
14 the retirement system immediately upon becoming an employee.
15 Information necessary to determine membership in the retirement
16 system shall be provided by the employer.

17 Sec. 22. Section 84-1309.02, Revised Statutes Supplement,
18 2009, is amended to read:

19 84-1309.02 (1) It is the intent of the Legislature that,
20 in order to improve the competitiveness of the retirement plan for
21 state employees, a cash balance benefit shall be added to the State
22 Employees Retirement Act on and after January 1, 2003. Each member
23 who is employed and participating in the retirement system prior
24 to January 1, 2003, may either elect to continue participation
25 in the defined contribution benefit as provided in the act prior

1 to January 1, 2003, or elect to participate in the cash balance
2 benefit as set forth in this section. The member shall make the
3 election prior to January 1, 2003, or on or after November 1, 2007,
4 but before January 1, 2008. If no election is made prior to January
5 1, 2003, or on or after November 1, 2007, but before January 1,
6 2008, the member shall be treated as though he or she elected
7 to continue participating in the defined contribution benefit as
8 provided in the act prior to January 1, 2003. Members who elect
9 to participate in the cash balance benefit on or after November
10 1, 2007, but before January 1, 2008, shall commence participation
11 in the cash balance benefit on January 1, 2008. Any member who
12 made the election prior to January 1, 2003, does not have to
13 reelect the cash balance benefit on or after November 1, 2007,
14 but before January 1, 2008. A member employed and participating
15 in the retirement system prior to January 1, 2003, who terminates
16 employment on or after January 1, 2003, and returns to employment
17 prior to having a five-year break in service shall participate in
18 the cash balance benefit as set forth in this section.

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

25 (a) The employee cash balance account shall, at any time,

1 be equal to the following:

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

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

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

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

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

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

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

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

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

22 (3) In order to carry out the provisions of this section,
23 the board may enter into administrative services agreements for
24 accounting or record-keeping services. No agreement shall be
25 entered into unless the board determines that it will result

1 in administrative economy and will be in the best interests of
2 the state and its participating employees. The board may develop
3 a schedule for the allocation of the administrative services
4 agreements costs for accounting or record-keeping services and may
5 assess the costs so that each member pays a reasonable fee as
6 determined by the board. ~~The money forfeited pursuant to section~~
7 ~~84-1321.01 shall not be used to pay the administrative costs~~
8 ~~incurred pursuant to this subsection.~~

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

11 84-1310.01 (1) Each member employed and participating in
12 the retirement system prior to January 1, 2003, who has elected
13 not to participate in the cash balance benefit, shall be allowed
14 to allocate all contributions to his or her employee account to
15 various investment options. Such investment options shall include,
16 but not be limited to, the following:

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

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

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

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

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

13 (f) A fixed income account which shall be invested by or
14 under the direction of the state investment officer in fixed income
15 instruments;

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

19 (h) Beginning on July 1, 2006, an age-based account which
20 shall be invested under the direction of the state investment
21 officer with an asset allocation and investment strategy that
22 changes based upon the age of the member. The board shall
23 develop an account mechanism that changes the investments as
24 the employee nears retirement age. The asset allocation and asset
25 classes utilized in the investments shall move from aggressive, to

1 moderate, and then to conservative as retirement age approaches.

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

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

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

24 (4) In order to carry out the provisions of this section,
25 the board may enter into administrative services agreements for

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

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

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

12 84-1311.03 (1) Each member employed and participating in
13 the retirement system prior to January 1, 2003, who has elected
14 not to participate in the cash balance benefit, shall be allowed
15 to allocate all contributions to his or her employer account to
16 various investment options. Such investment options shall be the
17 same as the investment options of the employee account as provided
18 in subsection (1) of section 84-1310.01. If a member fails to
19 select an option or combination of options, all of his or her funds
20 in the employer account shall be placed in the balanced account
21 option described in subdivision (1)(d) of section 84-1310.01.
22 Each member shall be given a detailed current description of
23 each investment option prior to making or revising his or her
24 allocation.

25 (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

1 account.

2 Sec. 25. Section 84-1314, Reissue Revised Statutes of
3 Nebraska, is amended to read:

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

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

1 investment officer pursuant to the Nebraska Capital Expansion Act
2 and the Nebraska State Funds Investment Act.

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

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

22 (2) If a member ceases to be an employee due to the
23 termination of his or her employment by the state and a grievance
24 or other appeal of the termination is filed, transactions involving
25 forfeiture of his or her employer account or employer cash balance

1 account shall be suspended pending the final outcome of the
2 grievance or other appeal.

3 (3) The State Employer Retirement Expense Fund is
4 created. The fund shall be administered by the Public Employees
5 Retirement Board. The fund shall be established and maintained
6 separate from any funds held in trust for the benefit of members
7 under the retirement system. The fund shall be used to meet
8 expenses of the State Employees Retirement System of the State
9 of Nebraska whether such expenses are incurred in administering
10 the member's employer account or in administering the member's
11 employer cash balance account when the funds available in the
12 State Employees Defined Contribution Retirement Expense Fund or
13 State Employees Cash Balance Retirement Expense Fund make such use
14 reasonably necessary.

15 (4) The director of the Nebraska Public Employees
16 Retirement Systems shall certify to the Accounting Administrator
17 of the Department of Administrative Services when accumulated
18 employer account forfeiture funds are available to reduce the
19 state contribution which would otherwise be required to fund
20 future service retirement benefits or to restore employer accounts
21 or employer cash balance accounts referred to in subsection (1)
22 of this section. Following such certification, the Accounting
23 Administrator shall transfer the amount reduced from the state
24 contribution from the Imprest Payroll Distributive Fund to the
25 State Employer Retirement Expense Fund. Expenses incurred as a

1 result of the state depositing amounts into the State Employer
2 Retirement Expense Fund shall be deducted prior to any additional
3 expenses being allocated. Any remaining amount shall be allocated
4 in accordance with ~~section 23-2319.02.~~ subsection (3) of this
5 section. Any money in the fund available for investment shall be
6 invested by the state investment officer pursuant to the Nebraska
7 Capital Expansion Act and the Nebraska State Funds Investment Act.

8 Sec. 27. Section 84-1323.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

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

1 year of termination of employment.

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

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

9 84-1504 (1) The Public Employees Retirement Board, on
10 behalf of the state, may contract with any individual to defer a
11 portion of such individual's compensation or with the Legislative
12 Council to defer any other amount that the Legislative Council
13 agrees to credit to an individual's account pursuant to section 457
14 of the Internal Revenue Code.

15 (2) The compensation to be deferred at the election of
16 the individual and any other amount credited on behalf of such
17 individual by the Legislative Council shall not exceed the total
18 compensation to be received by the individual from the employer or
19 exceed the limits established by the Internal Revenue Code for such
20 a plan.

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

25 (4) Any compensation deferred at the election of the

1 individual under such a deferred compensation plan shall continue
2 to be included as regular compensation for the purpose of computing
3 the retirement, pension, or social security contributions made or
4 benefits earned by any employee.

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

8 (6) The state, the board, the state investment officer,
9 the agency, or the county shall not be responsible for any
10 investment results entered into by the individual in the deferred
11 compensation agreement.

12 (7) Nothing in this section shall in any way limit,
13 restrict, alter, amend, invalidate, or nullify any deferred
14 compensation plan previously instituted by any instrumentality or
15 agency of the State of Nebraska, and any such plan is hereby
16 authorized and approved.

17 (8) On and after the operative date of this act, no
18 employee of the state or any political subdivision of the state
19 shall be authorized to participate in a deferred compensation plan
20 unless the employee (a) is a United States citizen or (b) is a
21 qualified alien under the federal Immigration and Nationality Act,
22 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and
23 is lawfully present in the United States.

24 ~~(8)~~ (9) For purposes of this section, individual means
25 (a) any state employee, whether employed on a permanent or

1 temporary basis, full-time or part-time, (b) a person under
2 contract providing services to the state who is not employed
3 by the University of Nebraska or any of the state colleges or
4 community colleges and who has entered into a contract with the
5 state to have compensation deferred prior to August 28, 1999,
6 and (c) any county employee designated as a permanent part-time
7 or full-time employee or elected official whose employer does not
8 offer a deferred compensation plan and who has entered into an
9 agreement pursuant to section 48-1401.

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

11 Sec. 30. Original sections 23-2310.04, 23-2315.01,
12 23-2319.02, 24-701.01, 24-710.07, 79-902, 79-910.01, 79-915,
13 79-920, 79-947.01, 79-951, 79-978, 79-990, 81-2016, 81-2027.03,
14 84-1310.01, 84-1311.03, 84-1314, 84-1321.01, 84-1323.01, and
15 84-1504, Reissue Revised Statutes of Nebraska, sections 23-2309.01
16 and 23-2310.05, Revised Statutes Cumulative Supplement, 2008, and
17 sections 23-2306, 23-2308.01, 84-1307, and 84-1309.02, Revised
18 Statutes Supplement, 2009, are repealed.

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