

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 509**

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

Read first time January 18, 2011

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2301,  
2 23-2302, 23-2308, 23-2319.01, 24-710, 42-1102, 72-1243,  
3 79-408, 79-901, 79-903, 79-904, 79-904.01, 79-916,  
4 79-926, 79-933.03, 79-933.05, 79-933.06, 79-941, 79-942,  
5 79-944, 79-947, 79-955, 79-978.01, 79-987, 81-2014.01,  
6 81-2041, 84-1301, 84-1501, 84-1503, and 84-1511, Reissue  
7 Revised Statutes of Nebraska, and sections 4-108,  
8 23-2306, 24-701.01, 68-621, 79-902, 79-920, 79-9,113,  
9 79-1003, 79-1028.01, 84-1307, and 84-1321.01, Revised  
10 Statutes Cumulative Supplement, 2010; to change  
11 provisions relating to public benefits, fees, forfeited  
12 accounts, retirement annuities, presentation and filing  
13 deadlines, and participation age requirements; to create  
14 a fund; to rename a retirement system; to provide  
15 requirements relating to cost-of-living adjustments,  
16 compliance audits, and preretirement planning programs;

1           to eliminate a notification requirement, obsolete  
2           language, cost-of-living adjustment provisions, and the  
3           Law Enforcement Officers Retirement Survey Act; to  
4           harmonize provisions; to provide an operative date; to  
5           repeal the original sections; to outright repeal sections  
6           24-710.09, 24-710.10, 24-710.11, 50-417.02, 50-417.03,  
7           50-417.04, 50-417.05, 50-417.06, 79-940, 79-947.03,  
8           79-947.04, 79-947.05, 81-2027.05, 81-2027.06, and  
9           81-2027.07, Reissue Revised Statutes of Nebraska, and  
10          sections 24-710.07, 79-947.01, and 81-2027.03, Revised  
11          Statutes Cumulative Supplement, 2010; and to declare an  
12          emergency.

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

1           Section 1. Section 4-108, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           4-108 (1) Notwithstanding any other provisions of law,  
4 unless exempted from verification under section 4-110 or pursuant to  
5 federal law, no state agency or political subdivision of the State of  
6 Nebraska shall provide public benefits to a person not lawfully  
7 present in the United States.

8           (2) Except as provided in section 4-110 or if exempted by  
9 federal law, every agency or political subdivision of the State of  
10 Nebraska shall verify the lawful presence in the United States of any  
11 person who has applied for public benefits administered by an agency  
12 or a political subdivision of the State of Nebraska. This section  
13 shall be enforced without regard to race, religion, gender,  
14 ethnicity, or national origin.

15           (3) On and after October 1, 2009, no employee of a state  
16 agency or political subdivision of the State of Nebraska shall be  
17 authorized to participate in any retirement system, including, but  
18 not limited to, the systems provided for in the Class V School  
19 Employees Retirement Act, the County Employees Retirement Act, the  
20 Judges Retirement Act, the Nebraska State Patrol Retirement Act, the  
21 School Employees Retirement Act, and the State Employees Retirement  
22 Act, unless the employee (a) is a United States citizen or (b) is a  
23 qualified alien under the federal Immigration and Nationality Act, 8  
24 U.S.C. 1101 et seq., as such act existed on January 1, 2009, ~~2011,~~  
25 and is lawfully present in the United States.

1                   Sec. 2. Section 23-2301, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   23-2301 For purposes of the County Employees Retirement  
4 Act, unless the context otherwise requires:

5                   (1) Actuarial equivalent means the equality in value of  
6 the aggregate amounts expected to be received under different forms  
7 of an annuity payment. The mortality assumption used for purposes of  
8 converting the member cash balance account shall be the 1994 Group  
9 Annuity Mortality Table using a unisex rate that is fifty percent  
10 male and fifty percent female. For purposes of converting the member  
11 cash balance account attributable to contributions made prior to  
12 January 1, 1984, that were transferred pursuant to the act, the 1994  
13 Group Annuity Mortality Table for males shall be used;

14                   (2) Annuity means equal monthly payments provided by the  
15 retirement system to a member or beneficiary under forms determined  
16 by the board beginning the first day of the month after an annuity  
17 election is received in the office of the Nebraska Public Employees  
18 Retirement Systems or the first day of the month after the employee's  
19 termination of employment, whichever is later. The last payment shall  
20 be at the end of the calendar month in which the member dies or in  
21 accordance with the payment option chosen by the member;

22                   (3) Annuity start date means the date upon which a  
23 member's annuity is first effective and shall be the first day of the  
24 month following the member's termination or following the date the  
25 application is received by the board, whichever is later;

1                   (4) Cash balance benefit means a member's retirement  
2 benefit that is equal to an amount based on annual employee  
3 contribution credits plus interest credits and, if vested, employer  
4 contribution credits plus interest credits and dividend amounts  
5 credited in accordance with subdivision (4)(c) of section 23-2317;

6                   (5)(a) Compensation means gross wages or salaries payable  
7 to the member for personal services performed during the plan year.  
8 Compensation does not include insurance premiums converted into cash  
9 payments, reimbursement for expenses incurred, fringe benefits, or  
10 bonuses for services not actually rendered, including, but not  
11 limited to, early retirement inducements, cash awards, and severance  
12 pay, except for retroactive salary payments paid pursuant to court  
13 order, arbitration, or litigation and grievance settlements.  
14 Compensation includes overtime pay, member retirement contributions,  
15 and amounts contributed by the member to plans under sections 125,  
16 403(b), and 457 of the Internal Revenue Code or any other section of  
17 the code which defers or excludes such amounts from income.

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

25                   (6) Date of adoption of the retirement system by each

1 county means the first day of the month next following the date of  
2 approval of the retirement system by the county board or January 1,  
3 1987, whichever is earlier;

4 (7) Date of disability means the date on which a member  
5 is determined by the board to be disabled;

6 (8) Defined contribution benefit means a member's  
7 retirement benefit from a money purchase plan in which member  
8 benefits equal annual contributions and earnings pursuant to section  
9 23-2309 and, if vested, employer contributions and earnings pursuant  
10 to section 23-2310;

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

15 (10) Employee means all persons or officers who are  
16 employed by a county of the State of Nebraska on a permanent basis,  
17 persons or officers employed by or serving in a municipal county  
18 formed by at least one county participating in the retirement system,  
19 persons employed as provided in section 2-1608, all elected officers  
20 of a county, and such other persons or officers as are classified  
21 from time to time as permanent employees by the county board of the  
22 county by which they are employed, except that employee does not  
23 include judges, employees or officers of any county having a  
24 population in excess of one hundred fifty thousand inhabitants, or,  
25 except as provided in section 23-2306, persons making contributions

1 to the School Employees Retirement System of the State of Nebraska;

2 (11) Employee contribution credit means an amount equal  
3 to the member contribution amount required by section 23-2307;

4 (12) Employer contribution credit means an amount equal  
5 to the employer contribution amount required by section 23-2308;

6 (13) Final account value means the value of a member's  
7 account on the date the account is either distributed to the member  
8 or used to purchase an annuity from the plan, which date shall occur  
9 as soon as administratively practicable after receipt of a valid  
10 application for benefits, but no sooner than forty-five days after  
11 the member's termination;

12 (14) Five-year break in service means a period of five  
13 consecutive one-year breaks in service;

14 (15) Full-time employee means an employee who is employed  
15 to work one-half or more of the regularly scheduled hours during each  
16 pay period;

17 (16) Future service means service following the date of  
18 adoption of the retirement system;

19 (17) Guaranteed investment contract means an investment  
20 contract or account offering a return of principal invested plus  
21 interest at a specified rate. For investments made after July 19,  
22 1996, guaranteed investment contract does not include direct  
23 obligations of the United States or its instrumentalities, bonds,  
24 participation certificates or other obligations of the Federal  
25 National Mortgage Association, the Federal Home Loan Mortgage

1 Corporation, or the Government National Mortgage Association, or  
2 collateralized mortgage obligations and other derivative securities.  
3 This subdivision shall not be construed to require the liquidation of  
4 investment contracts or accounts entered into prior to July 19, 1996;

5 (18) Interest credit rate means the greater of (a) five  
6 percent or (b) the applicable federal mid-term rate, as published by  
7 the Internal Revenue Service as of the first day of the calendar  
8 quarter for which interest credits are credited, plus one and one-  
9 half percent, such rate to be compounded annually;

10 (19) Interest credits means the amounts credited to the  
11 employee cash balance account and the employer cash balance account  
12 at the end of each day. Such interest credit for each account shall  
13 be determined by applying the daily portion of the interest credit  
14 rate to the account balance at the end of the previous day. Such  
15 interest credits shall continue to be credited to the employee cash  
16 balance account and the employer cash balance account after a member  
17 ceases to be an employee, except that no such credit shall be made  
18 with respect to the employee cash balance account and the employer  
19 cash balance account for any day beginning on or after the member's  
20 date of final account value. If benefits payable to the member's  
21 surviving spouse or beneficiary are delayed after the member's death,  
22 interest credits shall continue to be credited to the employee cash  
23 balance account and the employer cash balance account until such  
24 surviving spouse or beneficiary commences receipt of a distribution  
25 from the plan;



1           (20) Member cash balance account means an account equal  
2 to the sum of the employee cash balance account and, if vested, the  
3 employer cash balance account and dividend amounts credited in  
4 accordance with subdivision (4)(c) of section 23-2317;

5           (21) One-year break in service means a plan year during  
6 which the member has not completed more than five hundred hours of  
7 service;

8           (22) Participation means qualifying for and making the  
9 required deposits to the retirement system during the course of a  
10 plan year;

11           (23) Part-time employee means an employee who is employed  
12 to work less than one-half of the regularly scheduled hours during  
13 each pay period;

14           (24) Plan year means the twelve-month period beginning on  
15 January 1 and ending on December 31;

16           (25) Prior service means service prior to the date of  
17 adoption of the retirement system;

18           (26) Regular interest means the rate of interest earned  
19 each calendar year as determined by the retirement board in  
20 conformity with actual and expected earnings on the investments  
21 through December 31, 1985;

22           (27) Required contribution means the deduction to be made  
23 from the compensation of employees as provided in the act;

24           (28) Retirement means qualifying for and accepting the  
25 retirement benefit granted under the act after terminating

1 employment;

2 (29) Retirement board or board means the Public Employees  
3 Retirement Board;

4 (30) Retirement system means the Retirement System for  
5 Nebraska Counties;

6 (31) Service means the actual total length of employment  
7 as an employee and is not deemed to be interrupted by (a) temporary  
8 or seasonal suspension of service that does not terminate the  
9 employee's employment, (b) leave of absence authorized by the  
10 employer for a period not exceeding twelve months, (c) leave of  
11 absence because of disability, or (d) military service, when properly  
12 authorized by the retirement board. Service does not include any  
13 period of disability for which disability retirement benefits are  
14 received under section 23-2315;

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

1 spouse for the balance of the benefits;

2           (33) Termination of employment occurs on the date on  
3 which a county which is a member of the retirement system determines  
4 that its employer-employee relationship with an employee is  
5 dissolved. The county shall notify the board of the date on which  
6 such a termination has occurred. Termination of employment does not  
7 occur if an employee whose employer-employee relationship with a  
8 county is dissolved enters into an employer-employee relationship  
9 with the same or another county which participates in the Retirement  
10 System for Nebraska Counties and there are less than one hundred  
11 twenty days between the date when the employee's employer-employee  
12 relationship ceased with the county and the date when the employer-  
13 employee relationship commenced with the same or another county which  
14 qualifies the employee for participation in the plan. It shall be the  
15 responsibility of the current employer to notify the board of such  
16 change in employment and provide the board with such information as  
17 the board deems necessary. If the board determines that termination  
18 of employment has not occurred and a termination benefit has been  
19 paid to a member of the retirement system pursuant to section  
20 23-2319, the board shall require the member who has received such  
21 benefit to repay the benefit to the retirement system; and

22           (34) Vesting credit means credit for years, or a fraction  
23 of a year, of participation in another Nebraska governmental plan for  
24 purposes of determining vesting of the employer account.

25           Sec. 3. Section 23-2302, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           23-2302 (1) A county employees retirement system shall be  
3 established for the purpose of providing a retirement annuity or  
4 other benefits for employees as provided by the County Employees  
5 Retirement Act. It shall be known as the Retirement System for  
6 Nebraska Counties, and by such name shall transact all business and  
7 hold all cash and other property as provided in the County Employees  
8 Retirement Act.

9           (2) The retirement system shall not accept as  
10 contributions any money from members or participating counties except  
11 the following:

12           (a) Mandatory contributions and fees established by  
13 sections 23-2307 and 23-2308;

14           (b) Payments on behalf of transferred employees made  
15 pursuant to section 23-2306.02 or 23-2306.03;

16           (c) Money that is a repayment of refunded contributions  
17 made pursuant to section 23-2320;

18           (d) Contributions for military service credit made  
19 pursuant to section 23-2323.01;

20           (e) Actuarially required contributions pursuant to  
21 subdivision (4)(b) of section 23-2317;

22           (f) Trustee-to-trustee transfers pursuant to section  
23 23-2323.04; or

24           (g) Corrections ordered by the board pursuant to section  
25 23-2305.01.

1                   Sec. 4. Section 23-2306, Revised Statutes Cumulative  
2 Supplement, 2010, 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 permanent  
9 full-time employees shall begin participation in the retirement  
10 system upon employment and full-time elected officials shall begin  
11 participation in the retirement system upon taking office, (b) all  
12 permanent part-time employees who have attained the age of ~~twenty~~  
13 eighteen years may exercise the option to begin participation in the  
14 retirement system, and (c) all part-time elected officials may  
15 exercise the option to begin participation in the retirement system.  
16 An employee who exercises the option to begin participation in the  
17 retirement system shall remain in the system until termination or  
18 retirement, regardless of any change of status as a permanent or  
19 temporary employee.

20                   (3) On and after July 1, 2010, no employee of a member  
21 county shall be authorized to participate in the retirement system  
22 provided for in the County Employees Retirement Act unless the  
23 employee (a) is a United States citizen or (b) is a qualified alien  
24 under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et  
25 seq., as such act existed on January 1, 2009, and is lawfully present

1 in the United States.

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

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

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

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

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

12           Sec. 5. Section 23-2308, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           23-2308 (1) The County Employees Retirement Fund is  
15 created. The fund shall be administered by the board and shall  
16 consist of contributions and other such sums as provided in section  
17 23-2302.

18           (2) The county clerk shall pay to the board or an entity  
19 designated by the board an amount equal to two hundred fifty percent  
20 of the amounts deducted from the compensation of employees in  
21 accordance with the provisions of section 23-2307, which two hundred  
22 fifty percent equals the employees' contributions plus the county's  
23 contributions of one hundred fifty percent of the employees'  
24 contributions.

25           (3) The board may charge the county an administrative

1 processing fee of twenty-five dollars if the reports of necessary  
2 information or payments made pursuant to this section are received  
3 later than the date on which the board requires that such information  
4 or money should be received. In addition, the board may charge the  
5 county a late fee of thirty-eight thousandths of one percent of the  
6 amount required to be submitted pursuant to this section for each day  
7 such amount has not been received or in an amount equal to the amount  
8 of any costs incurred by the member due to the late receipt of  
9 contributions, whichever is greater. The late fee may be used to make  
10 a member's account whole for any costs that may have been incurred by  
11 the member due to the late receipt of contributions.

12           Sec. 6. Section 23-2319.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           23-2319.01 (1) For a member who has terminated employment  
15 and is not vested, the balance of the member's employer account or  
16 employer cash balance account shall be forfeited. The forfeited  
17 account shall be credited to the County Employees Retirement Fund and  
18 shall first be used to meet the expense charges incurred by the  
19 retirement board in connection with administering the retirement  
20 system, which charges shall be credited to the County Employees  
21 Defined Contribution Retirement Expense Fund, if the member  
22 participated in the defined contribution option, or to the County  
23 Employees Cash Balance Retirement Expense Fund, if the member  
24 participated in the cash balance option, and the remainder, if any,  
25 shall then be used to reduce the county contribution which would



1 otherwise be required to fund future service retirement benefits or  
2 to restore employer accounts or employer cash balance accounts. No  
3 forfeited amounts shall be applied to increase the benefits any  
4 member would otherwise receive under the County Employees Retirement  
5 Act.

6 (2) If a member ceases to be an employee due to the  
7 termination of his or her employment by the county and a grievance or  
8 other appeal of the termination is filed, transactions involving  
9 forfeiture of his or her employer account or employer cash balance  
10 account and any transactions for payment of benefits under sections  
11 23-2315 and 23-2319 shall be suspended pending the final outcome of  
12 the grievance or other appeal.

13 (3) The County Employer Retirement Expense Fund is  
14 created. The fund shall be administered by the Public Employees  
15 Retirement Board. The fund shall consist of any reduction in a county  
16 contribution which would otherwise be required to fund future service  
17 retirement benefits or to restore employer accounts or employer cash  
18 balance accounts referred to in subsection (1) of this section. The  
19 fund shall be established and maintained separate from any funds held  
20 in trust for the benefit of members under the county employees  
21 retirement system. Expenses incurred as a result of a county  
22 depositing amounts into the fund shall be deducted prior to any  
23 additional expenses being allocated. Any remaining amount shall be  
24 allocated in accordance with section 23-2319.02. 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 and  
2 the Nebraska State Funds Investment Act.

3 Sec. 7. Section 24-701.01, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5 24-701.01 Sections 24-701 to 24-714 and section 8 of this  
6 act shall be known and may be cited as the Judges Retirement Act.

7 Sec. 8. (1) Beginning July 1, 2011, and each July 1  
8 thereafter, the board shall determine the number of eligible retirees  
9 in the retirement system, and an annual benefit adjustment shall be  
10 made by the board for each retired member or beneficiary under one of  
11 the cost-of-living adjustment calculation methods found in subsection  
12 (2), (3), or (4) of this section. Each retired member or beneficiary,  
13 if eligible, shall receive an annual benefit adjustment under the  
14 cost-of-living adjustment calculation method that provides the  
15 retired member or beneficiary the greatest annual benefit adjustment  
16 increase. No retired member or beneficiary shall receive an annual  
17 benefit adjustment under more than one of the cost-of-living  
18 adjustment calculation methods provided in this section.

19 (2) The current benefit paid to a retired member or  
20 beneficiary under this subsection shall be adjusted so that the  
21 purchasing power of the benefit being paid is not less than seventy-  
22 five percent of the purchasing power of the initial benefit. The  
23 purchasing power of the initial benefit in any year following the  
24 year in which the initial benefit commenced shall be calculated by  
25 dividing the United States Department of Labor, Bureau of Labor

1 Statistics, Consumer Price Index for Urban Wage Earners and Clerical  
2 Workers factor on June 30 of the current year by the Consumer Price  
3 Index for Urban Wage Earners and Clerical Workers factor on June 30  
4 of the year in which the benefit commenced. The result shall be  
5 multiplied by the product that results when the amount of the initial  
6 benefit is multiplied by seventy-five percent. In any year in which  
7 applying the adjustment provided in subsection (3) of this section  
8 results in a benefit which would be less than seventy-five percent of  
9 the purchasing power of the initial benefit as calculated in this  
10 subsection, the adjustment shall instead be equal to the percentage  
11 change in the Consumer Price Index for Urban Wage Earners and  
12 Clerical Workers factor from the prior year to the current year.

13 (3) The current benefit paid to a retired member or  
14 beneficiary under this subsection shall be increased annually by the  
15 lesser of (a) the percentage change in the Consumer Price Index for  
16 Urban Wage Earners and Clerical Workers for the period between June  
17 30 of the prior year to June 30 of the present year, or (b) two and  
18 one-half percent.

19 (4)(a) The current benefit paid to a retired member or  
20 beneficiary under this subsection shall be calculated by multiplying  
21 the retired member's or beneficiary's total monthly benefit by the  
22 lesser of: (i) The cumulative change in the Consumer Price Index for  
23 Urban Wage Earners and Clerical Workers from the last adjustment of  
24 the total monthly benefit of each retired member or beneficiary  
25 through June 30 of the year for which the annual benefit adjustment

1 is being calculated; or (ii) an amount equal to three percent per  
2 annum compounded for the period from the last adjustment of the total  
3 monthly benefit of each retired member or beneficiary through June 30  
4 of the year for which the annual benefit adjustment is being  
5 calculated.

6 (b) In order for a retired member or beneficiary to  
7 receive the cost-of-living adjustment calculation method provided in  
8 this subsection, the retired member or beneficiary shall be: (i) A  
9 retired member or beneficiary who has been receiving a retirement  
10 benefit for at least five years if the member had at least twenty-  
11 five years of creditable service; (ii) a member who has been  
12 receiving a disability retirement benefit for at least five years  
13 pursuant to section 24-709; or (iii) a beneficiary who has been  
14 receiving a death benefit pursuant to section 24-707 or 24-707.01 for  
15 at least five years, if the member's or beneficiary's monthly accrual  
16 rate is less than or equal to the minimum accrual rate as determined  
17 by this subsection.

18 (c) The monthly accrual rate under this subsection is the  
19 retired member's or beneficiary's total monthly benefit divided by  
20 the number of years of creditable service earned by the retired or  
21 deceased member.

22 (d) The total monthly benefit under this subsection is  
23 the total benefit received by a retired member or beneficiary  
24 pursuant to the Judges Retirement Act and previous adjustments made  
25 pursuant to this section or any other provision of the act that

1 grants a benefit or cost-of-living increase, but the total monthly  
2 benefit shall not include sums received by an eligible retired member  
3 or eligible beneficiary from federal sources.

4 (e) The minimum accrual rate under this subsection is  
5 forty-five dollars and thirty cents until adjusted pursuant to this  
6 subsection. Beginning July 1, 2011, the retirement board shall  
7 annually adjust the minimum accrual rate to reflect the cumulative  
8 percentage change in the Consumer Price Index for Urban Wage Earners  
9 and Clerical Workers from the last adjustment of the minimum accrual  
10 rate.

11 (5) Beginning July 1, 2011, and each July 1 thereafter,  
12 each retired member or beneficiary shall receive the sum of the  
13 annual benefit adjustment and such retiree's total monthly benefit  
14 less withholdings, which sum shall be the retired member's or  
15 beneficiary's adjusted total monthly benefit. Each retired member or  
16 beneficiary shall receive the adjusted total monthly benefit until  
17 the expiration of the annuity option selected by the member or until  
18 the retired member or beneficiary again qualifies for the annual  
19 benefit adjustment, whichever occurs first.

20 (6) The annual benefit adjustment pursuant to this  
21 section shall not cause a current benefit to be reduced, and a  
22 retired member or beneficiary shall never receive less than the  
23 adjusted total monthly benefit until the annuity option selected by  
24 the member expires.

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

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

11 (8) The state shall contribute to the Nebraska Retirement  
12 Fund for Judges an annual level dollar payment certified by the  
13 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,  
14 the annual level dollar payment certified by the board shall equal  
15 1.04778 percent of six million eight hundred ninety-five thousand  
16 dollars.

17 Sec. 9. Section 24-710, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 24-710 (1) The retirement annuity of a judge who is an  
20 original member, who has not made the election provided for in  
21 subsection (8) of section 24-703 or section 24-710.01, and who  
22 retires under section 24-708 or 24-709 shall be computed as follows:  
23 Each such judge shall be entitled to receive an annuity, each monthly  
24 payment of which shall be in an amount equal to three and one-third  
25 percent of his or her final average compensation as such judge,

1 multiplied by the number of his or her years of creditable service.  
2 The amount stated in this section shall be supplemental to any  
3 benefits received by such judge under the Nebraska and federal old  
4 age and survivors' insurance acts at the date of retirement, but the  
5 monthly combined benefits received thereunder and by the Judges  
6 Retirement Act shall not exceed sixty-five percent of the final  
7 average compensation such judge was receiving when he or she last  
8 served as such judge. The amount of retirement annuity of a judge who  
9 retires under section 24-708 or 24-709 shall not be less than twenty-  
10 five dollars per month if he or she has four years or more of service  
11 credit.

12 (2) The retirement annuity of a judge who is a future  
13 member and who retires after July 1, 1986, under section 24-708 or  
14 24-709 shall be computed as follows: Each such judge shall be  
15 entitled to receive an annuity, each monthly payment of which shall  
16 be in an amount equal to three and one-half percent of his or her  
17 final average compensation as such judge, multiplied by the number of  
18 his or her years of creditable service, except that prior to an  
19 actuarial factor adjustment for purposes of calculating an optional  
20 form of annuity benefits under subsection (3) of this section, the  
21 monthly benefits received under this subsection shall not exceed  
22 seventy percent of the final average compensation such judge was  
23 receiving when he or she last served as such judge.

24 (3) Except as provided in section 42-1107, any member  
25 may, when filing an application as provided by the retirement system,

1 elect to receive, in lieu of the normal form annuity benefits to  
2 which the member or his or her beneficiary may otherwise be entitled  
3 under the Judges Retirement Act, ~~any~~ an optional form of annuity  
4 benefits which the board may by rules and regulations provide, the  
5 value of which, determined by accepted actuarial methods and on the  
6 basis of actuarial assumptions recommended by the actuary, approved  
7 by the board, and kept on file in the office of the director, is  
8 equal to the value of the benefit replaced. The board shall (a) adopt  
9 and promulgate appropriate rules and regulations establishing joint  
10 and survivorship annuities, with and without reduction on the death  
11 of the first annuitant, and such other forms of annuities as may in  
12 its judgment be appropriate and establishing benefits as provided in  
13 sections 24-707 and 24-707.01, (b) prescribe appropriate forms for  
14 making the election by the members, and (c) provide for the necessary  
15 actuarial services to make the required valuations.

16 (4) A one-time cost-of-living adjustment shall be made  
17 for each retired judge and each surviving beneficiary who is  
18 receiving a retirement annuity as provided for in this section. The  
19 annuity shall be adjusted by the increase in the cost of living or  
20 wage levels between the effective date of retirement and June 30,  
21 1992, except that such increases shall not exceed three percent per  
22 year of retirement and the total increase shall not exceed two  
23 hundred fifty dollars per month.

24 Sec. 10. Section 42-1102, Reissue Revised Statutes of  
25 Nebraska, is amended to read:



1                   42-1102 For purposes of the Spousal Pension Rights Act:

2                   (1) Alternate payee means a spouse, former spouse, child,  
3 or other dependent of a member who is recognized by a domestic  
4 relations order as having a right to receive all or a portion of the  
5 benefits payable by a statewide public retirement system with respect  
6 to such member;

7                   (2) Benefit means an annuity, a pension, a retirement  
8 allowance, a withdrawal of accumulated contributions, or an optional  
9 benefit accrued or accruing to a member under a statewide public  
10 retirement system;

11                  (3) Domestic relations order means a judgment, decree, or  
12 order, including approval of a property settlement agreement, which  
13 relates to the provision of child support, alimony payments,  
14 maintenance support, or marital property rights to a spouse, former  
15 spouse, child, or other dependent of a member and is made pursuant to  
16 a state domestic relations law of this state or another state;

17                  (4) Earliest retirement date means the earlier of (a) the  
18 date on which the member is entitled to a distribution under the  
19 system or (b) the later of (i) the date that the member attains fifty  
20 years of age or (ii) the earliest date that the member could receive  
21 benefits under the system if the member separated from service;

22                  (5) Qualified domestic relations order means a domestic  
23 relations order which creates or recognizes the existence of an  
24 alternate payee's right, or assigns to an alternate payee the right,  
25 to receive all or a portion of the benefits payable with respect to a

1 member under a statewide public retirement system, which directs the  
2 system to disburse benefits to the alternate payee, and which meets  
3 the requirements of section 42-1103;

4 (6) Segregated amounts means the amounts which would have  
5 been payable to the alternative payee during the period of time that  
6 the qualified status of an order is being determined. Such amounts  
7 shall equal the amounts payable for such period if the order had been  
8 determined to be a qualified domestic relations order; and

9 (7) Statewide public retirement system means the  
10 Retirement System for Nebraska Counties, the Nebraska Judges  
11 Retirement System as provided in the Judges Retirement Act, the  
12 School Employees Retirement System of the State of Nebraska, the  
13 Nebraska State Patrol Retirement System, and the State Employees  
14 Retirement System of the State of Nebraska.

15 Sec. 11. Section 68-621, Revised Statutes Cumulative  
16 Supplement, 2010, is amended to read:

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

1 members of the School Employees Retirement System of the State of  
2 Nebraska, including employees of institutions operated by the Board  
3 of Trustees of the Nebraska State Colleges, employees of institutions  
4 operated by the Department of Correctional Services and the  
5 Department of Health and Human Services, and employees subordinate to  
6 the State Board of Education, shall constitute a referendum group;  
7 and (d) all employees of school districts of the State of Nebraska,  
8 county superintendents, and county school administrators, who are or  
9 may be members of the School Employees Retirement System of the State  
10 of Nebraska, shall constitute a 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 68-631 may  
17 be applicable to county superintendents and county school  
18 administrators, managing authority shall mean the board of county  
19 commissioners or county supervisors of the county in which the county  
20 superintendent was elected or with which the county school  
21 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 were in  
2 such positions at the time of giving of the notice of such  
3 referendum, as herein required, except that no such employee shall be  
4 considered an eligible employee if at the time of such voting such  
5 employee is in a position to which the state agreement applies or if  
6 such employee is in service in a police officer or firefighter  
7 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. 12. Section 72-1243, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 72-1243 (1) Except as otherwise specifically provided by  
15 law, the state investment officer shall direct the investment and  
16 reinvestment of money in all state funds not currently needed and all  
17 funds described in section 83-133 and order the purchase, sale, or  
18 exchange of securities for such funds. He or she shall notify the  
19 State Treasurer of any payment, receipt, or delivery that may be  
20 required as a result of any investment decision, which notification  
21 shall be the authorization and direction for the State Treasurer to  
22 make such disbursement, receipt, or delivery from the appropriate  
23 fund.

24 (2) The council shall have an analysis made of the  
25 investment returns that have been achieved on the assets of each

1 retirement system administered by the Public Employees Retirement  
2 Board as provided in section 84-1503. By March ~~15~~31 of each year,  
3 the analysis shall be presented to the board and the Nebraska  
4 Retirement Systems Committee. The analysis shall be prepared by an  
5 independent organization which has demonstrated expertise to perform  
6 this type of analysis and for which there exists no conflict of  
7 interest in the analysis being provided. The analysis may be waived  
8 by the council for any retirement system with assets of less than one  
9 million dollars.

10 (3) By March ~~15~~31 of each year, the council shall  
11 prepare a written plan of action and shall present such plan to the  
12 Nebraska Retirement Systems Committee at a public hearing. The plan  
13 shall include, but not be limited to, the council's investment  
14 portfolios, investment strategies, the duties and limitations of the  
15 state investment officer, and an organizational structure of the  
16 council's office.

17 Sec. 13. Section 79-408, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 79-408 The territory now or hereafter embraced within  
20 each incorporated city of the primary class in the State of Nebraska  
21 that is not in part within the boundaries of a learning community,  
22 such adjacent territory as now or hereafter may be included therewith  
23 for school purposes, and such territory not adjacent thereto as may  
24 have been added thereto by law shall constitute a Class IV school  
25 district, except that nothing in this section shall be construed to

1 change the boundaries of any school district that is a member of a  
2 learning community. A Class IV school district shall be a body  
3 corporate and possess all the usual powers of a corporation for  
4 public purposes, may sue and be sued, and may purchase, hold, and  
5 sell such personal and real estate and contract such obligations as  
6 are authorized by law. The powers of a Class IV district include, but  
7 are not limited to, the power to adopt, administer, and amend from  
8 time to time such retirement, annuity, insurance, and other benefit  
9 plans for its present and future employees after their retirement, or  
10 any reasonable classification thereof, as may be deemed proper by the  
11 board of education. The board of education shall not establish a  
12 retirement system for new employees supplemental to the School  
13 Employees Retirement System of the State of Nebraska.

14           The title to all real or personal property owned by such  
15 school district shall, upon the organization of the school district,  
16 vest immediately in the school district so created. The board of  
17 education shall have exclusive control of all property belonging to  
18 the school district.

19           In the discretion of the board of education, funds  
20 accumulated in connection with a retirement plan may be transferred  
21 to and administered by a trustee or trustees to be selected by the  
22 board of education, or if the retirement plan is in the form of  
23 annuity or insurance contracts, such funds, or any part thereof, may  
24 be paid to a duly licensed insurance carrier or carriers selected by  
25 the board of education. Funds accumulated in connection with any such

1 retirement plan, and any other funds of the school district which are  
2 not immediately required for current needs or expenses, may be  
3 invested and reinvested by the board of education or by its authority  
4 in securities of a type permissible either for the investment of  
5 funds of a domestic legal reserve life insurance company or for the  
6 investment of trust funds, according to the laws of the State of  
7 Nebraska.

8           Sec. 14. Section 79-901, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           79-901 Sections 79-901 to 79-977.03 and section 30 of  
11 this act shall be known and may be cited as the School Employees  
12 Retirement Act.

13           Sec. 15. Section 79-902, Revised Statutes Cumulative  
14 Supplement, 2010, is amended to read:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7                   (23) Savings annuity means payments for life, made in  
8 equal monthly payments, derived from the accumulated contributions of  
9 a member;

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

25                   (25) Actuarial equivalent means the equality in value of

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

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

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

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

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

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

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

17           (c) Payments under the Retirement Incentive Plan pursuant  
18 to section 79-855 and Staff Development Assistance pursuant to  
19 section 79-856 shall not be included in the determination of final  
20 average compensation;

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

23           (32) Current benefit means (a) until July 1, 2000, the  
24 initial benefit increased by all adjustments made pursuant to section  
25 79-947.02 and (b) on or after July 1, 2000, the initial benefit

1 increased by all adjustments made pursuant to the School Employees  
2 Retirement Act;

3 (33) Initial benefit means the retirement benefit  
4 calculated at the time of retirement;

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

17 (35)(a) Compensation means gross wages or salaries  
18 payable to the member for personal services performed during the plan  
19 year and includes (i) overtime pay, (ii) member retirement  
20 contributions, (iii) retroactive salary payments paid pursuant to  
21 court order, arbitration, or litigation and grievance settlements,  
22 and (iv) amounts contributed by the member to plans under sections  
23 125, 403(b), and 457 of the Internal Revenue Code as defined in  
24 section 49-801.01 or any other section of the code which defers or  
25 excludes such amounts from income.

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

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

18           ~~(d)(i) In the determination of compensation for members~~  
19    ~~on or after July 1, 2002, through June 30, 2005, that part of a~~  
20    ~~member's compensation for the fiscal year which exceeds the member's~~  
21    ~~compensation with the same employer for the preceding fiscal year by~~  
22    ~~more than ten percent shall be excluded unless (A) the member~~  
23    ~~experienced a substantial change in employment position or (B) the~~  
24    ~~excess compensation occurred as the result of a collective bargaining~~  
25    ~~agreement between the employer and a recognized collective bargaining~~



1 ~~unit or category of school employee.~~

2 ~~(ii) For purposes of this subdivision:~~

3 ~~(A) Category of school employee means either all~~  
4 ~~employees of the employer who are administrators or certificated~~  
5 ~~teachers, or all employees of the employer who are not administrators~~  
6 ~~or certificated teachers, or both; and~~

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

10 ~~(e)(i) In (d)(i) For purposes of section 79-934, in the~~  
11 ~~determination of compensation for members on or after July 1, 2005,~~  
12 ~~that part of a member's compensation for the plan year which exceeds~~  
13 ~~the member's compensation with the same employer for the preceding~~  
14 ~~plan year by more than seven percent of the compensation base during~~  
15 ~~the sixty months preceding the member's retirement shall be excluded~~  
16 ~~unless (A) the member experienced a substantial change in employment~~  
17 ~~position, (B) as verified by the school board, the excess~~  
18 ~~compensation above seven percent occurred as the result of a~~  
19 ~~collective-bargaining agreement between the employer and a recognized~~  
20 ~~collective-bargaining unit or category of school employee, and the~~  
21 ~~percentage increase in compensation above seven percent shall not be~~  
22 ~~excluded for employees outside of a collective-bargaining unit or~~  
23 ~~within the same category of school employee, or (C) the excess~~  
24 ~~compensation occurred as the result of a districtwide permanent~~  
25 ~~benefit change made by the employer for a category of school employee~~

1 in accordance with subdivision (35)(a)(iv) of this section.

2 (ii) For purposes of this subdivision:

3 (A) Category of school employee means either all  
4 employees of the employer who are administrators or certificated  
5 teachers, or all employees of the employer who are not administrators  
6 or certificated teachers, or both;

7 (B) Compensation base means (I) for current members  
8 employed with the same employer, the member's compensation for the  
9 plan year ending June 30, 2005, or (II) for members newly hired or  
10 hired by a separate employer on or after July 1, 2005, the member's  
11 compensation for the first full plan year following the member's date  
12 of hiring. Thereafter, the member's compensation base shall be  
13 increased each plan year by the lesser of seven percent of the  
14 member's preceding plan year's compensation base or the member's  
15 actual annual compensation increase during the preceding plan year;  
16 and

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

20 (36) Termination of employment occurs on the date on  
21 which the member experiences a bona fide separation from service of  
22 employment with the member's current employer, the date of which  
23 separation is determined by the employer. The employer shall notify  
24 the board of the date on which such a termination has occurred. A  
25 member shall not be deemed to have terminated employment if the

1 member subsequently provides service to any employer participating in  
2 the retirement system provided for in the School Employees Retirement  
3 Act within one hundred eighty calendar days after ceasing employment  
4 unless such service:

5 (a) Is voluntary or substitute service provided on an  
6 intermittent basis; or

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

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

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

15 (38) Substitute employee means a person hired by a public  
16 school as a temporary employee to assume the duties of regular  
17 employees due to the temporary absence of the regular employees.  
18 Substitute employee does not mean a person hired as a regular  
19 employee on an ongoing basis to assume the duties of other regular  
20 employees who are temporarily absent;

21 (39) Participation means qualifying for and making  
22 required deposits to the retirement system during the course of a  
23 plan year;

24 (40) Regular employee means an employee hired by a public  
25 school or under contract in a regular full-time or part-time position

1 who works a full-time or part-time schedule on an ongoing basis for  
2 fifteen or more hours per week. An employee hired as described in  
3 this subdivision to provide service for less than fifteen hours per  
4 week but who provides service for an average of fifteen hours or more  
5 per week in each calendar month of any three calendar months of a  
6 plan year shall immediately commence contributions and shall be  
7 deemed a regular employee; and

8 (41) Temporary employee means an employee hired by a  
9 public school who is not a regular employee and who is hired to  
10 provide service for a limited period of time to accomplish a specific  
11 purpose or task. When such specific purpose or task is complete, the  
12 employment of such temporary employee shall terminate and in no case  
13 shall the temporary employment period exceed one year in duration.

14 Sec. 16. Section 79-903, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 79-903 A school retirement system is hereby established  
17 for the purpose of providing retirement allowances or other benefits  
18 for the school employees of the State of Nebraska as provided in the  
19 School Employees Retirement Act. It shall have the powers and  
20 privileges of a corporation, insofar as may be necessary to carry out  
21 ~~the provisions of the act,~~ shall be known as the School Employees  
22 Retirement System of the State of Nebraska, and by such name shall  
23 transact all business as provided in the act.

24 Sec. 17. Section 79-904, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   79-904 The general administration of the ~~School~~  
2 ~~Retirement System of the State of Nebraska,~~ retirement system, except  
3 the investment of funds, is hereby vested in the retirement board.  
4 The board shall, by a majority vote of its members, adopt bylaws and  
5 adopt and promulgate rules and regulations, from time to time, to  
6 carry out the School Employees Retirement Act. The board shall  
7 perform such other duties as may be required to execute the  
8 ~~provisions of the act.~~

9                   Sec. 18. Section 79-904.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11                   79-904.01 (1) If the board determines that the retirement  
12 system has previously received contributions or distributed benefits  
13 which for any reason are not in accordance with the statutory  
14 provisions of the School Employees Retirement Act, the board shall  
15 refund contributions, require additional contributions, adjust  
16 benefits, or require repayment of benefits paid. In the event of an  
17 overpayment of a benefit, the board may, in addition to other  
18 remedies, offset future benefit payments by the amount of the prior  
19 overpayment, together with regular interest thereon. In the event of  
20 an underpayment of a benefit, the board shall immediately make  
21 payment equal to the deficit amount plus regular interest.

22                   (2) The board shall adopt and promulgate rules and  
23 regulations implementing this section, which shall include, but not  
24 be limited to, the following: (a) The procedures for refunding  
25 contributions, adjusting future contributions or benefit payments,

1 and requiring additional contributions or repayment of benefits; (b)  
2 the process for a member, member's beneficiary, employee, or employer  
3 to dispute an adjustment of contributions or benefits; and (c) notice  
4 provided to all affected persons. All notices shall be sent prior to  
5 an adjustment and shall describe the process for disputing an  
6 adjustment of contributions or benefits.

7 (3) The board shall not refund contributions made on  
8 compensation in excess of the limitations imposed by subdivision (35)  
9 (d)(i) of section 79-902.

10 Sec. 19. Section 79-916, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~79-916 (1)(a) Beginning July 1, 2002, and until June 30,~~  
13 ~~2004, the board shall transfer the actuarial value of the service~~  
14 ~~annuity liability accrued within the prior fiscal year of the~~  
15 ~~employees who serve a Class V school district and participate in the~~  
16 ~~retirement system established pursuant to the Class V School~~  
17 ~~Employees Retirement Act upon receipt of a certification from the~~  
18 ~~school district as to the number of employees who have accrued a~~  
19 ~~service annuity benefit for such fiscal year. Upon receipt of the~~  
20 ~~certification, the board shall cause to be transferred to the funds~~  
21 ~~of the retirement system of which such employees are members the~~  
22 ~~actuarial value, as determined pursuant to section 79-966.01, of the~~  
23 ~~service annuities to be paid by the state for the years of service~~  
24 ~~thus certified in the same amount and basis as provided for members~~  
25 ~~of the School Retirement System of the State of Nebraska under~~

1 ~~sections 79-933 and 79-952. Such transfer of actuarial value to the~~  
2 ~~Class V School Employees Retirement System shall be in lieu of the~~  
3 ~~payment of the service annuity to which such employees would be~~  
4 ~~otherwise entitled. The Class V school district which such employees~~  
5 ~~serve shall furnish to the retirement board all information required~~  
6 ~~by the retirement board regarding service records of its employees.~~

7           ~~(b)-(1)(a)~~ On July 1, 2004, the board shall transfer from  
8 the School Retirement Fund to the Service Annuity Fund an amount  
9 equal to the funded ratio of the retirement system which is equal to  
10 the market value of the retirement system assets divided by the  
11 actuarial accrued liability of the retirement system, times the  
12 actuarial accrued liability of the service annuity, as determined  
13 pursuant to section 79-966.01, of the employees who are members of  
14 the retirement system established pursuant to the Class V School  
15 Employees Retirement Act. Such actuarial accrued liability shall be  
16 determined for each employee on a level dollar basis. On or before  
17 July 1 of each fiscal year thereafter, the state shall deposit into  
18 the Service Annuity Fund such amounts as may be necessary to pay the  
19 normal cost and amortize the unfunded actuarial accrued liability of  
20 the service annuity, as determined pursuant to section 79-966.01, as  
21 of the end of the previous fiscal year of the employees who are  
22 members of the retirement system established pursuant to the Class V  
23 School Employees Retirement Act. Based on the fiscal year of the  
24 retirement system established pursuant to the Class V School  
25 Employees Retirement Act, the administrator of such system shall

1 provide all membership information needed for the actuary engaged by  
2 the retirement board to determine the normal cost and the  
3 amortization payment of the unfunded actuarial accrued liability, as  
4 determined pursuant to section 79-966.01, to be paid by the state to  
5 the Service Annuity Fund each fiscal year as required by this  
6 subdivision.

7           ~~(e)~~(b) At the time of retirement of any employee who is  
8 a member of the retirement system established pursuant to the Class V  
9 School Employees Retirement Act, the retirement board shall, upon  
10 receipt of a certification of the administrator of such retirement  
11 system of the name, identification number, date of birth, retirement  
12 date, last date of employment, type of retirement, and number of  
13 years of service credited to such eligible employee at the date of  
14 retirement, transfer to such retirement system from the Service  
15 Annuity Fund the actuarial accrued liability of the service annuity  
16 to be paid by the state to the eligible employee for the years of  
17 service thus certified as provided for members of the School  
18 Employees Retirement System of the State of Nebraska under sections  
19 79-933 and 79-952. Such transfer of the actuarial accrued liability  
20 to the retirement system established pursuant to the Class V School  
21 Employees Retirement Act shall be in lieu of the payment of the  
22 service annuity to which the employee would be entitled.

23           ~~(d)~~(c) The Service Annuity Fund is created. The fund  
24 shall consist of the amounts paid by the state and transferred from  
25 the School Retirement Fund pursuant to this section to pay the



1 service annuity to be paid by the state to employees who are members  
2 of the retirement system established pursuant to the Class V School  
3 Employees Retirement Act. Any money in the fund available for  
4 investment shall be invested by the state investment officer pursuant  
5 to the Nebraska Capital Expansion Act and the Nebraska State Funds  
6 Investment Act.

7 (2) In addition to the transfer of the actuarial accrued  
8 liability of the service annuity to be paid by the state, the state  
9 shall also transfer to the funds of the Class V school district's  
10 retirement system an amount determined by multiplying the  
11 compensation of all members of such retirement system by the percent  
12 specified in subsection (2) of section 79-966 for determining the  
13 amount of the state's payment to the School Retirement Fund. The  
14 transfer shall be made annually on or before July 1 of each fiscal  
15 year.

16 Sec. 20. Section 79-920, Revised Statutes Cumulative  
17 Supplement, 2010, is amended to read:

18 79-920 (1) An individual who was, prior to July 19, 1980,  
19 a state school official and did not become a member of the State  
20 Employees Retirement System of the State of Nebraska pursuant to the  
21 State Employees Retirement Act may, within sixty days after September  
22 1, 1986, elect to become a member of such system. An individual so  
23 electing shall pay the contributions required by such system when the  
24 service and minimum age requirements have been met.

25 (2)(a) An individual (i) who is or was previously a

1 school employee or who was employed in an out-of-state or a Class V  
2 school district, (ii) who becomes employed by the State Department of  
3 Education after July 1, 1989, and (iii) who is a state school  
4 official may file with the retirement board within thirty days after  
5 employment an election to become or remain a member of the School  
6 Employees Retirement System of the State of Nebraska. Employees  
7 electing not to participate in the School Employees Retirement System  
8 shall participate in the State Employees Retirement System of the  
9 State of Nebraska.

10 (b) An individual shall be required to participate in the  
11 State Employees Retirement System if (i) the individual terminated  
12 employment from a public school participating in the School Employees  
13 Retirement System and retired pursuant to the School Employees  
14 Retirement Act and (ii) the employment by the State Department of  
15 Education began or will begin within one hundred eighty days after  
16 terminating employment from the school.

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

24 (a) The years of participation in the School Employees  
25 Retirement System of the State of Nebraska before an election is made

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

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

10 Sec. 21. Section 79-926, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 79-926 (1) Under such rules and regulations as the  
13 retirement board adopts and promulgates, each person who was a school  
14 employee at any time prior to the establishment of the retirement  
15 system and who becomes a member of the retirement system shall,  
16 within two years after becoming a member, file a detailed statement  
17 of all service as a school employee rendered by him or her prior to  
18 the date of establishment of the retirement system. In order to  
19 qualify for prior service credit toward a service annuity, a school  
20 employee, unless temporarily out of service for further professional  
21 education, for service in the armed forces, or for temporary  
22 disability, must have completed four years of service on a part-time  
23 or full-time basis during the five calendar years immediately  
24 preceding July 1, 1945, or have completed eighteen years out of the  
25 last twenty-five years prior to July 1, 1945, full time or part time,

1 and two years out of the five years immediately preceding July 1,  
2 1945, full time or part time, or such school employee must complete,  
3 unless temporarily out of service for further professional education,  
4 for service in the armed forces, or for temporary disability, four  
5 years of service within the five calendar years immediately following  
6 July 1, 1945. In order to qualify for prior service credit toward a  
7 service annuity, a school employee who becomes a member of the ~~School~~  
8 ~~Retirement System of the State of Nebraska~~ retirement system on or  
9 before September 30, 1951, or from July 1, 1945, to the date of  
10 becoming a member shall have been continuously employed in a public  
11 school in Nebraska operating under any other regularly established  
12 retirement or pension system.

13 (2) Any person who, after having served or signing a  
14 contract to serve as a school employee, entered into and served or  
15 enters into and serves in the armed forces of the United States  
16 during a declared emergency or was drafted under a federal mandatory  
17 draft law into the armed forces of the United States during a time of  
18 peace, as described and prescribed under such rules and regulations  
19 as the retirement board adopts and promulgates, and who, within three  
20 calendar years after honorable discharge or honorable separation from  
21 active duty or within one year from the date of completion of  
22 training provided in the federal Servicemen's Readjustment Act of  
23 1944 or the federal Veterans Readjustment Assistance Act of 1952,  
24 became or becomes a school employee shall be credited, in determining  
25 benefits due such member from the retirement system, for a maximum of

1 five years of the time actually served in the armed forces as if such  
2 person had been a school employee throughout such time.

3 (3) Under such rules and regulations as the retirement  
4 board adopts and promulgates, any school employee who is reemployed  
5 on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq.,  
6 shall be treated as not having incurred a break in service by reason  
7 of his or her period of military service. Such military service shall  
8 be credited for purposes of determining the nonforfeitability of the  
9 member's accrued benefits and the accrual of benefits under the plan.  
10 The employer shall be liable for funding any obligation of the plan  
11 to provide benefits based upon such period of military service.

12 ~~(4) Retirement benefits for persons who have retired~~  
13 ~~prior to April 18, 1992, shall not be affected by changes made to~~  
14 ~~this section which become effective on such date.~~

15 Sec. 22. Section 79-933.03, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 79-933.03 (1) Under such rules and regulations as the  
18 board shall adopt and promulgate, a contributing member under  
19 contract or employed on July 19, 1996, may receive credit for not to  
20 exceed ten years of creditable teaching service rendered in public  
21 schools in another state or schools in this state covered by a school  
22 retirement system established pursuant to section 79-979, if such  
23 member files an application for service credit within three years of  
24 membership or reinstatement in the School Employees Retirement System  
25 of the State of Nebraska and makes payment into the retirement system

1 of an amount equal to the required deposits he or she would have paid  
2 had he or she been employed in this state by a school covered by the  
3 ~~School Retirement System of the State of Nebraska,~~ retirement system,  
4 plus the interest which would have accrued on such amount. Payment  
5 must be completed within five years of membership or reinstatement in  
6 the retirement system, or prior to termination of employment,  
7 whichever occurs first, and may be made through direct payment,  
8 installment payments, or an irrevocable payroll deduction  
9 authorization.

10 (2) A member who retires as a school employee of this  
11 state shall not receive credit for time in service outside of this  
12 state or in a school in this state covered by the school retirement  
13 system established pursuant to section 79-979 in excess of the time  
14 he or she has been in service as a school employee in this state of a  
15 school covered by the School Employees Retirement System of the State  
16 of Nebraska. The board shall refund to the member the payments made  
17 pursuant to subsection (1) of this section to the extent that the  
18 member does not receive credit for such service.

19 (3) A member who purchases service credit pursuant to  
20 this section shall provide such documentation as the board may  
21 require to prove that the member has forfeited the receipt of any  
22 benefits from the retirement system of the public school in another  
23 state or a school in this state covered by a retirement system  
24 established pursuant to section 79-979 for the creditable service  
25 rendered in such school.

1                   Sec. 23. Section 79-933.05, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   79-933.05 (1) A contributing member may purchase service  
4 credit for not to exceed ten years of creditable service rendered in  
5 public schools in another state or schools in this state covered by  
6 the school retirement system established pursuant to section 79-979.  
7 The amount to be paid by the member for such service credit shall  
8 equal the actuarial cost to the School Employees Retirement System of  
9 the State of Nebraska for allowing such additional service credit to  
10 the employee. Payment shall be completed within five years after  
11 making the election to purchase service credit or prior to  
12 termination of employment, whichever occurs first, and may be made  
13 through direct payment, installment payments, or an irrevocable  
14 payroll deduction authorization.

15                   (2) A member who retires as a school employee of this  
16 state shall not receive credit for time in service outside of this  
17 state or in a school in this state covered by the school retirement  
18 system established pursuant to section 79-979 in excess of the time  
19 he or she has been in service as a school employee in this state of a  
20 school covered by the School Employees Retirement System of the State  
21 of Nebraska. The board shall refund to the member the payments made  
22 pursuant to this section to the extent that the member does not  
23 receive credit for such service.

24                   (3) Compensation for the period of service purchased  
25 shall not be included in determining the member's final average

1 compensation.

2 (4) A member who purchases service credit pursuant to  
3 this section shall provide such documentation as the board may  
4 require to prove that the member has forfeited the receipt of any  
5 benefits from the retirement system of the public school in another  
6 state or a school in this state covered by a retirement system  
7 established pursuant to section 79-979 for the creditable service  
8 rendered in such school.

9 Sec. 24. Section 79-933.06, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 79-933.06 (1) Any contributing member may purchase  
12 service credit for time he or she was on a leave of absence  
13 authorized by the school board or board of education of the school  
14 district by which he or she was employed at the time of such leave of  
15 absence or pursuant to any contractual agreement entered into by such  
16 school district. Such credit shall increase the benefits provided by  
17 the retirement system and shall be included in creditable service  
18 when determining eligibility for death, disability, termination of  
19 employment, and retirement benefits. The amount to be paid by the  
20 member for such service credit shall equal the actuarial cost to the  
21 ~~School Retirement System of the State of Nebraska~~ retirement system  
22 for allowing such additional service credit to the employee. Payment  
23 shall be completed within five years after such member's election to  
24 purchase service credit or prior to termination of employment,  
25 whichever occurs first, and may be made through direct payment,



1 installment payments, or an irrevocable payroll deduction  
2 authorization.

3 (2) Leave of absence shall be construed to include, but  
4 not be limited to, sabbaticals, maternity leave, exchange teaching  
5 programs, full-time leave as an elected official of a professional  
6 association or collective-bargaining unit, or leave of absence to  
7 pursue further education or study. Such leave shall not exceed four  
8 years in length, and in order to receive credit for the leave of  
9 absence the member must return to employment with a school district,  
10 other than a Class V school district, in the state within one year  
11 after termination of the leave of absence.

12 (3) Compensation for the period of service purchased  
13 shall not be included in determining the member's final average  
14 compensation.

15 Sec. 25. Section 79-941, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 79-941 For purposes of sections ~~79-940-79-941~~ to 79-946,  
18 unless the context otherwise requires, total monthly benefit means  
19 the benefit that would have been received under a monthly life  
20 annuity with no refund or death benefit option even though a  
21 different option, as provided in section 79-938, has been selected.  
22 The total monthly benefit shall be computed as if the person had  
23 retired at age sixty-five or at the actual age of retirement,  
24 whichever is later.

25 Sec. 26. Section 79-942, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           79-942 For each person who qualifies under sections  
3 ~~79-940-79-941~~ to 79-946, the retirement board shall determine the  
4 value of the total monthly benefit being received from the School  
5 Employees Retirement System of the State of Nebraska or from the  
6 retirement system for Class V districts as provided by the Class V  
7 School Employees Retirement Act. From one hundred fifty-five dollars,  
8 the retirement board shall subtract the total monthly benefit. Such  
9 difference, if positive, shall be the supplemental benefit and shall  
10 be paid to the retired person each month ~~until July 1, 2004, from the~~  
11 ~~Retired Teachers Supplementary Benefits Fund and on and after July 1,~~  
12 ~~2004,~~ from the School Retirement Fund, except that if this difference  
13 is less than five dollars, a minimum payment of five dollars per  
14 month shall be made to such person.

15           Sec. 27. Section 79-944, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           79-944 If a beneficiary is receiving the annuity provided  
18 through the School Employees Retirement System of the State of  
19 Nebraska or through the retirement system for Class V districts as  
20 provided by the Class V School Employees Retirement Act, the  
21 supplemental benefit shall be the benefit that would be computed  
22 under section 79-942 had the deceased retired person still been  
23 alive. The beneficiary will continue to receive the supplemental  
24 benefit until the expiration of the annuity option selected by the  
25 member.

1                   Sec. 28. Section 79-947, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   79-947 (1) Commencing October 1, 1988, the retirement  
4 board shall determine an adjusted supplemental retirement benefit to  
5 reflect changes in the cost of living and wage levels that have  
6 occurred subsequent to the date of retirement for each person who is  
7 retired from the School Employees Retirement System of the State of  
8 Nebraska or from the retirement system for Class V school districts  
9 as provided by the Class V School Employees Retirement Act with  
10 twenty-five or more years of creditable service as of October 1,  
11 1988.

12                   (2) For each person who qualifies under subsection (1) of  
13 this section, the retirement board shall determine the value of the  
14 total monthly benefit being received from the School Employees  
15 Retirement System of the State of Nebraska or from the retirement  
16 system for Class V school districts as provided by the Class V School  
17 Employees Retirement Act and the supplemental benefit provided by  
18 section 79-942 if applicable. From two hundred fifty dollars, the  
19 board shall subtract the total monthly benefit. Such difference, if  
20 positive, shall be the adjusted supplemental retirement benefit and  
21 shall be paid to the retired person each month, except that if this  
22 difference is less than five dollars, a minimum payment of five  
23 dollars per month shall be made to such person. The adjusted  
24 supplemental retirement benefit shall be paid to a retired person  
25 during his or her life.

1           (3) The retirement board may buy a paid-up annuity for a  
2 retired person which guarantees the adjusted supplemental retirement  
3 benefit provided under this section.

4           (4) The adjusted supplemental retirement benefit provided  
5 under this section shall be funded from the Contingent Account but  
6 only from such income that is attributable to employer and employee  
7 contributions.

8           Sec. 29. Section 79-955, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           79-955 Upon termination of employment for any cause other  
11 than death or retirement, the retirement board shall, upon the  
12 member's demand, terminate his or her membership in the retirement  
13 system and cause to be paid to such member the accumulated  
14 contributions standing to the credit of his or her individual account  
15 in the School Retirement Fund. Any member who attains or has attained  
16 membership in another Nebraska state or school retirement system  
17 authorized by the Legislature and who elects not to be or remain a  
18 member of the School Employees Retirement System of the State of  
19 Nebraska shall have his or her accumulated contributions returned to  
20 him or her forthwith.

21           Sec. 30. (1) Beginning July 1, 2011, and each July 1  
22 thereafter, the board shall determine the number of eligible retirees  
23 in the retirement system and an annual benefit adjustment shall be  
24 made by the board for each retired member or beneficiary under one of  
25 the cost-of-living adjustment calculation methods found in subsection

1 (2), (3), or (4) of this section. Each retired member or beneficiary,  
2 if eligible, shall receive an annual benefit adjustment under the  
3 cost-of-living adjustment calculation method that provides the  
4 retired member or beneficiary the greatest annual benefit adjustment  
5 increase. No retired member or beneficiary shall receive an annual  
6 benefit adjustment under more than one of the cost-of-living  
7 adjustment calculation methods provided in this section.

8 (2) The current benefit paid to a retired member or  
9 beneficiary under this subsection shall be adjusted so that the  
10 purchasing power of the benefit being paid is not less than seventy-  
11 five percent of the purchasing power of the initial benefit. The  
12 purchasing power of the initial benefit in any year following the  
13 year in which the initial benefit commenced shall be calculated by  
14 dividing the United States Department of Labor, Bureau of Labor  
15 Statistics, Consumer Price Index for Urban Wage Earners and Clerical  
16 Workers factor on June 30 of the current year by the Consumer Price  
17 Index for Urban Wage Earners and Clerical Workers factor on June 30  
18 of the year in which the benefit commenced. The result shall be  
19 multiplied by the product that results when the amount of the initial  
20 benefit is multiplied by seventy-five percent. In any year in which  
21 applying the adjustment provided in subsection (3) of this section  
22 results in a benefit which would be less than seventy-five percent of  
23 the purchasing power of the initial benefit as calculated in this  
24 subsection, the adjustment shall instead be equal to the percentage  
25 change in the Consumer Price Index for Urban Wage Earners and

1 Clerical Workers factor from the prior year to the current year.

2 (3) The current benefit paid to a retired member or  
3 beneficiary under this subsection shall be increased annually by the  
4 lesser of (a) the percentage change in the Consumer Price Index for  
5 Urban Wage Earners and Clerical Workers for the period between June  
6 30 of the prior year to June 30 of the present year, or (b) two and  
7 one-half percent.

8 (4)(a) The current benefit paid to a retired member or  
9 beneficiary under this subsection shall be calculated by multiplying  
10 the retired member's or beneficiary's total monthly benefit by the  
11 lesser of: (i) The cumulative change in the Consumer Price Index for  
12 Urban Wage Earners and Clerical Workers from the last adjustment of  
13 the total monthly benefit of each retired member or beneficiary  
14 through June 30 of the year for which the annual benefit adjustment  
15 is being calculated; or (ii) an amount equal to three percent per  
16 annum compounded for the period from the last adjustment of the total  
17 monthly benefit of each retired member or beneficiary through June 30  
18 of the year for which the annual benefit adjustment is being  
19 calculated.

20 (b) In order for a retired member or beneficiary to  
21 receive the cost-of-living adjustment calculation method provided in  
22 this subsection, the retired member or beneficiary shall be: (i) A  
23 retired member or beneficiary who has been receiving a retirement  
24 benefit for at least five years if the member had at least twenty-  
25 five years of creditable service; (ii) a member who has been

1 receiving a disability retirement benefit for at least five years  
2 pursuant to section 79-952; or (iii) a beneficiary who has been  
3 receiving a death benefit pursuant to section 79-956 for at least  
4 five years, if the member's or beneficiary's monthly accrual rate is  
5 less than or equal to the minimum accrual rate as determined by this  
6 subsection.

7 (c) The monthly accrual rate under this subsection is the  
8 retired member's or beneficiary's total monthly benefit divided by  
9 the number of years of creditable service earned by the retired or  
10 deceased member.

11 (d) The total monthly benefit under this subsection is  
12 the total benefit received by a retired member or beneficiary  
13 pursuant to the School Employees Retirement Act and previous  
14 adjustments made pursuant to this section or any other provision of  
15 the act that grants a benefit or cost-of-living increase within the  
16 act, but the total monthly benefit does not include sums received by  
17 an eligible retired member or eligible beneficiary from federal  
18 sources.

19 (e) The minimum accrual rate under this subsection is  
20 twenty-three dollars and thirty-two cents until adjusted pursuant to  
21 this subsection. Beginning July 1, 2011, the board shall annually  
22 adjust the minimum accrual rate to reflect the cumulative percentage  
23 change in the Consumer Price Index for Urban Wage Earners and  
24 Clerical Workers from the last adjustment of the minimum accrual  
25 rate.

1           (5) Beginning July 1, 2011, and each July 1 thereafter,  
2 each retired member or beneficiary shall receive the sum of the  
3 annual benefit adjustment and such retiree's total monthly benefit  
4 less withholding, which sum shall be the retired member's or  
5 beneficiary's adjusted total monthly benefit. Each retired member or  
6 beneficiary shall receive the adjusted total monthly benefit until  
7 the expiration of the annuity option selected by the member or until  
8 the retired member or beneficiary again qualifies for the annual  
9 benefit adjustment, whichever occurs first.

10           (6) The annual benefit adjustment pursuant to this  
11 section shall not cause a current benefit to be reduced, and a  
12 retired member or beneficiary shall never receive less than the  
13 adjusted total monthly benefit until the annuity option selected by  
14 the member expires.

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



1           (8) The state shall contribute to the Annuity Reserve  
2 Fund an annual level dollar payment certified by the board. For the  
3 2011-12 fiscal year through the 2012-13 fiscal year, the annual level  
4 dollar payment certified by the board shall equal 81.7873 percent of  
5 six million eight hundred ninety-five thousand dollars.

6           Sec. 31. Section 79-978.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           79-978.01 Sections 79-978 to 79-9,116 and sections 34 and  
9 35 of this act shall be known and may be cited as the Class V School  
10 Employees Retirement Act.

11           Sec. 32. Section 79-987, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           79-987 (1) An annual audit of the affairs of the  
14 retirement system shall be conducted. At the option of the board,  
15 such audit may be conducted by a certified public accountant or the  
16 Auditor of Public Accounts. The costs of such audit shall be paid  
17 from funds of the retirement system. A copy of such audit shall be  
18 filed with the Auditor of Public Accounts.

19           ~~(2) Beginning December 31, 1998, and each December 31~~  
20 ~~thereafter, the administrator of the retirement system established~~  
21 ~~pursuant to section 79-979 and section 401(a) of the Internal Revenue~~  
22 ~~Code, as defined in section 49-801.01, shall file with the Public~~  
23 ~~Employees Retirement Board an annual report on such system and shall~~  
24 ~~submit copies of such report to the members of the Nebraska~~  
25 ~~Retirement Systems Committee of the Legislature by March 15 of each~~

1 year. The annual report shall be in a form prescribed by the Public  
2 Employees Retirement Board and shall contain the following  
3 information for each such retirement plan:

4 (a) The number of persons participating in the retirement  
5 plan;

6 (b) The contribution rates of participants in the plan;

7 (c) Plan assets and liabilities;

8 (d) The names and positions of persons administering the  
9 plan;

10 (e) The names and positions of persons investing plan  
11 assets;

12 (f) The form and nature of investments;

13 (g) For each defined contribution plan, a full  
14 description of investment policies and options available to plan  
15 participants; and

16 (h) For each defined benefit plan, the levels of benefits  
17 of participants in the plan, the number of members who are eligible  
18 for a benefit, and the total present value of such members' benefits,  
19 as well as the funding sources which will pay for such benefits.

20 If a plan contains no current active participants, the  
21 administrator may file in place of such report a statement with the  
22 Public Employees Retirement Board indicating the number of retirees  
23 still drawing benefits, and the sources and amount of funding for  
24 such benefits.

25 (3) (2) Beginning December 31, 1998, and every four years

1 March 31, 2012, and each March 31 thereafter, if such retirement plan  
2 is a defined benefit plan, the trustees of a retirement system  
3 established pursuant to section 79-979 shall cause to be prepared a  
4 ~~quadrennial~~an annual report and the administrator shall file the  
5 same with the Public Employees Retirement Board and submit to the  
6 members of the Nebraska Retirement Systems Committee of the  
7 Legislature a copy of such report. The report shall consist of a full  
8 actuarial analysis of each such retirement plan established pursuant  
9 to section 79-979. The analysis shall be prepared by an independent  
10 private organization or public entity employing actuaries who are  
11 members in good standing of the American Academy of Actuaries, and  
12 which organization or entity has demonstrated expertise to perform  
13 this type of analysis and is unrelated to any organization offering  
14 investment advice or which provides investment management services to  
15 the retirement plan.

16           Sec. 33. Section 79-9,113, Revised Statutes Cumulative  
17 Supplement, 2010, is amended to read:

18           79-9,113 (1)(a) If, at any future time, a majority of the  
19 eligible members of the retirement system votes to be included under  
20 an agreement providing old age and survivors insurance under the  
21 Social Security Act of the United States, the contributions to be  
22 made by the member and the school district for membership service,  
23 from and after the effective date of the agreement with respect to  
24 services performed subsequent to December 31, 1954, shall each be  
25 reduced from five to three percent but not less than three percent of

1 the member's salary per annum, and the credits for membership service  
2 under this system, as provided in section 79-999, shall thereafter be  
3 reduced from one and one-half percent to nine-tenths of one percent  
4 and not less than nine-tenths of one percent of salary or wage earned  
5 by the member during each fiscal year, and from one and sixty-five  
6 hundredths percent to one percent and not less than one percent of  
7 salary or wage earned by the member during each fiscal year and from  
8 two percent to one and two-tenths percent of salary or wage earned by  
9 the member during each fiscal year, and from two and four-tenths  
10 percent to one and forty-four hundredths percent of salary or wage  
11 earned by the member during each fiscal year, except that after  
12 ~~September 1, 1963, and prior to September 1, 1969, all employees of~~  
13 ~~the school district shall contribute an amount equal to the~~  
14 ~~membership contribution which shall be two and three fourths percent~~  
15 ~~of salary covered by old age and survivors insurance, and five~~  
16 ~~percent above that amount. Commencing September 1, 1969, all~~  
17 ~~employees of the school district shall contribute an amount equal to~~  
18 ~~the membership contribution which shall be two and three fourths~~  
19 ~~percent of the first seven thousand eight hundred dollars of salary~~  
20 ~~or wages earned each fiscal year and five percent of salary or wages~~  
21 ~~earned above that amount in the same fiscal year. Commencing~~  
22 ~~September 1, 1976, all employees of the school district shall~~  
23 ~~contribute an amount equal to the membership contribution which shall~~  
24 ~~be two and nine tenths percent of the first seven thousand eight~~  
25 ~~hundred dollars of salary or wages earned each fiscal year and five~~

1 ~~and twenty-five hundredths percent of salary or wages earned above~~  
2 ~~that amount in the same fiscal year. Commencing on September 1, 1982,~~  
3 ~~all employees of the school district shall contribute an amount equal~~  
4 ~~to the membership contribution which shall be four and nine tenths~~  
5 ~~percent of the compensation earned in each fiscal year. Commencing~~  
6 ~~September 1, 1989, all employees of the school district shall~~  
7 ~~contribute an amount equal to the membership contribution which shall~~  
8 ~~be five and eight tenths percent of the compensation earned in each~~  
9 ~~fiscal year. Commencing September 1, 1995, all employees of the~~  
10 ~~school district shall contribute an amount equal to the membership~~  
11 ~~contribution which shall be six and three tenths percent of the~~  
12 ~~compensation earned in each fiscal year. Commencing September 1,~~  
13 ~~2007, all employees of the school district shall contribute an amount~~  
14 ~~equal to the membership contribution which shall be seven and three-~~  
15 ~~tenths percent of the compensation paid in each fiscal year.~~  
16 ~~Commencing on and after September 1, 2009, all employees of the~~  
17 ~~school district shall contribute an amount equal to the membership~~  
18 ~~contribution which shall be eight and three-tenths percent of the~~  
19 ~~compensation paid in each fiscal year.~~

20 ~~(b) The contributions by the school district in any~~  
21 ~~fiscal year beginning on or after September 1, 1999, shall be the~~  
22 ~~greater of (i) one hundred percent of the contributions by the~~  
23 ~~employees for such fiscal year or (ii) such amount as may be~~  
24 ~~necessary to maintain the solvency of the system, as determined~~  
25 ~~annually by the board upon recommendation of the actuary and the~~

1 trustees.

2           ~~(e)~~(b) The contributions by the school district in any  
3 fiscal year beginning on or after September 1, 2007, shall be the  
4 greater of (i) one hundred and one percent of the contributions by  
5 the employees for such fiscal year or (ii) such amount as may be  
6 necessary to maintain the solvency of the system, as determined  
7 annually by the board upon recommendation of the actuary and the  
8 trustees.

9           ~~(d)~~(c) The employee's contribution shall be made in the  
10 form of a monthly deduction from compensation as provided in  
11 subsection (2) of this section. Every employee who is a member of the  
12 system shall be deemed to consent and agree to such deductions and  
13 shall receipt in full for compensation, and payment to such employee  
14 of compensation less such deduction shall constitute a full and  
15 complete discharge of all claims and demands whatsoever for services  
16 rendered by such employee during the period covered by such payment  
17 except as to benefits provided under the Class V School Employees  
18 Retirement Act.

19           ~~(e) After September 1, 1963, and prior to September 1,~~  
20 ~~1969, all employees shall be credited with a membership service~~  
21 ~~annuity which shall be nine tenths of one percent of salary or wage~~  
22 ~~covered by old age and survivors insurance and one and one half~~  
23 ~~percent of salary or wages above that amount, except that those~~  
24 ~~employees who retire on or after August 31, 1969, shall be credited~~  
25 ~~with a membership service annuity which shall be one percent of~~

1 ~~salary or wages covered by old age and survivors insurance and one~~  
2 ~~and sixty five hundredths percent of salary or wages above that~~  
3 ~~amount for service performed after September 1, 1963, and prior to~~  
4 ~~September 1, 1969. Commencing September 1, 1969, all employees shall~~  
5 ~~be credited with a membership service annuity which shall be one~~  
6 ~~percent of the first seven thousand eight hundred dollars of salary~~  
7 ~~or wages earned by the employee during each fiscal year and one and~~  
8 ~~sixty five hundredths percent of salary or wages earned above that~~  
9 ~~amount in the same fiscal year, except that all employees retiring on~~  
10 ~~or after August 31, 1976, (d) All employees shall be credited with a~~  
11 membership service annuity which shall be one and forty-four  
12 hundredths percent of the first seven thousand eight hundred dollars  
13 of salary or wages earned by the employee during such fiscal year and  
14 two and four-tenths percent of salary or wages earned above that  
15 amount in the same fiscal year, and the retirement annuities of  
16 employees who have not retired prior to September 1, 1963, and who  
17 elected under the provisions of section 79-988 as such section  
18 existed immediately prior to February 20, 1982, not to become members  
19 of the system shall not be less than they would have been had they  
20 remained under any preexisting system to date of retirement.

21 ~~(f)~~—(e) Members of this system having the service  
22 qualifications of members of the School Employees Retirement System  
23 of the State of Nebraska, as provided by section 79-926, shall  
24 receive the state service annuity provided by sections 79-933 to  
25 79-935 and 79-951.

1                   (2) The school district shall pick up the employee  
2 contributions required by this section for all compensation paid on  
3 or after January 1, 1985, and the contributions so picked up shall be  
4 treated as employer contributions in determining federal tax  
5 treatment under the Internal Revenue Code, except that the school  
6 district shall continue to withhold federal income taxes based upon  
7 these contributions until the Internal Revenue Service or the federal  
8 courts rule that, pursuant to section 414(h) of the Internal Revenue  
9 Code, these contributions shall not be included as gross income of  
10 the employee until such time as they are distributed or made  
11 available. The school district shall pay these employee contributions  
12 from the same source of funds which is used in paying earnings to the  
13 employee. The school district shall pick up these contributions by a  
14 salary deduction either through a reduction in the cash salary of the  
15 employee or a combination of a reduction in salary and offset against  
16 a future salary increase. ~~Beginning September 1, 1995, the~~ The school  
17 district shall also pick up any contributions required by sections  
18 79-990, 79-991, and 79-992 which are made under an irrevocable  
19 payroll deduction authorization between the member and the school  
20 district, and the contributions so picked up shall be treated as  
21 employer contributions in determining federal tax treatment under the  
22 Internal Revenue Code, except that the school district shall continue  
23 to withhold federal and state income taxes based upon these  
24 contributions until the Internal Revenue Service rules that, pursuant  
25 to section 414(h) of the Internal Revenue Code, these contributions



1 shall not be included as gross income of the employee until such time  
2 as they are distributed from the system. Employee contributions  
3 picked up shall be treated for all purposes of the Class V School  
4 Employees Retirement Act in the same manner and to the extent as  
5 employee contributions made prior to the date picked up.

6           Sec. 34. (1) The board shall establish a comprehensive  
7 preretirement planning program for school employees who are members  
8 of the Class V School Employees Retirement System. The program shall  
9 provide information and advice regarding the many changes employees  
10 face upon retirement, including, but not limited to, changes in  
11 physical and mental health, housing, family life, leisure activity,  
12 and retirement income.

13           (2) The preretirement planning program shall be available  
14 to all employees who have attained the age of fifty or are within  
15 five years of qualifying for retirement or early retirement under  
16 their retirement systems.

17           (3) The preretirement planning program shall include  
18 information on the federal and state income tax consequences of the  
19 various annuity or retirement benefit options available to the  
20 employee, information on social security benefits, information on  
21 various local, state, and federal government programs and programs in  
22 the private sector designed to assist elderly persons, and  
23 information and advice the board deems valuable in assisting  
24 employees in the transition from public employment to retirement.

25           (4) The board shall work with any governmental agency,

1 including political subdivisions or bodies whose services or  
2 expertise may enhance the development or implementation of the  
3 preretirement planning program.

4 (5) The costs of the preretirement planning program shall  
5 be charged back to the retirement system.

6 (6) The employer shall provide each eligible employee  
7 leave with pay to attend up to two preretirement planning programs.  
8 For purposes of this subsection, leave with pay means a day off paid  
9 by the employer and does not mean vacation, sick, personal, or  
10 compensatory time. An employee may choose to attend a program more  
11 than twice, but such leave shall be at the expense of the employee  
12 and shall be at the discretion of the employer. An eligible employee  
13 shall not be entitled to attend more than one preretirement planning  
14 program per fiscal year prior to actual election of retirement.

15 (7) A nominal registration fee shall be charged each  
16 person attending a preretirement planning program to cover the costs  
17 for meals, meeting rooms, or other expenses incurred under such  
18 program.

19 Sec. 35. On and after the operative date of this act, no  
20 employee shall be authorized to participate in the retirement system  
21 provided for in the Class V School Employees Retirement Act unless  
22 the employee (a) is a United States citizen or (b) is a qualified  
23 alien under the federal Immigration and Nationality Act, 8 U.S.C.  
24 1101 et seq., as such act existed on January 1, 2011, and is lawfully  
25 present in the United States.

1           Sec. 36. Section 79-1003, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           79-1003 For purposes of the Tax Equity and Educational  
4 Opportunities Support Act:

5           (1) Adjusted general fund operating expenditures means  
6 (a) for school fiscal years before school fiscal year 2007-08,  
7 general fund operating expenditures as calculated pursuant to  
8 subdivision (21) of this section minus the transportation allowance  
9 and minus the special receipts allowance, (b) for school fiscal year  
10 2007-08, general fund operating expenditures as calculated pursuant  
11 to subdivision (21) of this section minus the sum of the  
12 transportation, special receipts, and distance education and  
13 telecommunications allowances, (c) for school fiscal year 2008-09,  
14 the difference of the product of the general fund operating  
15 expenditures as calculated pursuant to subdivision (21) of this  
16 section multiplied by the cost growth factor calculated pursuant to  
17 section 79-1007.10 minus the transportation allowance, special  
18 receipts allowance, poverty allowance, limited English proficiency  
19 allowance, distance education and telecommunications allowance,  
20 elementary site allowance, elementary class size allowance, summer  
21 school allowance, and focus school and program allowance, (d) for  
22 school fiscal year 2009-10, the difference of the product of the  
23 general fund operating expenditures as calculated pursuant to  
24 subdivision (21) of this section multiplied by the cost growth factor  
25 calculated pursuant to section 79-1007.10 minus the transportation

1 allowance, special receipts allowance, poverty allowance, limited  
2 English proficiency allowance, distance education and  
3 telecommunications allowance, elementary site allowance, elementary  
4 class size allowance, summer school allowance, instructional time  
5 allowance, and focus school and program allowance, (e) for school  
6 fiscal years 2010-11 through 2012-13, the difference of the product  
7 of the general fund operating expenditures as calculated pursuant to  
8 subdivision (21) of this section multiplied by the cost growth factor  
9 calculated pursuant to section 79-1007.10 minus the transportation  
10 allowance, special receipts allowance, poverty allowance, limited  
11 English proficiency allowance, distance education and  
12 telecommunications allowance, elementary site allowance, elementary  
13 class size allowance, summer school allowance, instructional time  
14 allowance, teacher education allowance, and focus school and program  
15 allowance, and (f) for school fiscal year 2013-14 and each school  
16 fiscal year thereafter, the difference of the product of the general  
17 fund operating expenditures as calculated pursuant to subdivision  
18 (21) of this section multiplied by the cost growth factor calculated  
19 pursuant to section 79-1007.10 minus the transportation allowance,  
20 special receipts allowance, poverty allowance, limited English  
21 proficiency allowance, distance education and telecommunications  
22 allowance, elementary site allowance, summer school allowance,  
23 instructional time allowance, teacher education allowance, and focus  
24 school and program allowance;

25 (2) Adjusted valuation means the assessed valuation of

1 taxable property of each local system in the state, adjusted pursuant  
2 to the adjustment factors described in section 79-1016. Adjusted  
3 valuation means the adjusted valuation for the property tax year  
4 ending during the school fiscal year immediately preceding the school  
5 fiscal year in which the aid based upon that value is to be paid. For  
6 purposes of determining the local effort rate yield pursuant to  
7 section 79-1015.01, adjusted valuation does not include the value of  
8 any property which a court, by a final judgment from which no appeal  
9 is taken, has declared to be nontaxable or exempt from taxation;

10 (3) Allocated income tax funds means the amount of  
11 assistance paid to a local system pursuant to section 79-1005.01 or  
12 79-1005.02 as adjusted by the minimum levy adjustment pursuant to  
13 section 79-1008.02;

14 (4) Average daily attendance of a student who resides on  
15 Indian land means average daily attendance of a student who resides  
16 on Indian land from the most recent data available on November 1  
17 preceding the school fiscal year in which aid is to be paid;

18 (5) Average daily membership means the average daily  
19 membership for grades kindergarten through twelve attributable to the  
20 local system, as provided in each district's annual statistical  
21 summary, and includes the proportionate share of students enrolled in  
22 a public school instructional program on less than a full-time basis;

23 (6) Base fiscal year means the first school fiscal year  
24 following the school fiscal year in which the reorganization or  
25 unification occurred;

1 (7) Board means the school board of each school district;

2 (8) Categorical funds means funds limited to a specific  
3 purpose by federal or state law, including, but not limited to, Title  
4 I funds, Title VI funds, federal vocational education funds, federal  
5 school lunch funds, Indian education funds, Head Start funds, and  
6 funds from the Education Innovation Fund;

7 (9) Consolidate means to voluntarily reduce the number of  
8 school districts providing education to a grade group and does not  
9 include dissolution pursuant to section 79-498;

10 (10) Department means the State Department of Education;

11 (11) District means any Class I, II, III, IV, V, or VI  
12 school district and, beginning with the calculation of state aid for  
13 school fiscal year 2011-12 and each school fiscal year thereafter, a  
14 unified system as defined in section 79-4,108;

15 (12) Ensuing school fiscal year means the school fiscal  
16 year following the current school fiscal year;

17 (13) Equalization aid means the amount of assistance  
18 calculated to be paid to a local system pursuant to sections  
19 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and  
20 79-1022.02;

21 (14) Fall membership means the total membership in  
22 kindergarten through grade twelve attributable to the local system as  
23 reported on the fall school district membership reports for each  
24 district pursuant to section 79-528;

25 (15) Fiscal year means the state fiscal year which is the

1 period from July 1 to the following June 30;

2 (16) Formula students means:

3 (a) For school fiscal years prior to school fiscal year  
4 2008-09, (i) for state aid certified pursuant to section 79-1022, the  
5 sum of fall membership from the school fiscal year immediately  
6 preceding the school fiscal year in which the aid is to be paid,  
7 multiplied by the average ratio of average daily membership to fall  
8 membership for the second school fiscal year immediately preceding  
9 the school fiscal year in which aid is to be paid and the prior two  
10 school fiscal years, plus qualified early childhood education fall  
11 membership plus tuitioned students from the school fiscal year  
12 immediately preceding the school fiscal year in which the aid is to  
13 be paid and (ii) for final calculation of state aid pursuant to  
14 section 79-1065, the sum of average daily membership plus qualified  
15 early childhood education average daily membership plus tuitioned  
16 students from the school fiscal year immediately preceding the school  
17 fiscal year in which the aid was paid; and

18 (b) For school fiscal year 2008-09 and each school fiscal  
19 year thereafter, (i) for state aid certified pursuant to section  
20 79-1022, the sum of the product of fall membership from the school  
21 fiscal year immediately preceding the school fiscal year in which the  
22 aid is to be paid multiplied by the average ratio of average daily  
23 membership to fall membership for the second school fiscal year  
24 immediately preceding the school fiscal year in which the aid is to  
25 be paid and the prior two school fiscal years plus sixty percent of

1 the qualified early childhood education fall membership plus  
2 tuitioned students from the school fiscal year immediately preceding  
3 the school fiscal year in which aid is to be paid minus the product  
4 of the number of students enrolled in kindergarten that is not full-  
5 day kindergarten from the fall membership multiplied by 0.5 and (ii)  
6 for final calculation of state aid pursuant to section 79-1065, the  
7 sum of average daily membership plus sixty percent of the qualified  
8 early childhood education average daily membership plus tuitioned  
9 students minus the product of the number of students enrolled in  
10 kindergarten that is not full-day kindergarten from the average daily  
11 membership multiplied by 0.5 from the school fiscal year immediately  
12 preceding the school fiscal year in which aid was paid;

13 (17) Free lunch and free milk student means a student who  
14 qualified for free lunches or free milk from the most recent data  
15 available on November 1 of the school fiscal year immediately  
16 preceding the school fiscal year in which aid is to be paid;

17 (18) Full-day kindergarten means kindergarten offered by  
18 a district for at least one thousand thirty-two instructional hours;

19 (19) General fund budget of expenditures means the total  
20 budget of disbursements and transfers for general fund purposes as  
21 certified in the budget statement adopted pursuant to the Nebraska  
22 Budget Act, except that for purposes of the limitation imposed in  
23 section 79-1023 and the calculation pursuant to subdivision (2) of  
24 section 79-1027.01, the general fund budget of expenditures does not  
25 include any special grant funds, exclusive of local matching funds,



1 received by a district;

2 (20) General fund expenditures means all expenditures  
3 from the general fund;

4 (21) General fund operating expenditures means:

5 (a) For state aid calculated for school fiscal years  
6 prior to school fiscal year 2008-09, the total general fund  
7 expenditures minus categorical funds, tuition paid, transportation  
8 fees paid to other districts, adult education, summer school,  
9 community services, redemption of the principal portion of general  
10 fund debt service, retirement incentive plans, staff development  
11 assistance, and transfers from other funds into the general fund for  
12 the second school fiscal year immediately preceding the school fiscal  
13 year in which aid is to be paid as reported on the annual financial  
14 report prior to December 1 of the school fiscal year immediately  
15 preceding the school fiscal year in which aid is to be paid;

16 (b) For state aid calculated for school fiscal year  
17 2008-09, as reported for the second school fiscal year immediately  
18 preceding the school fiscal year in which aid is to be paid on the  
19 annual financial report submitted prior to December 1 of the school  
20 fiscal year immediately preceding the school fiscal year in which aid  
21 is to be paid, the total general fund expenditures minus (i) the  
22 amount of all receipts to the general fund, to the extent that such  
23 receipts are not included in local system formula resources, from  
24 early childhood education tuition, summer school tuition, educational  
25 entities as defined in section 79-1201.01 for providing distance

1 education courses through the Educational Service Unit Coordinating  
2 Council to such educational entities, private foundations,  
3 individuals, associations, charitable organizations, the textbook  
4 loan program authorized by section 79-734, and federal impact aid,  
5 (ii) the amount of expenditures for categorical funds, tuition paid,  
6 transportation fees paid to other districts, adult education,  
7 community services, redemption of the principal portion of general  
8 fund debt service, retirement incentive plans authorized by section  
9 79-855, and staff development assistance authorized by section  
10 79-856, and (iii) the amount of any transfers from the general fund  
11 to any bond fund and transfers from other funds into the general  
12 fund;

13 (c) For state aid calculated for school fiscal year  
14 2009-10, as reported on the annual financial report for the second  
15 school fiscal year immediately preceding the school fiscal year in  
16 which aid is to be paid, the total general fund expenditures minus  
17 (i) the amount of all receipts to the general fund, to the extent  
18 that such receipts are not included in local system formula  
19 resources, from early childhood education tuition, summer school  
20 tuition, educational entities as defined in section 79-1201.01 for  
21 providing distance education courses through the Educational Service  
22 Unit Coordinating Council to such educational entities, private  
23 foundations, individuals, associations, charitable organizations, the  
24 textbook loan program authorized by section 79-734, and federal  
25 impact aid, (ii) the amount of expenditures for categorical funds,

1 tuition paid, transportation fees paid to other districts, adult  
2 education, community services, redemption of the principal portion of  
3 general fund debt service, retirement incentive plans authorized by  
4 section 79-855, and staff development assistance authorized by  
5 section 79-856, (iii) the amount of any transfers from the general  
6 fund to any bond fund and transfers from other funds into the general  
7 fund, and (iv) any legal expenses in excess of fifteen-hundredths of  
8 one percent of the formula need for the school fiscal year in which  
9 the expenses occurred; and

10 (d) For state aid calculated for school fiscal year  
11 2010-11 and each school fiscal year thereafter, as reported on the  
12 annual financial report for the second school fiscal year immediately  
13 preceding the school fiscal year in which aid is to be paid, the  
14 total general fund expenditures minus (i) the amount of all receipts  
15 to the general fund, to the extent that such receipts are not  
16 included in local system formula resources, from early childhood  
17 education tuition, summer school tuition, educational entities as  
18 defined in section 79-1201.01 for providing distance education  
19 courses through the Educational Service Unit Coordinating Council to  
20 such educational entities, private foundations, individuals,  
21 associations, charitable organizations, the textbook loan program  
22 authorized by section 79-734, federal impact aid, and levy override  
23 elections pursuant to section 77-3444, (ii) the amount of  
24 expenditures for categorical funds, tuition paid, transportation fees  
25 paid to other districts, adult education, community services,

1 redemption of the principal portion of general fund debt service,  
2 retirement incentive plans authorized by section 79-855, and staff  
3 development assistance authorized by section 79-856, (iii) the amount  
4 of any transfers from the general fund to any bond fund and transfers  
5 from other funds into the general fund, (iv) any legal expenses in  
6 excess of fifteen-hundredths of one percent of the formula need for  
7 the school fiscal year in which the expenses occurred, (v)  
8 expenditures to pay for sums agreed to be paid by a school district  
9 to certificated employees in exchange for a voluntary termination  
10 occurring prior to July 1, 2009, and (vi)(A) expenditures in school  
11 fiscal years 2009-10 through 2013-14 to pay for employer  
12 contributions pursuant to subsection (2) of section 79-958 to the  
13 School Employees Retirement System of the State of Nebraska to the  
14 extent that such expenditures exceed the employer contributions under  
15 such subsection that would have been made at a contribution rate of  
16 seven and thirty-five hundredths percent or (B) expenditures in  
17 school fiscal years 2009-10 through 2013-14 to pay for school  
18 district contributions pursuant to subdivision ~~(1)(e)(i)~~ (1)(b)(i) of  
19 section 79-9,113 to the Class V School Employees Retirement System to  
20 the extent that such expenditures exceed the school district  
21 contributions under such subdivision that would have been made at a  
22 contribution rate of seven and thirty-seven hundredths percent.

23 For purposes of this subdivision (21) of this section,  
24 receipts from levy override elections shall equal ninety-nine percent  
25 of the difference of the total general fund levy minus a levy of one

1 dollar and five cents per one hundred dollars of taxable valuation  
2 multiplied by the assessed valuation for school districts that have  
3 voted pursuant to section 77-3444 to override the maximum levy  
4 provided pursuant to section 77-3442;

5 (22) High school district means a school district  
6 providing instruction in at least grades nine through twelve;

7 (23) Income tax liability means the amount of the  
8 reported income tax liability for resident individuals pursuant to  
9 the Nebraska Revenue Act of 1967 less all nonrefundable credits  
10 earned and refunds made;

11 (24) Income tax receipts means the amount of income tax  
12 collected pursuant to the Nebraska Revenue Act of 1967 less all  
13 nonrefundable credits earned and refunds made;

14 (25) Limited English proficiency students means (a) for  
15 school fiscal years prior to school fiscal year 2009-10, the number  
16 of students with limited English proficiency in a district from the  
17 most recent data available on November 1 of the school fiscal year  
18 preceding the school fiscal year in which aid is to be paid and (b)  
19 for school fiscal year 2009-10 and each school fiscal year  
20 thereafter, the number of students with limited English proficiency  
21 in a district from the most recent data available on November 1 of  
22 the school fiscal year preceding the school fiscal year in which aid  
23 is to be paid plus the difference of such students with limited  
24 English proficiency minus the average number of limited English  
25 proficiency students for such district, prior to such addition, for

1 the three immediately preceding school fiscal years if such  
2 difference is greater than zero;

3 (26) Local system means a learning community for purposes  
4 of calculation of state aid for the second full school fiscal year  
5 after becoming a learning community and each school fiscal year  
6 thereafter, a unified system, a Class VI district and the associated  
7 Class I districts, or a Class II, III, IV, or V district and any  
8 affiliated Class I districts or portions of Class I districts. The  
9 membership, expenditures, and resources of Class I districts that are  
10 affiliated with multiple high school districts will be attributed to  
11 local systems based on the percent of the Class I valuation that is  
12 affiliated with each high school district;

13 (27) Low-income child means (a) for school fiscal years  
14 prior to 2008-09, a child under nineteen years of age living in a  
15 household having an annual adjusted gross income of fifteen thousand  
16 dollars or less for the second calendar year preceding the beginning  
17 of the school fiscal year for which aid is being calculated and (b)  
18 for school fiscal year 2008-09 and each school fiscal year  
19 thereafter, a child under nineteen years of age living in a household  
20 having an annual adjusted gross income for the second calendar year  
21 preceding the beginning of the school fiscal year for which aid is  
22 being calculated equal to or less than the maximum household income  
23 that would allow a student from a family of four people to be a free  
24 lunch and free milk student during the school fiscal year immediately  
25 preceding the school fiscal year for which aid is being calculated;

1           (28) Low-income students means the number of low-income  
2 children within the district multiplied by the ratio of the formula  
3 students in the district divided by the total children under nineteen  
4 years of age residing in the district as derived from income tax  
5 information;

6           (29) Most recently available complete data year means the  
7 most recent single school fiscal year for which the annual financial  
8 report, fall school district membership report, annual statistical  
9 summary, Nebraska income tax liability by school district for the  
10 calendar year in which the majority of the school fiscal year falls,  
11 and adjusted valuation data are available;

12           (30) Poverty students means (a) for school fiscal years  
13 prior to school fiscal year 2009-10, the number of low-income  
14 students or the number of students who are free lunch and free milk  
15 students in a district, whichever is greater, and (b) for school  
16 fiscal year 2009-10 and each school fiscal year thereafter, the  
17 number of low-income students or the number of students who are free  
18 lunch and free milk students in a district plus the difference of the  
19 number of low-income students or the number of students who are free  
20 lunch and free milk students in a district, whichever is greater,  
21 minus the average number of poverty students for such district, prior  
22 to such addition, for the three immediately preceding school fiscal  
23 years if such difference is greater than zero;

24           (31) Qualified early childhood education average daily  
25 membership means the product of the average daily membership for

1 school fiscal year 2006-07 and each school fiscal year thereafter of  
2 students who will be eligible to attend kindergarten the following  
3 school year and are enrolled in an early childhood education program  
4 approved by the department pursuant to section 79-1103 for such  
5 school district for such school year multiplied by the ratio of the  
6 actual instructional hours of the program divided by one thousand  
7 thirty-two if: (a) The program is receiving a grant pursuant to such  
8 section for the third year; (b) the program has already received  
9 grants pursuant to such section for three years; or (c) the program  
10 has been approved pursuant to subsection (5) of section 79-1103 for  
11 such school year and the two preceding school years, including any  
12 such students in portions of any of such programs receiving an  
13 expansion grant;

14 (32) Qualified early childhood education fall membership  
15 means the product of membership on the last Friday in September 2006  
16 and each year thereafter of students who will be eligible to attend  
17 kindergarten the following school year and are enrolled in an early  
18 childhood education program approved by the department pursuant to  
19 section 79-1103 for such school district for such school year  
20 multiplied by the ratio of the planned instructional hours of the  
21 program divided by one thousand thirty-two if: (a) The program is  
22 receiving a grant pursuant to such section for the third year; (b)  
23 the program has already received grants pursuant to such section for  
24 three years; or (c) the program has been approved pursuant to  
25 subsection (5) of section 79-1103 for such school year and the two



1 preceding school years, including any such students in portions of  
2 any of such programs receiving an expansion grant;

3 (33) Regular route transportation means the  
4 transportation of students on regularly scheduled daily routes to and  
5 from the attendance center;

6 (34) Reorganized district means any district involved in  
7 a consolidation and currently educating students following  
8 consolidation;

9 (35) School year or school fiscal year means the fiscal  
10 year of a school district as defined in section 79-1091;

11 (36) Sparse local system means a local system that is not  
12 a very sparse local system but which meets the following criteria:

13 (a)(i) Less than two students per square mile in the  
14 county in which each high school is located, based on the school  
15 district census, (ii) less than one formula student per square mile  
16 in the local system, and (iii) more than ten miles between each high  
17 school attendance center and the next closest high school attendance  
18 center on paved roads;

19 (b)(i) Less than one and one-half formula students per  
20 square mile in the local system and (ii) more than fifteen miles  
21 between each high school attendance center and the next closest high  
22 school attendance center on paved roads;

23 (c)(i) Less than one and one-half formula students per  
24 square mile in the local system and (ii) more than two hundred  
25 seventy-five square miles in the local system; or

1           (d)(i) Less than two formula students per square mile in  
2 the local system and (ii) the local system includes an area equal to  
3 ninety-five percent or more of the square miles in the largest county  
4 in which a high school attendance center is located in the local  
5 system;

6           (37) Special education means specially designed  
7 kindergarten through grade twelve instruction pursuant to section  
8 79-1125, and includes special education transportation;

9           (38) Special grant funds means the budgeted receipts for  
10 grants, including, but not limited to, Title I funds, Title VI funds,  
11 funds from the Education Innovation Fund, reimbursements for wards of  
12 the court, short-term borrowings including, but not limited to,  
13 registered warrants and tax anticipation notes, interfund loans,  
14 insurance settlements, and reimbursements to county government for  
15 previous overpayment. The state board shall approve a listing of  
16 grants that qualify as special grant funds;

17           (39) State aid means the amount of assistance paid to a  
18 district pursuant to the Tax Equity and Educational Opportunities  
19 Support Act;

20           (40) State board means the State Board of Education;

21           (41) State support means all funds provided to districts  
22 by the State of Nebraska for the general fund support of elementary  
23 and secondary education;

24           (42) Statewide average basic funding per formula student  
25 means the statewide total basic funding for all districts divided by

1 the statewide total formula students for all districts;

2 (43) Statewide average general fund operating  
3 expenditures per formula student means the statewide total general  
4 fund operating expenditures for all districts divided by the  
5 statewide total formula students for all districts;

6 (44) Teacher has the definition found in section 79-101;

7 (45) Temporary aid adjustment factor means (a) for school  
8 fiscal years before school fiscal year 2007-08, one and one-fourth  
9 percent of the sum of the local system's transportation allowance,  
10 the local system's special receipts allowance, and the product of the  
11 local system's adjusted formula students multiplied by the average  
12 formula cost per student in the local system's cost grouping and (b)  
13 for school fiscal year 2007-08, one and one-fourth percent of the sum  
14 of the local system's transportation allowance, special receipts  
15 allowance, and distance education and telecommunications allowance  
16 and the product of the local system's adjusted formula students  
17 multiplied by the average formula cost per student in the local  
18 system's cost grouping;

19 (46) Tuitioned students means students in kindergarten  
20 through grade twelve of the district whose tuition is paid by the  
21 district to some other district or education agency; and

22 (47) Very sparse local system means a local system that  
23 has:

24 (a)(i) Less than one-half student per square mile in each  
25 county in which each high school attendance center is located based

1 on the school district census, (ii) less than one formula student per  
2 square mile in the local system, and (iii) more than fifteen miles  
3 between the high school attendance center and the next closest high  
4 school attendance center on paved roads; or

5 (b)(i) More than four hundred fifty square miles in the  
6 local system, (ii) less than one-half student per square mile in the  
7 local system, and (iii) more than fifteen miles between each high  
8 school attendance center and the next closest high school attendance  
9 center on paved roads.

10 Sec. 37. Section 79-1028.01, Revised Statutes Cumulative  
11 Supplement, 2010, is amended to read:

12 79-1028.01 (1) For each school fiscal year, a school  
13 district may exceed its maximum general fund budget of expenditures  
14 minus the special education budget of expenditures by a specific  
15 dollar amount for:

16 (a) Expenditures for repairs to infrastructure damaged by  
17 a natural disaster which is declared a disaster emergency pursuant to  
18 the Emergency Management Act;

19 (b) Expenditures for judgments, except judgments or  
20 orders from the Commission of Industrial Relations, obtained against  
21 a school district which require or obligate a school district to pay  
22 such judgment, to the extent such judgment is not paid by liability  
23 insurance coverage of a school district;

24 (c) Expenditures pursuant to the Retirement Incentive  
25 Plan authorized in section 79-855 or the Staff Development Assistance

1 authorized in section 79-856;

2 (d) Expenditures of incentive payments or base fiscal  
3 year incentive payments to be received in such school fiscal year  
4 pursuant to section 79-1011;

5 (e) Expenditures of amounts received from educational  
6 entities as defined in section 79-1201.01 for providing distance  
7 education courses through the Educational Service Unit Coordinating  
8 Council to such educational entities;

9 (f) Either (i) the first and second school fiscal years  
10 the district will be participating in Network Nebraska for the full  
11 school fiscal year or (ii) school fiscal year 2008-09, if the school  
12 district participated in Network Nebraska for all of school fiscal  
13 year 2007-08, for the difference of the estimated expenditures for  
14 such school fiscal year for telecommunications services, access to  
15 data transmission networks that transmit data to and from the school  
16 district, and the transmission of data on such networks as such  
17 expenditures are defined by the department for purposes of the  
18 distance education and telecommunications allowance minus the dollar  
19 amount of such expenditures for the second school fiscal year  
20 preceding the first full school fiscal year the district participates  
21 in Network Nebraska;

22 (g) Expenditures to pay another school district for the  
23 transfer of land from such other school district;

24 (h) Expenditures in school fiscal years 2009-10 through  
25 2013-14 to pay for employer contributions pursuant to subsection (2)

1 of section 79-958 to the School Employees Retirement System of the  
2 State of Nebraska to the extent that such expenditures exceed the  
3 employer contributions under such subsection that would have been  
4 made at a contribution rate of seven and thirty-five hundredths  
5 percent;

6 (i) Expenditures in school fiscal years 2009-10 through  
7 2013-14 to pay for school district contributions pursuant to  
8 subdivision ~~(1)(e)(i)~~ (1)(b)(i) of section 79-9,113 to the Class V  
9 School Employees Retirement System to the extent that such  
10 expenditures exceed the school district contributions under such  
11 subdivision that would have been made at a contribution rate of seven  
12 and thirty-seven hundredths percent;

13 (j) Expenditures for sums agreed to be paid by a school  
14 district to certificated employees in exchange for a voluntary  
15 termination occurring prior to July 1, 2009;

16 (k) Expenditures for new elementary attendance sites in  
17 the first year of operation or the first year of operation after  
18 being closed for at least one school year if such elementary  
19 attendance site will most likely qualify for the elementary site  
20 allowance in the immediately following school fiscal year as  
21 determined by the state board; and

22 (l) Any expenditures in school fiscal years 2016-17 and  
23 2017-18 of amounts specified in the notice provided by the  
24 Commissioner of Education pursuant to section 79-309.01 for teacher  
25 performance pay.

1           (2) The state board shall approve, deny, or modify the  
2 amount allowed for any exception to the maximum general fund budget  
3 of expenditures minus the special education budget of expenditures  
4 pursuant to this section.

5           Sec. 38. Section 81-2014.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           81-2014.01 Sections 81-2014 to 81-2041 and section 39 of  
8 this act shall be known and may be cited as the Nebraska State Patrol  
9 Retirement Act.

10          Sec. 39. (1) Beginning July 1, 2011, and each July 1  
11 thereafter, the board shall determine the number of eligible retirees  
12 in the retirement system, and an annual benefit adjustment shall be  
13 made by the board for each retired member or beneficiary under one of  
14 the cost-of-living adjustment calculation methods found in subsection  
15 (2), (3), or (4) of this section. Each retired member or beneficiary,  
16 if eligible, shall receive an annual benefit adjustment under the  
17 cost-of-living adjustment calculation method that provides the  
18 retired member or beneficiary the greatest annual benefit adjustment  
19 increase. No retired member or beneficiary shall receive an annual  
20 benefit adjustment under more than one of the cost-of-living  
21 adjustment calculation methods provided in this section.

22          (2) The current benefit paid to a retired member or  
23 beneficiary under this subsection shall be adjusted so that the  
24 purchasing power of the benefit being paid is not less than sixty  
25 percent of the purchasing power of the initial benefit. The

1 purchasing power of the initial benefit in any year following the  
2 year in which the initial benefit commenced shall be calculated by  
3 dividing the United States Department of Labor, Bureau of Labor  
4 Statistics, Consumer Price Index for Urban Wage Earners and Clerical  
5 Workers factor on June 30 of the current year by the Consumer Price  
6 Index for Urban Wage Earners and Clerical Workers factor on June 30  
7 of the year in which the benefit commenced. The result shall be  
8 multiplied by the product that results when the amount of the initial  
9 benefit is multiplied by sixty percent. In any year in which applying  
10 the adjustment provided in subsection (3) of this section results in  
11 a benefit which would be less than sixty percent of the purchasing  
12 power of the initial benefit as calculated in this subsection, the  
13 adjustment shall instead be equal to the percentage change in the  
14 Consumer Price Index for Urban Wage Earners and Clerical Workers  
15 factor from the prior year to the current year.

16 (3) The current benefit paid to a retired member or  
17 beneficiary under this subsection shall be increased annually by the  
18 lesser of (i) the percentage change in the Consumer Price Index for  
19 Urban Wage Earners and Clerical Workers for the period between June  
20 30 of the prior year to June 30 of the present year, or (ii) two and  
21 one-half percent.

22 (4)(a) The current benefit paid to a retired member or  
23 beneficiary under this subsection shall be calculated by multiplying  
24 the retired member's or beneficiary's total monthly benefit by the  
25 lesser of: (i) The cumulative change in the Consumer Price Index for



1 Urban Wage Earners and Clerical Workers from the last adjustment of  
2 the total monthly benefit of each retired member or beneficiary  
3 through June 30 of the year for which the annual benefit adjustment  
4 is being calculated; or (ii) an amount equal to three percent per  
5 annum compounded for the period from the last adjustment of the total  
6 monthly benefit of each retired member or beneficiary through June 30  
7 of the year for which the annual benefit adjustment is being  
8 calculated.

9           (b) In order for a retired member or beneficiary to  
10 receive the cost-of-living adjustment calculation method in this  
11 subsection, the retired member or beneficiary shall be: (i) A retired  
12 member or beneficiary who has been receiving a retirement benefit for  
13 at least five years if the member had at least twenty-five years of  
14 creditable service; (ii) a member who has been receiving a disability  
15 retirement benefit for at least five years pursuant to section  
16 81-2025; or (iii) a beneficiary who has been receiving a death  
17 benefit pursuant to section 81-2026 for at least five years, if the  
18 member's or beneficiary's monthly accrual rate is less than or equal  
19 to the minimum accrual rate as determined by this subsection.

20           (c) The monthly accrual rate under this subsection is the  
21 retired member's or beneficiary's total monthly benefit divided by  
22 the number of years of creditable service earned by the retired or  
23 deceased member.

24           (d) The total monthly benefit under this subsection is  
25 the total benefit received by a retired member or beneficiary

1 pursuant to the Nebraska State Patrol Retirement Act and previous  
2 adjustments made pursuant to this section or any other provision of  
3 the act that grants a benefit or cost-of-living increase, but the  
4 total monthly benefit does not include sums received by an eligible  
5 retired member or eligible beneficiary from federal sources.

6 (e) The minimum accrual rate under this subsection is  
7 thirty-eight dollars and eighty-four cents until adjusted pursuant to  
8 this subsection. Beginning July 1, 2011, the board shall annually  
9 adjust the minimum accrual rate to reflect the cumulative percentage  
10 change in the Consumer Price Index for Urban Wage Earners and  
11 Clerical Workers from the last adjustment of the minimum accrual  
12 rate.

13 (4) Beginning July 1, 2011, and each July 1 thereafter,  
14 each retired member or beneficiary shall receive the sum of the  
15 annual benefit adjustment and such retiree's total monthly benefit  
16 less withholding, which sum shall be the retired member's or  
17 beneficiary's adjusted total monthly benefit. Each retired member or  
18 beneficiary shall receive the adjusted total monthly benefit until  
19 the expiration of the annuity option selected by the member or until  
20 the retired member or beneficiary again qualifies for the annual  
21 benefit adjustment, whichever occurs first.

22 (5) The annual benefit adjustment pursuant to this  
23 section shall not cause a current benefit to be reduced, and a  
24 retired member or beneficiary shall never receive less than the  
25 adjusted total monthly benefit until the annuity option selected by

1 the member expires.

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

13 (7) The state shall contribute to the State Patrol  
14 Retirement Fund an annual level dollar payment certified by the  
15 board. For the 2011-12 fiscal year through the 2012-13 fiscal year,  
16 the annual level dollar payment certified by the board shall equal  
17 3.04888 percent of six million eight hundred ninety-five thousand  
18 dollars.

19 Sec. 40. Section 81-2041, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 81-2041 (1) Any member who meets the participation  
22 requirements of subsection (2) of this section may participate in  
23 DROP. DROP provides that subsequent to attaining normal age and  
24 service retirement eligibility, a member may voluntarily choose to  
25 participate in DROP upon its adoption which, for purposes of this

1 section, shall be the earlier of September 1, 2008, or the first of  
2 the month following a favorable letter determination by the Internal  
3 Revenue Service. If the member chooses to participate in DROP, the  
4 member shall be deemed to have retired, but the member may continue  
5 in active employment for up to a five-year period. During the DROP  
6 period, the member's retirement benefit payments shall be deposited  
7 into the DROP account for the benefit of the member until the member  
8 actually retires from active employment at or before the expiration  
9 of the DROP period. Thereafter, future retirement benefit payments  
10 shall be made directly to the member, and the member shall have  
11 access to all funds in the DROP account designated for the benefit of  
12 the member.

13 (2) To participate in the DROP program, a member shall  
14 meet the following requirements:

15 (a) A member shall be eligible to enter DROP at any time  
16 subsequent to the date when the member has (i) attained normal  
17 retirement age and (ii) completed twenty-five years of service.  
18 Members having attained normal retirement age and completed twenty-  
19 five years of service on or before the date of adoption of DROP shall  
20 be eligible to enter DROP at any future date;

21 (b) A member who elects to enter DROP shall be entitled  
22 to receive regular age and service retirement benefits in accordance  
23 with section 81-2026. A member is entitled to remain in DROP for a  
24 maximum of five years subsequent to the date of the member's DROP  
25 election. A member may separate from service and thereby exit DROP at

1 any time during the DROP period. On or before the completion of the  
2 DROP period, the member must separate from active employment and exit  
3 DROP. During the DROP period, a member's retirement benefit shall be  
4 payable to the DROP account vendor designated in the member's name.  
5 Amounts transferred or paid to a participating member's DROP account  
6 shall not constitute annual additions under section 415 of the  
7 Internal Revenue Code;

8 (c) A member electing to enter DROP shall choose an  
9 annuity payment option. After the option is chosen, the member shall  
10 not be entitled to any retirement benefit changes, for reasons  
11 including, but not limited to, wage increases, promotions, and  
12 demotions, except that the restriction on retirement benefit changes  
13 shall not apply in the event of duty-related death or duty-related  
14 disability. The benefit amount shall be fixed as of the date of  
15 election and shall be payable as if the employee retired on that date  
16 and separated from active employment. Upon the death of a member  
17 during the DROP period, monthly benefits shall be provided as a  
18 percentage of the amount of the member's annuity as set forth in  
19 subsection (3) of section 81-2026 based upon the annuity benefit  
20 calculation made at commencement of the DROP period. In addition, the  
21 balance of the DROP account, if any, shall be provided to the  
22 beneficiary or beneficiaries of the member or, if no beneficiary is  
23 provided, to the estate of the member. Upon the disability of a  
24 member during the DROP period, the member shall be deemed to have  
25 completed the DROP period, shall begin receiving the annuity benefit

1 as calculated at the commencement of the DROP period, and shall be  
2 paid the balance of the DROP account, if any;

3 (d) No member shall be allowed to continue making the  
4 required contributions while the member is enrolled in DROP;

5 (e) During the DROP period, the Nebraska State Patrol  
6 shall not be assessed the amount required under subsection (2) of  
7 section 81-2017 nor shall such amount be credited to the State Patrol  
8 Retirement Fund;

9 (f) The member shall be paid the balance of the DROP  
10 account upon the member's separation from active employment or at the  
11 expiration of the DROP period thereby ending the member's  
12 participation in DROP. If a member has not voluntarily separated from  
13 active employment on or before the completion of the DROP period, the  
14 member's retirement benefit shall be paid directly to the member  
15 thereby ending the member's active employment. The member's DROP  
16 account shall consist of accrued retirement benefits and interest on  
17 such benefits;

18 (g) Any member that is enrolled in DROP shall be  
19 responsible for directing the DROP account designated for the benefit  
20 of the member by investing the account in any DROP investment  
21 options. There shall be no guaranteed rate of investment return on  
22 DROP account assets. Any losses, charges, or expenses incurred by the  
23 participating DROP member in such member's DROP account by virtue of  
24 the investment options selected by the participating DROP member  
25 shall not be made up by the retirement system but all of the same

1 shall be born by the participating DROP member. The retirement  
2 system, the state, the board, and the state investment officer shall  
3 not be responsible for any investment results under the DROP  
4 agreement. Transfers between investment options shall be in  
5 accordance with the rules and regulations of DROP. A DROP account  
6 shall be established for each participating DROP member. Such DROP  
7 account shall be adjusted no less frequently than annually for the  
8 member's retirement benefit distributions and net investment earnings  
9 and losses;

10 (h) If the DROP account is subject to administrative or  
11 other fees or charges, such fees or charges shall be charged to the  
12 participating DROP member's DROP account; and

13 (i) Cost-of-living adjustments as provided for in section  
14 ~~81-2027.03-39~~ 39 of this act shall not be applied to retirement benefits  
15 during the DROP period.

16 Sec. 41. Section 84-1301, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 84-1301 For purposes of the State Employees Retirement  
19 Act, unless the context otherwise requires:

20 (1) Actuarial equivalent means the equality in value of  
21 the aggregate amounts expected to be received under different forms  
22 of an annuity payment. The mortality assumption used for purposes of  
23 converting the member cash balance account shall be the 1994 Group  
24 Annuity Mortality Table using a unisex rate that is fifty percent  
25 male and fifty percent female. For purposes of converting the member

1 cash balance account attributable to contributions made prior to  
2 January 1, 1984, that were transferred pursuant to the act, the 1994  
3 Group Annuity Mortality Table for males shall be used;

4 (2) Annuity means equal monthly payments provided by the  
5 retirement system to a member or beneficiary under forms determined  
6 by the board beginning the first day of the month after an annuity  
7 election is received in the office of the Nebraska Public Employees  
8 Retirement Systems or the first day of the month after the employee's  
9 termination of employment, whichever is later. The last payment shall  
10 be at the end of the calendar month in which the member dies or in  
11 accordance with the payment option chosen by the member;

12 (3) Annuity start date means the date upon which a  
13 member's annuity is first effective and shall be the first day of the  
14 month following the member's termination or following the date the  
15 application is received by the board, whichever is later;

16 (4) Cash balance benefit means a member's retirement  
17 benefit that is equal to an amount based on annual employee  
18 contribution credits plus interest credits and, if vested, employer  
19 contribution credits plus interest credits and dividend amounts  
20 credited in accordance with subdivision (4)(c) of section 84-1319;

21 (5)(a) Compensation means gross wages or salaries payable  
22 to the member for personal services performed during the plan year.  
23 Compensation does not include insurance premiums converted into cash  
24 payments, reimbursement for expenses incurred, fringe benefits, or  
25 bonuses for services not actually rendered, including, but not



1 limited to, early retirement inducements, cash awards, and severance  
2 pay, except for retroactive salary payments paid pursuant to court  
3 order, arbitration, or litigation and grievance settlements.  
4 Compensation includes overtime pay, member retirement contributions,  
5 and amounts contributed by the member to plans under sections 125,  
6 403(b), and 457 of the Internal Revenue Code or any other section of  
7 the code which defers or excludes such amounts from income.

8 (b) Compensation in excess of the limitations set forth  
9 in section 401(a)(17) of the Internal Revenue Code shall be  
10 disregarded. For an employee who was a member of the retirement  
11 system before the first plan year beginning after December 31, 1995,  
12 the limitation on compensation shall not be less than the amount  
13 which was allowed to be taken into account under the retirement  
14 system as in effect on July 1, 1993;

15 (6) Date of disability means the date on which a member  
16 is determined to be disabled by the board;

17 (7) Defined contribution benefit means a member's  
18 retirement benefit from a money purchase plan in which member  
19 benefits equal annual contributions and earnings pursuant to section  
20 84-1310 and, if vested, employer contributions and earnings pursuant  
21 to section 84-1311;

22 (8) Disability means an inability to engage in a  
23 substantially gainful activity by reason of any medically  
24 determinable physical or mental impairment which can be expected to  
25 result in death or to be of long-continued and indefinite duration;

1                   (9) Employee means any employee of the State Board of  
2     Agriculture who is a member of the state retirement system on July 1,  
3     1982, and any person or officer employed by the State of Nebraska  
4     whose compensation is paid out of state funds or funds controlled or  
5     administered by a state department through any of its executive or  
6     administrative officers when acting exclusively in their respective  
7     official, executive, or administrative capacities. Employee does not  
8     include (a) judges as defined in section 24-701, (b) members of the  
9     Nebraska State Patrol, except for those members of the Nebraska State  
10    Patrol who elected pursuant to section 60-1304 to remain members of  
11    the State Employees Retirement System of the State of Nebraska, (c)  
12    employees of the University of Nebraska, (d) employees of the state  
13    colleges, (e) employees of community colleges, (f) employees of the  
14    Department of Labor employed prior to July 1, 1984, and paid from  
15    funds provided pursuant to Title III of the federal Social Security  
16    Act or funds from other federal sources, (g) the Commissioner of  
17    Labor employed prior to July 1, 1984, (h) employees of the State  
18    Board of Agriculture who are not members of the state retirement  
19    system on July 1, 1982, (i) the Nebraska National Guard air and army  
20    technicians, (j) persons eligible for membership under the School  
21    Employees Retirement System of the State of Nebraska who have not  
22    elected to become members of the retirement system pursuant to  
23    section 79-920 or been made members of the system pursuant to such  
24    section, except that those persons so eligible and who as of  
25    September 2, 1973, are contributing to the State Employees Retirement

1 System of the State of Nebraska shall continue as members of such  
2 system, or (k) employees of the Coordinating Commission for  
3 Postsecondary Education who are eligible for and have elected to  
4 become members of a qualified retirement program approved by the  
5 commission which is commensurate with retirement programs at the  
6 University of Nebraska. Any individual appointed by the Governor may  
7 elect not to become a member of the State Employees Retirement System  
8 of the State of Nebraska;

9 (10) Employee contribution credit means an amount equal  
10 to the member contribution amount required by section 84-1308;

11 (11) Employer contribution credit means an amount equal  
12 to the employer contribution amount required by section 84-1309;

13 (12) Final account value means the value of a member's  
14 account on the date the account is either distributed to the member  
15 or used to purchase an annuity from the plan, which date shall occur  
16 as soon as administratively practicable after receipt of a valid  
17 application for benefits, but no sooner than forty-five days after  
18 the member's termination;

19 (13) Five-year break in service means five consecutive  
20 one-year breaks in service;

21 (14) Full-time employee means an employee who is employed  
22 to work one-half or more of the regularly scheduled hours during each  
23 pay period;

24 (15) Fund means the State Employees Retirement Fund  
25 created by section 84-1309;

1                   (16) Guaranteed investment contract means an investment  
2 contract or account offering a return of principal invested plus  
3 interest at a specified rate. For investments made after July 19,  
4 1996, guaranteed investment contract does not include direct  
5 obligations of the United States or its instrumentalities, bonds,  
6 participation certificates or other obligations of the Federal  
7 National Mortgage Association, the Federal Home Loan Mortgage  
8 Corporation, or the Government National Mortgage Association, or  
9 collateralized mortgage obligations and other derivative securities.  
10 This subdivision shall not be construed to require the liquidation of  
11 investment contracts or accounts entered into prior to July 19, 1996;

12                   (17) Interest credit rate means the greater of (a) five  
13 percent or (b) the applicable federal mid-term rate, as published by  
14 the Internal Revenue Service as of the first day of the calendar  
15 quarter for which interest credits are credited, plus one and one-  
16 half percent, such rate to be compounded annually;

17                   (18) Interest credits means the amounts credited to the  
18 employee cash balance account and the employer cash balance account  
19 at the end of each day. Such interest credit for each account shall  
20 be determined by applying the daily portion of the interest credit  
21 rate to the account balance at the end of the previous day. Such  
22 interest credits shall continue to be credited to the employee cash  
23 balance account and the employer cash balance account after a member  
24 ceases to be an employee, except that no such credit shall be made  
25 with respect to the employee cash balance account and the employer

1 cash balance account for any day beginning on or after the member's  
2 date of final account value. If benefits payable to the member's  
3 surviving spouse or beneficiary are delayed after the member's death,  
4 interest credits shall continue to be credited to the employee cash  
5 balance account and the employer cash balance account until such  
6 surviving spouse or beneficiary commences receipt of a distribution  
7 from the plan;

8 (19) Member cash balance account means an account equal  
9 to the sum of the employee cash balance account and, if vested, the  
10 employer cash balance account and dividend amounts credited in  
11 accordance with subdivision (4)(c) of section 84-1319;

12 (20) One-year break in service means a plan year during  
13 which the member has not completed more than five hundred hours of  
14 service;

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

18 (22) Part-time employee means an employee who is employed  
19 to work less than one-half of the regularly scheduled hours during  
20 each pay period;

21 (23) Plan year means the twelve-month period beginning on  
22 January 1 and ending on December 31;

23 (24) Prior service means service before January 1, 1964;

24 (25) Regular interest means the rate of interest earned  
25 each calendar year commencing January 1, 1975, as determined by the

1 retirement board in conformity with actual and expected earnings on  
2 the investments through December 31, 1984;

3 (26) Required contribution means the deduction to be made  
4 from the compensation of employees as provided in section 84-1308;

5 (27) Retirement means qualifying for and accepting the  
6 retirement benefit granted under the State Employees Retirement Act  
7 after terminating employment;

8 (28) Retirement board or board means the Public Employees  
9 Retirement Board;

10 (29) Retirement system means the State Employees  
11 Retirement System of the State of Nebraska;

12 (30) Service means the actual total length of employment  
13 as an employee and shall not be deemed to be interrupted by (a)  
14 temporary or seasonal suspension of service that does not terminate  
15 the employee's employment, (b) leave of absence authorized by the  
16 employer for a period not exceeding twelve months, (c) leave of  
17 absence because of disability, or (d) military service, when properly  
18 authorized by the retirement board. Service does not include any  
19 period of disability for which disability retirement benefits are  
20 received under section 84-1317;

21 (31) State department means any department, bureau,  
22 commission, or other division of state government not otherwise  
23 specifically defined or exempted in the act, the employees and  
24 officers of which are not already covered by a retirement plan;

25 (32) Surviving spouse means (a) the spouse married to the

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

12 (33) Termination of employment occurs on the date on  
13 which the agency which employs the member determines that the  
14 member's employer-employee relationship with the State of Nebraska is  
15 dissolved. The agency which employs the member shall notify the board  
16 of the date on which such a termination has occurred. Termination of  
17 employment does not occur if an employee whose employer-employee  
18 relationship with the State of Nebraska is dissolved enters into an  
19 employer-employee relationship with the same or another agency of the  
20 State of Nebraska and there are less than one hundred twenty days  
21 between the date when the employee's employer-employee relationship  
22 ceased with the state and the date when the employer-employee  
23 relationship commenced with the same or another agency. It shall be  
24 the responsibility of the current employer to notify the board of  
25 such change in employment and provide the board with such information

1 as the board deems necessary. If the board determines that  
2 termination of employment has not occurred and a termination benefit  
3 has been paid to a member of the retirement system pursuant to  
4 section 84-1321, the board shall require the member who has received  
5 such benefit to repay the benefit to the retirement system; and

6 (34) Vesting credit means credit for years, or a fraction  
7 of a year, of participation in another Nebraska governmental plan for  
8 purposes of determining vesting of the employer account.

9 Sec. 42. Section 84-1307, Revised Statutes Cumulative  
10 Supplement, 2010, is amended to read:

11 84-1307 (1) The membership of the retirement system shall  
12 be composed of all persons who are or were employed by the State of  
13 Nebraska and who maintain an account balance with the retirement  
14 system.

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

25 (3) On and after July 1, 2010, no employee shall be



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

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

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

23 (6) Any employee who qualifies for membership in the  
24 retirement system pursuant to this section may not be disqualified  
25 for membership in the retirement system solely because such employee

1 also maintains separate employment which qualifies the employee for  
2 membership in another public retirement system, nor may membership in  
3 this retirement system disqualify such an employee from membership in  
4 another public employment system solely by reason of separate  
5 employment which qualifies such employee for membership in this  
6 retirement system.

7 (7) State agencies 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 system  
10 immediately upon becoming an employee. Information necessary to  
11 determine membership in the retirement system shall be provided by  
12 the employer.

13 Sec. 43. Section 84-1321.01, Revised Statutes Cumulative  
14 Supplement, 2010, is amended to read:

15 84-1321.01 (1) For a member who has terminated employment  
16 and is not vested, the balance of the member's employer account or  
17 employer cash balance account shall be forfeited. The forfeited  
18 account shall be credited to the State Employees Retirement Fund and  
19 shall first be used to meet the expense charges incurred by the  
20 retirement board in connection with administering the retirement  
21 system, which charges shall be credited to the State Employees  
22 Defined Contribution Retirement Expense Fund, if the member  
23 participated in the defined contribution option, or to the State  
24 Employees Cash Balance Retirement Expense Fund, if the member  
25 participated in the cash balance option, and the remainder, if any,

1 shall then be used to reduce the state contribution which would  
2 otherwise be required to fund future service retirement benefits or  
3 to restore employer accounts or employer cash balance accounts. No  
4 forfeited amounts shall be applied to increase the benefits any  
5 member would otherwise receive under the State Employees Retirement  
6 Act.

7           (2) If a member ceases to be an employee due to the  
8 termination of his or her employment by the state and a grievance or  
9 other appeal of the termination is filed, transactions involving  
10 forfeiture of his or her employer account or employer cash balance  
11 account and any transaction for payment of benefits under sections  
12 84-1317 and 84-1321 shall be suspended pending the final outcome of  
13 the grievance or other appeal.

14           (3) The State Employer Retirement Expense Fund is  
15 created. The fund shall be administered by the Public Employees  
16 Retirement Board. The fund shall be established and maintained  
17 separate from any funds held in trust for the benefit of members  
18 under the retirement system. The fund shall be used to meet expenses  
19 of the State Employees Retirement System of the State of Nebraska  
20 whether such expenses are incurred in administering the member's  
21 employer account or in administering the member's employer cash  
22 balance account when the funds available in the State Employees  
23 Defined Contribution Retirement Expense Fund or State Employees Cash  
24 Balance Retirement Expense Fund make such use reasonably necessary.

25           (4) The director of the Nebraska Public Employees

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

17 Sec. 44. Section 84-1501, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 84-1501 (1) The Public Employees Retirement Board is  
20 hereby established.

21 ~~(2) Prior to January 1, 2005, the board shall consist of~~  
22 ~~seven appointed members and the state investment officer as a~~  
23 ~~nonvoting, ex officio member. Three of the appointed members shall be~~  
24 ~~participants in the retirement systems administered by the board, one~~  
25 ~~of the appointed members shall be a participant in such retirement~~

1 ~~systems who has retired, and three of the appointed members shall not~~  
2 ~~be employees of the State of Nebraska or any of its political~~  
3 ~~subdivisions. Appointments to such board shall be made by the~~  
4 ~~Governor subject to the approval of the Legislature. All appointed~~  
5 ~~members shall be citizens of the State of Nebraska. The three~~  
6 ~~appointed members who are not employees of the State of Nebraska or~~  
7 ~~any of its political subdivisions shall have at least ten years of~~  
8 ~~experience in the management of a public or private organization or~~  
9 ~~have at least five years of experience in the field of actuarial~~  
10 ~~analysis or the administration of an employee benefit plan. The~~  
11 ~~members serving on March 27, 1997, shall serve for the remainder of~~  
12 ~~their five year terms which will be extended until the date on which~~  
13 ~~the successor's appointment is effective. For members whose terms~~  
14 ~~begin on January 1, 2000, one shall serve a three year term and one~~  
15 ~~shall serve a four year term or until a successor has been appointed~~  
16 ~~and qualified. For members whose terms begin on January 1, 2001, one~~  
17 ~~shall serve a four year term and two shall serve five year terms, or~~  
18 ~~until a successor has been appointed and qualified.~~

19 ~~(3)(a) Beginning January 1, 2005, the~~ (2)(a) ~~The board~~  
20 shall consist of eight appointed members as described in this  
21 subsection and the state investment officer as a nonvoting, ex  
22 officio member. Six of the appointed members shall be active or  
23 retired participants in the retirement systems administered by the  
24 board, and two of the appointed members (i) shall not be an employee  
25 of the State of Nebraska or any of its political subdivisions and

1 (ii) shall have at least ten years of experience in the management of  
2 a public or private organization or have at least five years of  
3 experience in the field of actuarial analysis or the administration  
4 of an employee benefit plan. ~~On and after January 1, 2005, any person~~  
5 ~~who is appointed to the board and who is not an employee of the State~~  
6 ~~of Nebraska or any of its political subdivisions shall not own any~~  
7 ~~funds which are administered by the board.~~

8 (b) ~~On January 1, 2005, the~~ The six appointed members who  
9 are participants in the systems shall be as follows:

10 (i) Two of the appointed members shall be participants in  
11 the School Employees Retirement System of the State of Nebraska and  
12 shall include one administrator and one teacher as provided in this  
13 subdivision; ~~. On January 1, 2005, the member of the board who had~~  
14 ~~been a member of the School Retirement System of the State of~~  
15 ~~Nebraska prior to such date shall continue in such position as the~~  
16 ~~member representing the School Retirement System of the State of~~  
17 ~~Nebraska until such member's term expires. A school administrator~~  
18 ~~shall be appointed as a member of the board when the term of the~~  
19 ~~first member of the board expires who was appointed prior to January~~  
20 ~~1, 2005, and who was not an employee of the State of Nebraska or any~~  
21 ~~of its political subdivisions;~~

22 (ii) One of the appointed members shall be a participant  
23 in the Nebraska Judges Retirement System as provided in the Judges  
24 Retirement Act; ~~. On January 1, 2005, the member of the board who had~~  
25 ~~been a member of the Nebraska Judges Retirement System prior to such~~

1 ~~date shall continue in such position as the member representing the~~  
2 ~~Nebraska Judges Retirement System until such member's term expires;~~

3 (iii) One of the appointed members shall be a participant  
4 in the Nebraska State Patrol Retirement System; ~~Such member's term~~  
5 ~~shall begin on January 1, 2005;~~

6 (iv) One of the appointed members shall be a participant  
7 in the Retirement System for Nebraska Counties; ~~On January 1, 2005,~~  
8 ~~the member of the board who had been a member of the Retirement~~  
9 ~~System for Nebraska Counties prior to such date shall continue in~~  
10 ~~such position as the member representing the Retirement System for~~  
11 ~~Nebraska Counties until such member's term expires; and~~

12 (v) One of the appointed members shall be a participant  
13 in the State Employees Retirement System of the State of Nebraska. ~~On~~  
14 ~~January 1, 2005, the member of the board who had been a member of the~~  
15 ~~State Employees Retirement System prior to such date shall continue~~  
16 ~~in such position as the member representing the State Employees~~  
17 ~~Retirement System until such member's term expires.~~

18 (c) Appointments to the board ~~on and after January 1,~~  
19 ~~2005,~~ shall be made by the Governor and shall be subject to the  
20 approval of the Legislature. All appointed members shall be citizens  
21 of the State of Nebraska.

22 (4) All members ~~appointed on and after January 1, 2002,~~  
23 shall serve for terms of five years or until a successor has been  
24 appointed and qualified. The members of the board shall be reimbursed  
25 for their actual and necessary expenses as provided in sections

1 81-1174 to 81-1177. The appointed members of the board may be removed  
2 by the Governor for cause after notice and an opportunity to be  
3 heard.

4 Sec. 45. Section 84-1503, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 84-1503 (1) It shall be the duty of the Public Employees  
7 Retirement Board:

8 (a) To administer the retirement systems provided for in  
9 the County Employees Retirement Act, the Judges Retirement Act, the  
10 Nebraska State Patrol Retirement Act, the School Employees Retirement  
11 Act, and the State Employees Retirement Act. The agency for the  
12 administration of the retirement systems and under the direction of  
13 the board shall be known and may be cited as the Nebraska Public  
14 Employees Retirement Systems;

15 (b) To appoint a director to administer the systems under  
16 the direction of the board. The appointment shall be subject to the  
17 approval of the Governor and a majority of the Legislature. The  
18 director shall be qualified by training and have at least five years  
19 of experience in the administration of a qualified public or private  
20 employee retirement plan. The director shall not be a member of the  
21 board. The salary of the director shall be set by the board. The  
22 director shall serve without term and may be removed by the board;

23 (c) To provide for an equitable allocation of expenses  
24 among the retirement systems administered by the board, and all  
25 expenses shall be provided from the investment income earned by the



1 various retirement funds unless alternative sources of funds to pay  
2 expenses are specified by law;

3 (d) To administer the deferred compensation program  
4 authorized in section 84-1504;

5 (e) To hire an attorney, admitted to the Nebraska State  
6 Bar Association, to advise the board in the administration of the  
7 retirement systems listed in subdivision (a) of this subsection;

8 (f) To hire an internal auditor to perform the duties  
9 described in section 84-1503.04 who meets the minimum standards as  
10 described in section 84-304.03;

11 (g) To adopt and implement procedures for reporting  
12 information by employers, as well as testing and monitoring  
13 procedures in order to verify the accuracy of such information. The  
14 information necessary to determine membership shall be provided by  
15 the employer. The board shall adopt and promulgate rules and  
16 regulations and prescribe such forms necessary to carry out this  
17 subdivision. Nothing in this subdivision shall be construed to  
18 require the board to conduct onsite audits of political subdivisions  
19 for compliance with statutes, rules, and regulations governing the  
20 retirement systems listed in subdivision (1)(a) of this section  
21 regarding membership and contributions; and

22 (h) To prescribe and furnish forms for the public  
23 retirement system plan reports required to be filed pursuant to  
24 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,  
25 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

1 ~~and to notify the Nebraska Retirement Systems Committee of the~~  
2 ~~Legislature of the failure of any governmental entity to file such~~  
3 ~~reports.~~

4 (2) In administering the retirement systems listed in  
5 subdivision (1)(a) of this section, it shall be the duty of the  
6 board:

7 (a) To determine, based on information provided by the  
8 employer, the prior service annuity, if any, for each person who is  
9 an employee of the county on the date of adoption of the retirement  
10 system;

11 (b) To determine the eligibility of an individual to be a  
12 member of the retirement system and other questions of fact in the  
13 event of a dispute between an individual and the individual's  
14 employer;

15 (c) To adopt and promulgate rules and regulations for the  
16 management of the board;

17 (d) To keep a complete record of all proceedings taken at  
18 any meeting of the board;

19 (e) To obtain, by a competitive, formal, and sealed  
20 bidding process through the materiel division of the Department of  
21 Administrative Services, actuarial services on behalf of the State of  
22 Nebraska as may be necessary in the administration and development of  
23 the retirement systems. Any contract for actuarial services shall  
24 contain a provision allowing the actuary, without prior approval of  
25 the board, to perform actuarial studies of the systems as requested

1 by entities other than the board, if notice, which does not identify  
2 the entity or substance of the request, is given to the board, all  
3 costs are paid by the requesting entity, results are provided to the  
4 board, the Nebraska Retirement Systems Committee of the Legislature,  
5 and the Legislative Fiscal Analyst upon being made public, and such  
6 actuarial studies do not interfere with the actuary's ongoing  
7 responsibility to the board. The term of the contract shall be for up  
8 to three years. A competitive, formal, and sealed bidding process  
9 shall be completed at least once in every three years, unless the  
10 board determines that such a process would not be cost effective  
11 under the circumstances and that the actuarial services performed  
12 have been satisfactory, in which case the contract may also contain  
13 an option for renewal without a competitive, formal, and sealed  
14 bidding process for up to three additional years. An actuary under  
15 contract for the State of Nebraska shall be a member of the American  
16 Academy of Actuaries;

17 (f) To direct the State Treasurer to transfer funds, as  
18 an expense of the retirement systems, to the Legislative Council  
19 Retirement Study Fund. Such transfer shall occur beginning on or  
20 after July 1, 2005, and at intervals of not less than five years and  
21 not more than fifteen years and shall be in such amounts as the  
22 Legislature shall direct;

23 (g) To adopt and promulgate rules and regulations to  
24 carry out the provisions of each retirement system described in  
25 subdivision (1)(a) of this section, which shall include, but not be

1 limited to, the crediting of military service, direct rollover  
2 distributions, and the acceptance of rollovers;

3 (h) To obtain, by a competitive, formal, and sealed  
4 bidding process through the materiel division of the Department of  
5 Administrative Services, auditing services for a separate compliance  
6 audit of the retirement systems to be completed by December 31, ~~2007,~~  
7 2012, and from time to time thereafter at the request of the Nebraska  
8 Retirement Systems Committee, to be completed not more than every  
9 four years but not less than every ten years. The compliance audit  
10 shall be in addition to the annual audit conducted by the Auditor of  
11 Public Accounts. The compliance audit shall include, but not be  
12 limited to, an examination of records, files, and other documents and  
13 an evaluation of all policies and procedures to determine compliance  
14 with all state and federal laws. A copy of the compliance audit shall  
15 be given to the Governor, the board, and the Nebraska Retirement  
16 Systems Committee and shall be presented to the committee at a public  
17 hearing;

18 (i) To adopt and promulgate rules and regulations for the  
19 adjustment of contributions or benefits, which shall include, but not  
20 be limited to: (i) The procedures for refunding contributions,  
21 adjusting future contributions or benefit payments, and requiring  
22 additional contributions or repayment of benefits; (ii) the process  
23 for a member, member's beneficiary, employee, or employer to dispute  
24 an adjustment to contributions or benefits; and (iii) notice provided  
25 to all affected persons. All notices shall be sent prior to an

1 adjustment and shall describe the process for disputing an adjustment  
2 to contributions or benefits; and

3 (j) To administer all retirement system plans in a manner  
4 which will maintain each plan's status as a qualified plan pursuant  
5 to the Internal Revenue Code. The board shall adopt and promulgate  
6 rules and regulations necessary or appropriate to maintain such  
7 status including, but not limited to, rules or regulations which  
8 restrict discretionary or optional contributions to a plan or which  
9 limit distributions from a plan.

10 (3) By March ~~15~~31 of each year, the board shall prepare  
11 a written plan of action and shall present such plan to the Nebraska  
12 Retirement Systems Committee at a public hearing. The plan shall  
13 include, but not be limited to, the board's funding policy, the  
14 administrative costs and other fees associated with each fund and  
15 plan overseen by the board, member education and informational  
16 programs, the director's duties and limitations, an organizational  
17 structure of the office of the Nebraska Public Employees Retirement  
18 Systems, and the internal control structure of such office to ensure  
19 compliance with state and federal laws.

20 Sec. 46. Section 84-1511, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 84-1511 (1) The Public Employees Retirement Board shall  
23 establish a comprehensive preretirement planning program for state  
24 patrol officers, state employees, judges, county employees, and  
25 school employees who are members of the retirement systems

1 established pursuant to ~~the Class V School Employees Retirement Act,~~  
2 the County Employees Retirement Act, the Judges Retirement Act, the  
3 School Employees Retirement Act, the Nebraska State Patrol Retirement  
4 Act, and the State Employees Retirement Act. The program shall  
5 provide information and advice regarding the many changes employees  
6 face upon retirement including, but not limited to, changes in  
7 physical and mental health, housing, family life, leisure activity,  
8 and retirement income.

9 (2) The preretirement planning program shall be available  
10 to all employees who have attained the age of fifty or are within  
11 five years of qualifying for retirement or early retirement under  
12 their retirement systems.

13 (3) The preretirement planning program shall include  
14 information on the federal and state income tax consequences of the  
15 various annuity or retirement benefit options available to the  
16 employee, information on social security benefits, information on  
17 various local, state, and federal government programs and programs in  
18 the private sector designed to assist elderly persons, and  
19 information and advice the board deems valuable in assisting public  
20 employees in the transition from public employment to retirement.

21 (4) The board shall work with the Department of Health  
22 and Human Services, the personnel division of the Department of  
23 Administrative Services, employee groups, and any other governmental  
24 agency, including political subdivisions or bodies whose services or  
25 expertise may enhance the development or implementation of the

1 preretirement planning program.

2 (5) Funding to cover the expense of the preretirement  
3 planning program shall be charged back to each retirement fund on a  
4 pro rata share based on the number of employees in each plan.

5 (6) The employer shall provide each eligible employee  
6 leave with pay to attend up to two preretirement planning programs.  
7 For purposes of this subsection, leave with pay shall mean a day off  
8 paid by the employer and shall not mean vacation, sick, personal, or  
9 compensatory time. An employee may choose to attend a program more  
10 than twice, but such leave shall be at the expense of the employee  
11 and shall be at the discretion of the employer. An eligible employee  
12 shall not be entitled to attend more than one preretirement planning  
13 program per fiscal year prior to actual election of retirement.

14 (7) A nominal registration fee shall be charged each  
15 person attending a preretirement planning program to cover the costs  
16 for meals, meeting rooms, or other expenses incurred under such  
17 program.

18 Sec. 47. This act becomes operative on July 1, 2011.

19 Sec. 48. Original sections 23-2301, 23-2302, 23-2308,  
20 23-2319.01, 24-710, 42-1102, 72-1243, 79-408, 79-901, 79-903, 79-904,  
21 79-904.01, 79-916, 79-926, 79-933.03, 79-933.05, 79-933.06, 79-941,  
22 79-942, 79-944, 79-947, 79-955, 79-978.01, 79-987, 81-2014.01,  
23 81-2041, 84-1301, 84-1501, 84-1503, and 84-1511, Reissue Revised  
24 Statutes of Nebraska, and sections 4-108, 23-2306, 24-701.01, 68-621,  
25 79-902, 79-920, 79-9,113, 79-1003, 79-1028.01, 84-1307, and

1 84-1321.01, Revised Statutes Cumulative Supplement, 2010, are  
2 repealed.

3           Sec. 49. The following sections are outright repealed:  
4 Sections 24-710.09, 24-710.10, 24-710.11, 50-417.02, 50-417.03,  
5 50-417.04, 50-417.05, 50-417.06, 79-940, 79-947.03, 79-947.04,  
6 79-947.05, 81-2027.05, 81-2027.06, and 81-2027.07, Reissue Revised  
7 Statutes of Nebraska, and sections 24-710.07, 79-947.01, and  
8 81-2027.03, Revised Statutes Cumulative Supplement, 2010.

9           Sec. 50. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.