

AMENDMENTS TO LB1042

(Amendments to Standing Committee amendments, AM2132)

Introduced by Nordquist

1           1. Insert the following new section:

2           Section 1. Section 79-902, Revised Statutes Supplement,  
3 2013, is amended to read:

4           79-902 For purposes of the School Employees Retirement  
5 Act, unless the context otherwise requires:

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

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

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

15           (4) County school official means (a) until July 1, 2000,  
16 the county superintendent or district superintendent and any person  
17 serving in his or her office who is required by law to have  
18 a teacher's certificate and (b) on or after July 1, 2000, the  
19 county superintendent, county school administrator, or district  
20 superintendent and any person serving in his or her office who is  
21 required by law to have a teacher's certificate;

22           (5) Creditable service means prior service for which

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11 withdrawn and not repaid.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

17 (6) Disability retirement allowance means the annuity  
18 paid to a person upon retirement for disability under section  
19 79-952;

20 (7) Employer means the State of Nebraska or any  
21 subdivision thereof or agency of the state or subdivision  
22 authorized by law to hire school employees or to pay their  
23 compensation;

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

26 (9) Regular interest means interest fixed at a rate equal  
27 to the daily treasury yield curve for one-year treasury securities,

1 as published by the Secretary of the Treasury of the United States,  
2 that applies on July 1 of each year, which may be credited monthly,  
3 quarterly, semiannually, or annually as the board may direct;

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

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

19 (12) Public school means any and all schools offering  
20 instruction in elementary or high school grades, as defined in  
21 section 79-101, which schools are supported by public funds and are  
22 wholly under the control and management of the State of Nebraska  
23 or any subdivision thereof, including (a) schools or other entities  
24 established, maintained, and controlled by the school boards of  
25 local school districts, except Class V school districts, (b) any  
26 educational service unit, and (c) any other educational institution  
27 wholly supported by public funds, except schools under the control

1 and management of the Board of Trustees of the Nebraska State  
2 Colleges, the Board of Regents of the University of Nebraska, or  
3 the community college boards of governors for any community college  
4 areas;

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

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

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

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

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

19 (18) Service means employment as a school employee and  
20 shall not be deemed interrupted by (a) termination at the end of  
21 the school year of the contract of employment of an employee in a  
22 public school if the employee enters into a contract of employment  
23 in any public school, except a school in a Class V school district,  
24 for the following school year, (b) temporary or seasonal suspension  
25 of service that does not terminate the employee's employment,  
26 (c) leave of absence authorized by the employer for a period  
27 not exceeding twelve months, (d) leave of absence because of

1 disability, or (e) military service when properly authorized by  
2 the retirement board. Service does not include any period of  
3 disability for which disability retirement benefits are received  
4 under sections 79-951 to 79-953;

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

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

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

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

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

26 (24) Emeritus member means a person (a) who has entered  
27 retirement under the provisions of the act, including those persons

1 who have retired since July 1, 1945, under any other regularly  
2 established retirement or pension system as contemplated by section  
3 79-916, (b) who has thereafter been reemployed in any capacity  
4 by a public school, a Class V school district, or a school  
5 under the control and management of the Board of Trustees of the  
6 Nebraska State Colleges, the Board of Regents of the University of  
7 Nebraska, or a community college board of governors or has become  
8 a state school official or county school official subsequent to  
9 such retirement, and (c) who has applied to the board for emeritus  
10 membership in the retirement system. The school district or agency  
11 shall certify to the retirement board on forms prescribed by the  
12 retirement board that the annuitant was reemployed, rendered a  
13 service, and was paid by the district or agency for such services;

14 (25) Actuarial equivalent means the equality in value of  
15 the aggregate amounts expected to be received under different forms  
16 of payment. The determinations shall be based on the 1994 Group  
17 Annuity Mortality Table reflecting sex-distinct factors blended  
18 using twenty-five percent of the male table and seventy-five  
19 percent of the female table. An interest rate of eight percent  
20 per annum shall be reflected in making these determinations except  
21 when a lump-sum settlement is made to an estate. If the lump-sum  
22 settlement is made to an estate, the interest rate will be  
23 determined by the Moody's Triple A Bond Index as of the prior June  
24 30, rounded to the next lower quarter percent;

25 (26) Retirement date means (a) if the member has  
26 terminated employment, the first day of the month following the  
27 date upon which a member's request for retirement is received on

1 a retirement application provided by the retirement system or (b)  
2 if the member has filed a retirement application but has not yet  
3 terminated employment, the first day of the month following the  
4 date on which the member terminates employment. An application  
5 may be filed no more than one hundred twenty days prior to the  
6 effective date of the member's initial benefit;

7 (27) Disability retirement date means the first day of  
8 the month following the date upon which a member's request for  
9 disability retirement is received on a retirement application  
10 provided by the retirement system if the member has terminated  
11 employment in the school system and has complied with sections  
12 79-951 to 79-954 as such sections refer to disability retirement;

13 (28) Retirement application means the form approved and  
14 provided by the retirement system for acceptance of a member's  
15 request for either regular or disability retirement;

16 (29) Eligibility and vesting credit means credit for  
17 years, or a fraction of a year, of participation in a Nebraska  
18 government plan for purposes of determining eligibility for  
19 benefits under the School Employees Retirement Act. Such credit  
20 shall not be included as years of creditable service in the benefit  
21 calculation;

22 (30) (a) Final average compensation means:

23 (i) Except as provided in subdivision (ii) of this  
24 subdivision:

25 (A) The sum of the member's total compensation during the  
26 three twelve-month periods of service as a school employee in which  
27 such compensation was the greatest divided by thirty-six; or

1 (B) If a member has such compensation for less than  
2 thirty-six months, the sum of the member's total compensation in  
3 all months divided by the total number of months of his or her  
4 creditable service therefor; and

5 (ii) For an employee who became a member on or after July  
6 1, 2013:

7 (A) The sum of the member's total compensation during the  
8 five twelve-month periods of service as a school employee in which  
9 such compensation was the greatest divided by sixty; or

10 (B) If a member has such compensation for less than sixty  
11 months, the sum of the member's total compensation in all months  
12 divided by the total number of months of his or her creditable  
13 service therefor.

14 (b) Payments under the Retirement Incentive Plan pursuant  
15 to section 79-855 and Staff Development Assistance pursuant to  
16 section 79-856 shall not be included in the determination of final  
17 average compensation;

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

20 (32) Current benefit means the initial benefit increased  
21 by all adjustments made pursuant to the School Employees Retirement  
22 Act;

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

25 (34) Surviving spouse means (a) the spouse married to  
26 the member on the date of the member's death or (b) the spouse  
27 or former spouse of the member if survivorship rights are provided



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

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

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

1 for the purposes of separation payments made at retirement and  
2 early retirement inducements as provided for in section 79-514.

3 (c) Compensation in excess of the limitations set forth  
4 in section 401(a)(17) of the Internal Revenue Code as defined  
5 in section 49-801.01 shall be disregarded. For an employee who  
6 was a member of the retirement system before the first plan year  
7 beginning after December 31, 1995, the limitation on compensation  
8 shall not be less than the amount which was allowed to be taken  
9 into account under the retirement system as in effect on July 1,  
10 1993.

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

1 (35) (a) (iv) of this section.

2 (ii) For purposes of subdivision (35) (d) of this section:

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  
6 administrators 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  
12 date of hiring. Thereafter, the member's compensation base shall  
13 be 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  
19 interest appropriate for bargaining recognized as such by a school  
20 board.

21 (e) (i) For purposes of section 79-934, in the  
22 determination of compensation for members whose retirement date  
23 is on or after July 1, 2012, until July 1, 2013, that part of a  
24 member's compensation for the plan year which exceeds the member's  
25 compensation with the same employer for the preceding plan year by  
26 more than nine percent of the compensation base shall be excluded.

27 (ii) For purposes of subdivision (35) (e) of this section,

1 compensation base means (A) for current members employed with  
2 the same employer, the member's compensation for the plan year  
3 ending June 30, 2012, or (B) for members newly hired or hired  
4 by a separate employer on or after July 1, 2012, the member's  
5 compensation for the first full plan year following the member's  
6 date of hiring.

7 (f)(i) Notwithstanding any other provision of this  
8 section, for purposes of section 79-934, in the determination of  
9 compensation for members whose retirement date is on or after July  
10 1, 2013, that part of a member's compensation for the plan year  
11 which exceeds the member's compensation for the preceding plan  
12 year by more than eight percent during the capping period shall  
13 be excluded. Such member's compensation for the first plan year of  
14 the capping period shall be compared to the member's compensation  
15 received for the plan year immediately preceding the capping  
16 period.

17 (ii) For purposes of subdivision (35)(f) of this section:

18 (A) Capping period means the five plan years preceding  
19 the later of (I) such member's retirement date or (II) such  
20 member's final compensation date; and

21 (B) Final compensation date means the later of (I) the  
22 date on which a retiring member's final compensation is actually  
23 paid or (II) if a retiring member's final compensation is paid in  
24 advance as a lump sum, the date on which such final compensation  
25 would have been paid to the member in the absence of such advance  
26 payment;

27 (36) Termination of employment occurs on the date on

1 which the member experiences a bona fide separation from service of  
2 employment with the member's employer, the date of which separation  
3 is determined by the end of the member's contractual agreement  
4 or, if there is no contract or only partial fulfillment of a  
5 contract, by the employer. A member shall not be deemed to have  
6 terminated employment if the member subsequently provides service  
7 to any employer participating in the retirement system provided for  
8 in the School Employees Retirement Act within one hundred eighty  
9 days after ceasing employment unless such service:

10 (a) Is bona fide unpaid voluntary service or substitute  
11 service, provided on an intermittent basis; or

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

13 Nothing in this subdivision precludes an employer from  
14 adopting a policy which limits or denies employees who have  
15 terminated employment from providing voluntary or substitute  
16 service within one hundred eighty days after termination.

17 A member shall not be deemed to have terminated  
18 employment if the board determines that a claimed termination was  
19 not a bona fide separation from service with the employer or that  
20 a member was compensated for a full contractual period when the  
21 member terminated prior to the end date of the contract;

22 (37) 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 be of a long and indefinite duration;

26 (38) Substitute employee means a person hired by a public  
27 school as a temporary employee to assume the duties of regular

1 employees due to a temporary absence of any regular employees.  
2 Substitute employee does not mean a person hired as a regular  
3 employee on an ongoing basis to assume the duties of other regular  
4 employees who are temporarily absent;

5 (39) Participation means qualifying for and making  
6 required deposits to the retirement system during the course of a  
7 plan year;

8 (40) Regular employee means an employee hired by a public  
9 school or under contract in a regular full-time or part-time  
10 position who works a full-time or part-time schedule on an ongoing  
11 basis for twenty or more hours per week. An employee hired as  
12 described in this subdivision to provide service for less than  
13 twenty hours per week but who provides service for an average of  
14 twenty hours or more per week in each calendar month of any three  
15 calendar months of a plan year shall, beginning with the next  
16 full payroll period, commence contributions and shall be deemed a  
17 regular employee for all future employment with the same employer;  
18 and

19 (41) Temporary employee means an employee hired by a  
20 public school who is not a regular employee and who is hired  
21 to provide service for a limited period of time to accomplish a  
22 specific purpose or task. When such specific purpose or task is  
23 complete, the employment of such temporary employee shall terminate  
24 and in no case shall the temporary employment period exceed one  
25 year in duration; and-

26 (42) Relinquished creditable service means, with respect  
27 to a member who has withdrawn his or her accumulated contributions

1 under section 79-955, the total amount of creditable service which  
2 such member has given up as a result of his or her election not to  
3 remain a member of the retirement system.

4           2. Strike beginning on page 3, line 3, through page 5,  
5 line 7, and insert:

6           "(4) (a) With respect to any person who is reinstated to  
7 membership in the retirement system pursuant to subdivision (3) (a)  
8 of this section prior to the effective date of the act and who  
9 files a valid and complete one-time application with the retirement  
10 board for the restoration of part or all of his or her relinquished  
11 creditable service prior to six years after the effective date of  
12 the act but prior to termination, the following shall apply:

13           (i) Such member shall pay to the retirement system an  
14 amount equal to the previously withdrawn contributions for the  
15 credible service to be restored, plus an amount equal to the  
16 actuarial assumed rate of return on such amount to the date of  
17 repayment; and

18           (ii) Payment for restoration of such relinquished  
19 creditable service must be completed within six years of the  
20 effective date of the act or prior to termination, whichever is  
21 earlier.

22           (b) With respect to any person who is reinstated to  
23 membership in the retirement system pursuant to subdivision (3) (a)  
24 of this section on and after the effective date of the act and  
25 who files a valid and complete one-time application with the  
26 retirement board for the restoration of part or all of his or her  
27 relinquished creditable service within five years after the date of

1 such member's reinstatement to membership in the retirement system  
2 but prior to termination, the following shall apply:

3 (i) Such member shall pay to the retirement system an  
4 amount equal to the previously withdrawn contributions for the  
5 creditable service to be restored, plus an amount equal to the  
6 actuarial assumed rate of return on such amount to the date of  
7 repayment; and

8 (ii) Payment for restoration of such relinquished  
9 credible service must be completed within five years of the date of  
10 such member's reinstatement to membership in the retirement system  
11 or prior to termination, whichever is earlier."

12 3. On page 24, line 19, after "sections" insert  
13 "79-902,".

14 4. Renumber the remaining sections accordingly.