

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 684

Introduced by Executive Board: Wightman, Chairperson.

Read first time January 06, 2010

Committee: Placed on General File

A BILL

1 FOR AN ACT relating to social security; to amend sections 68-601,
2 68-602, 68-603, 68-604, 68-605, 68-608, 68-610, 68-620,
3 68-621, 68-622, and 68-631, Reissue Revised Statutes of
4 Nebraska; to eliminate two terminated funds; to harmonize
5 provisions; to repeal the original sections; and to
6 outright repeal sections 68-612 and 68-613, Reissue
7 Revised Statutes of Nebraska.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-601, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 68-601 (1) In order to extend to the employees of the
4 state and its political subdivisions and to the dependents and
5 survivors of such employees the basic protection accorded to others
6 by the old age and survivors insurance system embodied in the
7 Social Security Act, it is hereby declared to be the policy of
8 the Legislature, subject to the limitations of sections 68-601 to
9 ~~68-613 and 68-621 to 68-630,~~ 68-631, that such steps be taken as
10 to provide such protection to employees of the State of Nebraska
11 and its political subdivisions on as broad a basis as is permitted
12 under the act.

13 (2) In conformity with the policy of the Congress of the
14 United States of America, it is hereby declared to be the policy
15 of the State of Nebraska that the protection afforded employees
16 in positions covered by retirement systems on the date the state
17 agreement is made applicable to service performed in such positions
18 or receiving periodic benefits under such retirement systems at
19 such time will not be impaired as a result of making the agreement
20 so applicable or as a result of legislative or executive action
21 taken in anticipation or in consequence thereof and that the
22 benefits provided by the Social Security Act and made available to
23 employees of the State of Nebraska and of political subdivisions
24 thereof or instrumentalities jointly created by the state and any
25 other state or states, who are or may be members of a retirement

1 system, shall be supplementary to the benefits provided by such
2 retirement system.

3 Sec. 2. Section 68-602, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-602 For purposes of sections 68-601 to ~~68-613~~ and
6 ~~68-621~~ ~~to 68-630,~~ 68-631, unless the context otherwise requires:

7 (1) Wages shall mean all remuneration for employment,
8 including the cash value of all remuneration paid in any medium
9 other than cash, except that wages shall not include that part
10 of such remuneration which, even if it were for employment within
11 the meaning of the Federal Insurance Contributions Act, would not
12 constitute wages within the meaning of the act;

13 (2) Employment shall mean any service performed by an
14 employee in the employ of the State of Nebraska or any political
15 subdivision thereof for such employer except (a) service which, in
16 the absence of an agreement entered into under sections 68-601 to
17 ~~68-613~~ and ~~68-621~~ ~~to 68-630,~~ 68-631, would constitute employment as
18 defined in the Social Security Act or (b) service which under the
19 act may not be included in an agreement between the state and the
20 Secretary of Health and Human Services entered into under sections
21 68-601 to ~~68-613~~ and ~~68-621~~ ~~to 68-630.~~ 68-631. Service which under
22 the act may be included in an agreement only upon certification by
23 the Governor in accordance with section 218(d)(3) of the act shall
24 be included in the term employment if and when the Governor issues,
25 with respect to such service, a certificate to the Secretary of

1 Health and Human Services pursuant to subsection (2) of section
2 68-624;

3 (3) Employee shall include an officer of the state or a
4 political subdivision thereof;

5 (4) State agency shall mean the Director of
6 Administrative Services;

7 (5) Secretary of Health and Human Services shall include
8 any individual to whom the Secretary of Health and Human Services
9 has delegated any functions under the Social Security Act with
10 respect to coverage under such act of employees of states and their
11 political subdivisions and, with respect to any action taken prior
12 to April 11, 1953, includes the Federal Security Administrator and
13 any individual to whom such administrator had delegated any such
14 function;

15 (6) Political subdivision shall include an
16 instrumentality of the state, of one or more of its political
17 subdivisions, or of the state and one or more of its political
18 subdivisions, but only if such instrumentality is a juristic entity
19 which is essentially legally separate and distinct from the state
20 or subdivision and only if its employees are not by virtue of
21 their relation to such juristic entity employees of the state or
22 subdivision;

23 (7) Social Security Act shall mean the Act of Congress
24 approved August 14, 1935, Chapter 531, 49 Stat. 620, officially
25 cited as the Social Security Act, including regulations and

1 requirements issued pursuant thereto, as such act has been amended
2 or recodified to December 25, 1969, and may from time to time
3 hereafter be amended or recodified; and

4 (8) Federal Insurance Contributions Act shall mean
5 Chapter 21, subchapters A, B, and C of the Internal Revenue Code,
6 and the term employee tax shall mean the tax imposed by section
7 3101 of such code.

8 Sec. 3. Section 68-603, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-603 The state agency, with the approval of the
11 Governor, is hereby authorized to enter, on behalf of the State
12 of Nebraska, into an agreement with the Secretary of Health
13 and Human Services, consistent with the terms and provisions of
14 sections 68-601 to ~~68-613~~ and ~~68-621 to 68-630,~~ 68-631, for the
15 purpose of extending the benefits of the federal old age and
16 survivors' insurance system to employees of the state or any
17 political subdivision thereof with respect to services specified
18 in such agreement which constitute employment. The state agency,
19 with the approval of the Governor, is further authorized to enter,
20 on behalf of the State of Nebraska, into such modifications and
21 amendments to such agreement with the Secretary of Health and Human
22 Services as shall be consistent with the terms and provisions of
23 sections 68-601 to ~~68-613~~ and ~~68-621 to 68-630~~ 68-631 if such
24 modification or amendment is necessary or desirable to secure
25 the benefits and exemptions allowable to the State of Nebraska

1 or any political subdivision thereof or to any employee of the
2 State of Nebraska or any political subdivision thereof provided by
3 the Social Security Act, the Federal Insurance Contributions Act,
4 or the employee tax. Such agreement may contain such provisions
5 relating to coverage, benefits, contributions, effective date,
6 modification and termination of the agreement, administration, and
7 other appropriate provisions as the state agency and Secretary of
8 Health and Human Services shall agree upon, but, except as may
9 be otherwise required by or under the Social Security Act as to
10 the services to be covered, such agreement shall provide in effect
11 that:

12 (1) Benefits will be provided for employees whose
13 services are covered by the agreement and their dependents and
14 survivors on the same basis as though such services constituted
15 employment within the meaning of Title II of the Social Security
16 Act;

17 (2) The state will pay to the Secretary of the Treasury
18 of the United States, at such time or times as may be prescribed
19 under the Social Security Act, contributions with respect to wages
20 equal to the sum of the taxes which would be imposed by the
21 Federal Insurance Contributions Act if the services covered by the
22 agreement constituted employment within the meaning of the Federal
23 Insurance Contributions Act;

24 (3) Such agreement shall be effective with respect to
25 services in employment covered by the agreement performed after

1 a date specified in the agreement, but in no event may it be
2 effective with respect to any such services performed prior to
3 the first day of the calendar year in which such agreement is
4 entered into or in which the modification of the agreement making
5 it applicable to such services is entered into, except that if a
6 political subdivision made reports and payments for social security
7 coverage of its employees to the Internal Revenue Service under
8 the Federal Insurance Contributions Act in the mistaken belief that
9 such action provided coverage for the employees, such agreement
10 shall be effective as of the first day of the first calendar
11 quarter for which such reports were erroneously filed;

12 (4) All services which constitute employment and are
13 performed in the employ of the state by employees of the state
14 shall be covered by the agreement;

15 (5) All services which constitute employment, are
16 performed in the employ of a political subdivision of the state,
17 and are covered by a plan which is in conformity with the terms
18 of the agreement and has been approved by the state agency under
19 sections 68-608 to 68-611 shall be covered by the agreement;

20 (6) As modified, the agreement shall include all services
21 described in either subdivision (4) or (5) of this section or both
22 of such subdivisions and performed by individuals to whom section
23 218(c)(3)(c) of the Social Security Act is applicable and shall
24 provide that the service of any such individual shall continue to
25 be covered by the agreement in case he or she thereafter becomes

1 eligible to be a member of a retirement system; and

2 (7) As modified, the agreement shall include all services
3 described in either subdivision (4) or (5) of this section or
4 both of such subdivisions and performed by individuals in positions
5 covered by a retirement system with respect to which the Governor
6 has issued a certificate to the Secretary of Health and Human
7 Services pursuant to subsection (2) of section 68-624.

8 Sec. 4. Section 68-604, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-604 Any instrumentality jointly created by this state
11 and any other state or states is hereby authorized, upon the
12 granting of like authority by such other state or states, (1)
13 to enter into an agreement with the Secretary of Health and
14 Human Services whereby the benefits of the federal old age and
15 survivors' insurance system shall be extended to employees of such
16 instrumentality, (2) to require its employees to pay, and for that
17 purpose to deduct from their wages, contributions equal to the
18 amounts which they would be required to pay under section 68-605
19 if they were covered by an agreement made pursuant to section
20 68-603, and (3) to make payments to the Secretary of the Treasury
21 of the United States in accordance with such agreement, including
22 payments from its own funds, and otherwise to comply with such
23 agreements. Such an agreement shall, to the extent practicable,
24 be consistent with the terms and provisions of section 68-603 and
25 other provisions of sections 68-601 to ~~68-613~~ and ~~68-621~~ to ~~68-630~~.

1 68-631.

2 Sec. 5. Section 68-605, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 68-605 Every employee of the state whose services are
5 covered by an agreement entered into under sections 68-603 and
6 68-604 shall be required to pay for the period of such coverage,
7 contributions, with respect to wages, as defined in section 68-602,
8 equal to the amount of tax which would be imposed by the Federal
9 Insurance Contributions Act if such services constituted employment
10 within the meaning of that act. Such liability shall arise in
11 consideration of the employee's retention in the service of the
12 state, or his or her entry upon such service, after the enactment
13 of sections 68-601 to ~~68-613~~, and sections ~~68-621 to 68-630.~~
14 68-631.

15 Sec. 6. Section 68-608, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 68-608 Unless otherwise provided for by sections 68-601
18 to ~~68-613~~ and ~~68-621 to 68-630~~, 68-631, each political subdivision
19 of the state is hereby authorized to submit for approval by the
20 state agency a plan for extending the benefits of Title II of the
21 Social Security Act, in conformity with applicable provisions of
22 such act, to employees of such political subdivision and is hereby
23 further authorized to submit for approval by the state agency
24 any modification or amendment to any then existing plan if such
25 modification or amendment is necessary or desirable to secure the

1 benefits and exemptions allowable to such political subdivisions
2 thereof or to any employee of the political subdivision in
3 conformity with Title II of the act. Each such plan and any
4 amendment thereof shall be approved by the state agency if it
5 finds that such plan or such plan as amended is in conformity
6 with such requirements as are provided in regulations of the state
7 agency, except that no such plan shall be approved unless: (1)
8 It is in conformity with the requirements of the act and with
9 the agreement entered into under sections 68-603 and 68-604; (2)
10 it provides that all services which constitute employment and are
11 performed in the employ of the political subdivision by employees
12 thereof will be covered by the plan; (3) it specifies the source
13 or sources from which the funds necessary to make the payments
14 required by subsection (1) of section 68-610 and by section 68-611
15 are expected to be derived and contains reasonable assurance that
16 such sources will be adequate for such purpose; (4) it provides
17 for such methods of administration of the plan by the political
18 subdivision as are found by the state agency to be necessary
19 for the proper and efficient administration of the plan; (5) it
20 provides that the political subdivision will make such reports in
21 such form and containing such information as the state agency may
22 from time to time require and will comply with such provisions
23 as the state agency or the Secretary of Health and Human Services
24 may from time to time find necessary to assure the correctness
25 and verification of such reports; and (6) it authorizes the state

1 agency to terminate the plan in its entirety, in the discretion
2 of the state agency, if it finds that there has been a failure
3 to comply substantially with any provision contained in such plan,
4 such termination to take effect at the expiration of such notice
5 and on such conditions as may be provided by regulations of the
6 state agency and may be consistent with the provisions of the act.

7 Sec. 7. Section 68-610, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 68-610 (1) Each political subdivision as to which a plan
10 has been approved under sections 68-608 to 68-611 or prepared under
11 section 68-625 shall be required to pay for the period of such
12 coverage, contributions in the amounts and at the rates specified
13 in the applicable agreement entered into by the state agency under
14 sections 68-603 and 68-604.

15 (2) Each political subdivision required to make payments
16 under section 68-609 is authorized, in consideration of the
17 employee's retention in or entry upon employment after enactment of
18 sections 68-601 to ~~68-613~~ and ~~68-621~~ to ~~68-630~~, 68-631, to impose
19 upon each of its employees, as to services which are covered by an
20 approved plan, a contribution with respect to his or her wages not
21 exceeding the amount of tax which would be imposed by the Federal
22 Insurance Contributions Act if such services constituted employment
23 within the meaning of the act and to deduct the amount of such
24 contribution from his or her wages as and when paid. Failure to
25 deduct such contribution shall not relieve the employee or employer

1 of liability therefor.

2 Sec. 8. Section 68-620, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 68-620 Notwithstanding any tax levy limitations contained
5 in any other law or city home rule charter, when any city or
6 village of this state elects to accept the provisions of sections
7 68-601 to ~~68-613~~ and ~~68-621~~ to ~~68-630~~ 68-631 relating to old age
8 and survivors insurance and enters into a written agreement with
9 the state agency as provided in such sections, the city or village
10 shall levy a tax, in addition to all other taxes, in order to
11 defray the cost of such city or village in meeting the obligations
12 arising by reason of such written agreement, and the revenue raised
13 by such special levy shall be used for no other purpose.

14 Sec. 9. Section 68-621, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 68-621 (1) A referendum group, as referred to in sections
17 68-621 to 68-630, shall consist of the employees of the state, a
18 single political subdivision of this state, or any instrumentality
19 jointly created by this state and any other state or states, the
20 employees of which are or may be members of a retirement system
21 covering such employees, except that: (a) The employees of the
22 University of Nebraska shall constitute a referendum group; (b)
23 the employees of a Class V school district shall constitute a
24 referendum group; (c) all employees of the State of Nebraska who
25 are or may be members of the School Retirement System of the State

1 of Nebraska, including employees of institutions operated by the
2 Board of Trustees of the Nebraska State Colleges, employees of
3 institutions operated by the Department of Correctional Services
4 and the Department of Health and Human Services, and employees
5 subordinate to the State Board of Education, shall constitute
6 a referendum group; and (d) all employees of school districts
7 of the State of Nebraska, county superintendents, and county
8 school administrators, who are or may be members of the School
9 Retirement System of the State of Nebraska, shall constitute a
10 single referendum group.

11 (2) The managing authority of a political subdivision or
12 educational institution shall be the board, committee, or council
13 having general authority over a political subdivision, university,
14 college, or school district whose employees constitute or are
15 included in a referendum group; the managing authority of the state
16 shall be the Governor; and insofar as sections 68-601 to ~~68-613~~ and
17 ~~68-621 to 68-630~~ 68-631 may be applicable to county superintendents
18 and county school administrators, managing authority shall mean the
19 board of county commissioners or county supervisors of the county
20 in which the county superintendent was elected or with which the
21 county school administrator contracted.

22 (3) Eligible employees, as referred to in sections 68-621
23 to 68-630, shall mean those employees of the state or any political
24 subdivision thereof who at or during the time of voting in a
25 referendum as herein provided are in positions covered by a

1 retirement system, are members of such retirement system, and
2 were in such positions at the time of giving of the notice of
3 such referendum, as herein required, except that no such employee
4 shall be considered an eligible employee if at the time of such
5 voting such employee is in a position to which the state agreement
6 applies or if such employee is in service in a police officer or
7 firefighter position.

8 (4) State agreement, as referred to in sections 68-621 to
9 68-630, shall mean the agreement between the State of Nebraska and
10 the designated officer of the United States of America entered into
11 pursuant to section 68-603.

12 Sec. 10. Section 68-622, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 68-622 (1) All employees of the State of Nebraska or
15 any political subdivision thereof or any instrumentality jointly
16 created by this state and any other state or states who have
17 heretofore been excluded from receiving or qualifying for benefits
18 under Title II of the Social Security Act because of membership in
19 a retirement system may, when sections 68-621 to 68-630 have been
20 complied with, vote at a referendum upon the question of whether
21 service in positions covered by such retirement system should be
22 excluded from or included under the state agreement, except that if
23 such a referendum has been conducted and certified in accordance
24 with section 218(d)(3) of the Social Security Act, as amended in
25 1954, prior to May 18, 1955, then no further referendum shall

1 be required, but this shall not prohibit the conducting of such
2 further referendum.

3 (2) The Governor may authorize a referendum and designate
4 any agency or individual to supervise its conduct, in accordance
5 with the requirements of section 218(d)(3) of the Social Security
6 Act, on the question of whether service in positions covered by
7 a retirement system established by the state or by a political
8 subdivision thereof should be excluded from or included under an
9 agreement under sections 68-601 to ~~68-613~~ and ~~68-621 to 68-630.~~
10 68-631.

11 Sec. 11. Section 68-631, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 68-631 Sections 68-601 to ~~68-613~~ 68-631 and any
14 amendments thereto shall, except as otherwise provided in this
15 section, be applicable to metropolitan utilities districts and
16 employees and appointees of metropolitan utilities districts. The
17 state agency contemplated in such sections is authorized to enter,
18 on behalf of the State of Nebraska, into an agreement with any
19 authorized agent of the United States Government for the purpose
20 of extending the benefits of the Federal Old Age and Survivors'
21 Insurance system, as amended by Public Law 761, approved September
22 1, 1954, to the appointees and employees of each metropolitan
23 utilities district, and all of the appointees and employees covered
24 by a contributory retirement plan are hereby declared to be a
25 separate group for the purposes of referendum and subsequent

1 coverage. Metropolitan utilities districts are hereby declared to
2 be political subdivisions as defined in section 68-602, and the
3 Governor is authorized to appoint the board of directors of any
4 metropolitan utilities district as the agency designated by him or
5 her to supervise any referendum required to be conducted under the
6 Social Security Act and is authorized to make any certifications
7 required by the act to be made to the Secretary of Health and Human
8 Services.

9 Sec. 12. Original sections 68-601, 68-602, 68-603,
10 68-604, 68-605, 68-608, 68-610, 68-620, 68-621, 68-622, and 68-631,
11 Reissue Revised Statutes of Nebraska, are repealed.

12 Sec. 13. The following sections are outright repealed:
13 Sections 68-612 and 68-613, Reissue Revised Statutes of Nebraska.