

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 448

Introduced by Nordquist, 7.

Read first time January 20, 2015

Committee:

- 1 A BILL FOR AN ACT relating to school employees retirement; to amend
2 sections 79-901, 79-902, 79-910, 79-916, 79-918, 79-942, 79-978,
3 79-979, and 79-988, Reissue Revised Statutes of Nebraska; to make
4 Class V school employees members of the School Employees Retirement
5 Act; to end current and new employee participation in the Class V
6 retirement system; to harmonize provisions; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-901 Sections 79-901 to 79-977.03 and section 2 of this act shall
4 be known and may be cited as the School Employees Retirement Act.

5 Sec. 2. All regular employees of a Class V school district hired on
6 and after July 1, XXXX, shall become members of the School Employees
7 Retirement System of the State of Nebraska. On July 1, XXXX, all members
8 of the retirement system established pursuant to the Class V School
9 Employees Retirement Act shall be transferred to the School Employees
10 Retirement System of the State of Nebraska.

11 Sec. 3. Section 79-902, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 79-902 For purposes of the School Employees Retirement Act, unless
14 the context otherwise requires:

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

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

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

23 (4) County school official means (a) until July 1, 2000, the county
24 superintendent or district superintendent and any person serving in his
25 or her office who is required by law to have a teacher's certificate and
26 (b) on or after July 1, 2000, the county superintendent, county school
27 administrator, or district superintendent and any person serving in his
28 or her office who is required by law to have a teacher's certificate;

29 (5) Creditable service means prior service for which credit is
30 granted under sections 79-926 to 79-929, service credit purchased under
31 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered

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

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

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

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

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

25 (10) School employee means a contributing member who earns service
26 credit pursuant to section 79-927. For purposes of this section,
27 contributing member means the following persons who receive compensation
28 from a public school: (a) Regular employees; (b) regular employees having
29 retired pursuant to the School Employees Retirement Act who subsequently
30 provide compensated service on a regular basis in any capacity; and (c)
31 regular employees hired by a public school on an ongoing basis to assume

1 the duties of other regular employees who are temporarily absent.
2 Substitute employees, temporary employees, and employees who have not
3 attained the age of eighteen years shall not be considered school
4 employees;

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

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

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

22 (14) Retirement board or board means the Public Employees Retirement
23 Board;

24 (15) Retirement system means the School Employees Retirement System
25 of the State of Nebraska;

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

29 (17) School year means one fiscal year which includes not less than
30 one thousand instructional hours or, in the case of service in the State
31 of Nebraska prior to July 1, 1945, not less than seventy-five percent of

1 the then legal school year;

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

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

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

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

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

31 (23) Savings annuity means payments for life, made in equal monthly

1 payments, derived from the accumulated contributions of a member;

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

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

26 (26) Retirement date means (a) if the member has terminated
27 employment, the first day of the month following the date upon which a
28 member's request for retirement is received on a retirement application
29 provided by the retirement system or (b) if the member has filed a
30 retirement application but has not yet terminated employment, the first
31 day of the month following the date on which the member terminates

1 employment. An application may be filed no more than one hundred twenty
2 days prior to the effective date of the member's initial benefit;

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

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

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

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

18 (i) For an employee who became a member prior to July 1, 2013 ~~Except~~
19 ~~as provided in subdivision (ii) of this subdivision:~~

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

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

27 (ii) For an employee who became a member on or after July 1, 2013,
28 and who is not a Class V school employee:

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

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

4 (iii) For a person who was a Class V school employee prior to July
5 1, 2013, who becomes a regular employee beginning July 1, XXXX, pursuant
6 to section 2 of this act:

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

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

14 (iv) For a person who became a Class V school employee on or after
15 July 1, 2013, and who becomes a regular employee beginning July 1, XXXX,
16 pursuant to section 2 of this act:

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

20 (B) If a member has such compensation for less than sixty months,
21 the sum of the member's total compensation in all months divided by the
22 total number of months of his or her creditable service therefor; and

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

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

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

30 (33) Initial benefit means the retirement benefit calculated at the
31 time of retirement;

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

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

20 (b) Compensation does not include (i) fraudulently obtained amounts
21 as determined by the retirement board, (ii) amounts for unused sick leave
22 or unused vacation leave converted to cash payments, (iii) insurance
23 premiums converted into cash payments, (iv) reimbursement for expenses
24 incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii)
25 bonuses for services not actually rendered, including, but not limited
26 to, early retirement inducements, cash awards, and severance pay, or
27 (viii) beginning on September 4, 2005, employer contributions made for
28 the purposes of separation payments made at retirement and early
29 retirement inducements as provided for in section 79-514.

30 (c) Compensation in excess of the limitations set forth in section
31 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01

1 shall be disregarded. For an employee who was a member of the retirement
2 system before the first plan year beginning after December 31, 1995, the
3 limitation on compensation shall not be less than the amount which was
4 allowed to be taken into account under the retirement system as in effect
5 on July 1, 1993.

6 (d)(i) For purposes of section 79-934, in the determination of
7 compensation for members on or after July 1, 2005, that part of a
8 member's compensation for the plan year which exceeds the member's
9 compensation with the same employer for the preceding plan year by more
10 than seven percent of the compensation base during the sixty months
11 preceding the member's retirement shall be excluded unless (A) the member
12 experienced a substantial change in employment position, (B) as verified
13 by the school board, the excess compensation above seven percent occurred
14 as the result of a collective-bargaining agreement between the employer
15 and a recognized collective-bargaining unit or category of school
16 employee, and the percentage increase in compensation above seven percent
17 shall not be excluded for employees outside of a collective-bargaining
18 unit or within the same category of school employee, or (C) the excess
19 compensation occurred as the result of a districtwide permanent benefit
20 change made by the employer for a category of school employee in
21 accordance with subdivision (35)(a)(iv) of this section.

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

23 (A) Category of school employee means either all employees of the
24 employer who are administrators or certificated teachers, or all
25 employees of the employer who are not administrators or certificated
26 teachers, or both;

27 (B) Compensation base means (I) for current members, employed with
28 the same employer, the member's compensation for the plan year ending
29 June 30, 2005, or (II) for members newly hired or hired by a separate
30 employer on or after July 1, 2005, the member's compensation for the
31 first full plan year following the member's date of hiring. Thereafter,

1 the member's compensation base shall be increased each plan year by the
2 lesser of seven percent of the member's preceding plan year's
3 compensation base or the member's actual annual compensation increase
4 during the preceding plan year; and

5 (C) Recognized collective-bargaining unit means a group of employees
6 similarly situated with a similar community of interest appropriate for
7 bargaining recognized as such by a school board.

8 (e)(i) For purposes of section 79-934, in the determination of
9 compensation for members whose retirement date is on or after July 1,
10 2012, until July 1, 2013, that part of a member's compensation for the
11 plan year which exceeds the member's compensation with the same employer
12 for the preceding plan year by more than nine percent of the compensation
13 base shall be excluded.

14 (ii) For purposes of subdivision (35)(e) of this section,
15 compensation base means (A) for current members employed with the same
16 employer, the member's compensation for the plan year ending June 30,
17 2012, or (B) for members newly hired or hired by a separate employer on
18 or after July 1, 2012, the member's compensation for the first full plan
19 year following the member's date of hiring.

20 (f)(i) Notwithstanding any other provision of this section, for
21 purposes of section 79-934, in the determination of compensation for
22 members whose retirement date is on or after July 1, 2013, that part of a
23 member's compensation for the plan year which exceeds the member's
24 compensation for the preceding plan year by more than eight percent
25 during the capping period shall be excluded. Such member's compensation
26 for the first plan year of the capping period shall be compared to the
27 member's compensation received for the plan year immediately preceding
28 the capping period.

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

30 (A) Capping period means the five plan years preceding the later of
31 (I) such member's retirement date or (II) such member's final

1 compensation date; and

2 (B) Final compensation date means the later of (I) the date on which
3 a retiring member's final compensation is actually paid or (II) if a
4 retiring member's final compensation is paid in advance as a lump sum,
5 the date on which such final compensation would have been paid to the
6 member in the absence of such advance payment;

7 (36) Termination of employment occurs on the date on which the
8 member experiences a bona fide separation from service of employment with
9 the member's employer, the date of which separation is determined by the
10 end of the member's contractual agreement or, if there is no contract or
11 only partial fulfillment of a contract, by the employer. A member shall
12 not be deemed to have terminated employment if the member subsequently
13 provides service to any employer participating in the retirement system
14 provided for in the School Employees Retirement Act within one hundred
15 eighty days after ceasing employment unless such service:

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

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

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

23 A member shall not be deemed to have terminated employment if the
24 board determines that a claimed termination was not a bona fide
25 separation from service with the employer or that a member was
26 compensated for a full contractual period when the member terminated
27 prior to the end date of the contract;

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

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

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

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

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

23 (42) Relinquished creditable service means, with respect to a member
24 who has withdrawn his or her accumulated contributions under section
25 79-955, the total amount of creditable service which such member has
26 given up as a result of his or her election not to remain a member of the
27 retirement system; and -

28 (43) Class V school employee means an employee hired by a Class V
29 school district or under contract in a regular full-time or part-time
30 position who works a full-time or part-time schedule on an ongoing basis
31 for twenty or more hours per week. An employee hired as described in this

1 subdivision to provide service for less than twenty hours per week but
2 who provides service for an average of twenty hours or more per week in
3 each calendar month of any three calendar months of a plan year shall,
4 beginning with the next full payroll period, commence contributions and
5 shall be deemed a regular employee for all future employment with the
6 same employer.

7 Sec. 4. Section 79-910, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 79-910 (1) The membership of the retirement system shall be composed
10 of (a) all persons who have an account in the School Retirement Fund, (b)
11 all school employees who on or after July 1, 2002, must participate in
12 the retirement system pursuant to section 79-910.01 and who have begun
13 participation in the retirement system, ~~and~~ (c) emeritus members, and (d)
14 all Class V school employees who on or after July 1, XXXX, must
15 participate in the retirement system pursuant to section 2 of this act.

16 The membership of the retirement system does not include persons
17 described in sections 79-915 and 79-919 who are specifically excluded
18 from membership in the retirement system.

19 (2) The membership of the retirement system also includes any person
20 who prior to July 1, 2002, qualified for membership as follows: (a) All
21 persons who become school employees after September 1, 1945, except those
22 specifically excluded under sections 79-916 and 79-919, shall become
23 members as soon as they become senior school employees, as senior school
24 employee was defined in section 79-902 prior to July 1, 2002; (b) senior
25 school employees on July 1, 1945, except those specifically excluded in
26 sections 79-916 and 79-919, shall be members of the retirement system as
27 of July 1, 1945, unless prior to October 1, 1945, any such employee shall
28 have filed with the retirement board and with his or her employer a
29 notice of his or her election not to be included in the membership of the
30 system and a duly executed waiver of all the present and prospective
31 benefits which would otherwise inure to him or her on account of his or

1 her membership in the retirement system; and (c) emeritus members.

2 (3) Any school employee who qualifies for membership in the
3 retirement system pursuant to subsection (1) or (2) of this section may
4 not be disqualified from membership in the retirement system solely
5 because such employee also maintains separate employment which qualifies
6 the employee for membership in another public retirement system, nor may
7 membership in this retirement system disqualify such an employee from
8 membership in another public retirement system solely by reason of
9 separate employment which qualifies such employee for membership in this
10 retirement system.

11 Sec. 5. Section 79-916, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 79-916 (1)(a) On July 1, 2004, the board shall transfer from the
14 School Retirement Fund to the Service Annuity Fund an amount equal to the
15 funded ratio of the retirement system which is equal to the market value
16 of the retirement system assets divided by the actuarial accrued
17 liability of the retirement system, times the actuarial accrued liability
18 of the service annuity, as determined pursuant to section 79-966.01, of
19 the employees who are members of the retirement system established
20 pursuant to the Class V School Employees Retirement Act. Beginning July
21 1, 2013, such actuarial accrued liability shall be determined for each
22 employee on a level percentage of salary basis. On or before July 1 of
23 each fiscal year, the state shall deposit into the Service Annuity Fund
24 such amounts as may be necessary to pay the normal cost and amortize the
25 unfunded actuarial accrued liability of the service annuity, as
26 determined pursuant to section 79-966.01, as of the end of the previous
27 fiscal year of the employees who are members of the retirement system
28 established pursuant to the Class V School Employees Retirement Act.
29 Based on the fiscal year of the retirement system established pursuant to
30 the Class V School Employees Retirement Act, the administrator of such
31 system shall provide all membership information needed for the actuary

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

5 (b) At the time of retirement of any employee who is a member of the
6 retirement system established pursuant to the Class V School Employees
7 Retirement Act except for Class V school employees hired on or after July
8 1, XXXX, the retirement board shall, upon receipt of a certification of
9 the administrator of such retirement system of the name, identification
10 number, date of birth, retirement date, last date of employment, type of
11 retirement, and number of years of service credited to such eligible
12 employee at the date of retirement, transfer to such retirement system
13 from the Service Annuity Fund the actuarial accrued liability of the
14 service annuity to be paid by the state to the eligible employee for the
15 years of service thus certified as provided for members of the School
16 Employees Retirement System of the State of Nebraska under sections
17 79-933 and 79-952. Such transfer of the actuarial accrued liability to
18 the retirement system established pursuant to the Class V School
19 Employees Retirement Act shall be in lieu of the payment of the service
20 annuity to which the employee would be entitled.

21 (c) The Service Annuity Fund is created. The fund shall consist of
22 the amounts paid by the state and transferred from the School Retirement
23 Fund pursuant to this section to pay the service annuity to be paid by
24 the state to employees who are members of the retirement system
25 established pursuant to the Class V School Employees Retirement Act. Any
26 money in the Service Annuity Fund available for investment shall be
27 invested by the state investment officer pursuant to the Nebraska Capital
28 Expansion Act and the Nebraska State Funds Investment Act.

29 (2) In addition to the transfer of the actuarial accrued liability
30 of the service annuity to be paid by the state, the state shall also
31 transfer to the funds of the Class V school district's retirement system

1 an amount determined by multiplying the compensation of all members of
2 such retirement system by the percent specified in subsection (2) of
3 section 79-966 for determining the amount of the state's payment to the
4 School Retirement Fund. The transfer shall be made annually on or before
5 July 1 of each fiscal year.

6 Sec. 6. Section 79-918, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 79-918 For one year after July 1, XXXX, any Class V school employee
9 employed on or before July 1, XXXX, may apply to the board for
10 eligibility and vesting credit for years of participation in another
11 Nebraska governmental plan, as defined by section 414(d) of the Internal
12 Revenue Code. During the years of participation in the other Nebraska
13 governmental plan, the employee must have been a full-time or a part-time
14 employee as described in section 79-902. Such credit shall not be
15 included as years of service in the benefit calculation. For one year
16 after September 9, 1995, any school employee employed on or before
17 September 9, 1995, may apply to the board for eligibility and vesting
18 credit for years of participation in another Nebraska governmental plan,
19 as defined by section 414(d) of the Internal Revenue Code. During the
20 years of participation in the other Nebraska governmental plan, the
21 employee must have been a full-time or a part-time employee as described
22 in section 79-902. Such credit shall not be included as years of service
23 in the benefit calculation.

24 Sec. 7. Section 79-942, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 79-942 For each person who qualifies under sections 79-941 to
27 79-946, the retirement board shall determine the value of the total
28 monthly benefit being received from the School Employees Retirement
29 System of the State of Nebraska or from the retirement system for Class V
30 districts as provided by the Class V School Employees Retirement Act for
31 members hired prior to July 1, XXXX. From one hundred fifty-five dollars,

1 the retirement board shall subtract the total monthly benefit. Such
2 difference, if positive, shall be the supplemental benefit and shall be
3 paid to the retired person each month from the School Retirement Fund,
4 except that if this difference is less than five dollars, a minimum
5 payment of five dollars per month shall be made to such person.

6 Sec. 8. On July 1 of each year, for Class V school employees who
7 became members of the retirement system established under the Class V
8 School Employees Retirement Act prior to July 1, 2013, and who are
9 subject to section 2 of this act:

10 (1) The board shall determine the number of retired members or
11 beneficiaries described in subdivision (4)(b) of this section and an
12 annual benefit adjustment shall be made by the board for each retired
13 member or beneficiary under one of the cost-of-living adjustment
14 calculation methods found in subdivision (2),(3), or (4) of this section.
15 Each retired member or beneficiary, if eligible, shall receive an annual
16 benefit adjustment under the cost-of-living adjustment calculation method
17 that provides the retired member or beneficiary the greatest annual
18 benefit adjustment increase. No retired member or beneficiary shall
19 receive an annual benefit adjustment under more than one of the cost-of-
20 living adjustment calculation methods provided in this section;

21 (2) The current benefit paid to a retired member or beneficiary
22 under this subdivision shall be adjusted so that the purchasing power of
23 the benefit being paid is not less than seventy-five percent of the
24 purchasing power of the initial benefit. The purchasing power of the
25 initial benefit in any year following the year in which the initial
26 benefit commenced shall be calculated by dividing the United States
27 Department of Labor, Bureau of Labor Statistics, Consumer Price Index for
28 Urban Wage Earners and Clerical Workers factor on June 30 of the current
29 year by the Consumer Price Index for Urban Wage Earners and Clerical
30 Workers factor on June 30 of the year in which the benefit commenced. The
31 result shall be multiplied by the product that results when the amount of

1 the initial benefit is multiplied by seventy-five percent. In any year in
2 which applying the adjustment provided in subdivision (3) of this section
3 results in a benefit which would be less than seventy-five percent of the
4 purchasing power of the initial benefit as calculated in this
5 subdivision, the adjustment shall instead be equal to the percentage
6 change in the Consumer Price Index for Urban Wage Earners and Clerical
7 Workers factor from the prior year to the current year;

8 (3) The current benefit paid to a retired member or beneficiary
9 under this subdivision shall be increased annually by the lesser of (a)
10 the percentage change in the Consumer Price Index for Urban Wage Earners
11 and Clerical Workers for the period between June 30 of the prior year to
12 June 30 of the present year or (b) two and one-half percent;

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

24 (b) In order for a retired member or beneficiary to receive the
25 cost-of-living adjustment calculation method provided in subdivision (4)
26 of this section, the retired member or beneficiary shall be (i) a retired
27 member or beneficiary who has been receiving a retirement benefit for at
28 least five years if the member had at least twenty-five years of
29 creditable service, (ii) a member who has been receiving a disability
30 retirement benefit for at least five years pursuant to section 79-952, or
31 (iii) a beneficiary who has been receiving a death benefit pursuant to

1 section 79-956 for at least five years, if the member's or beneficiary's
2 monthly accrual rate is less than or equal to the minimum accrual rate as
3 determined by subdivision (4) of this section;

4 (c) The monthly accrual rate under subdivision (4) of this section
5 is the retired member's or beneficiary's total monthly benefit divided by
6 the number of years of creditable service earned by the retired or
7 deceased member;

8 (d) The total monthly benefit under subdivision (4) of this section
9 is the total benefit received by a retired member or beneficiary pursuant
10 to the School Employees Retirement Act and previous adjustments made
11 pursuant to this section or any other provision of the act that grants a
12 benefit or cost-of-living increase, but the total monthly benefit shall
13 not include sums received by an eligible retired member or eligible
14 beneficiary from federal sources; and

15 (e) Beginning July 1, XXXX, the board shall annually adjust the
16 minimum accrual rate to reflect the cumulative percentage change in the
17 Consumer Price Index for Urban Wage Earners and Clerical Workers from the
18 last adjustment of the minimum accrual rate;

19 (5) Each retired member or beneficiary shall receive the sum of the
20 annual benefit adjustment and such retiree's total monthly benefit less
21 withholding, which sum shall be the retired member's or beneficiary's
22 adjusted total monthly benefit. Each retired member or beneficiary shall
23 receive the adjusted total monthly benefit until the expiration of the
24 annuity option selected by the member or until the retired member or
25 beneficiary again qualifies for the annual benefit adjustment, whichever
26 occurs first;

27 (6) The annual benefit adjustment pursuant to this section shall not
28 cause a current benefit to be reduced, and a retired member or
29 beneficiary shall never receive less than the adjusted total monthly
30 benefit until the annuity option selected by the member expires; and

31 (7) The board shall adjust the annual benefit adjustment provided in

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

10 Sec. 9. On July 1 of each year, for Class V school employees who
11 became members on or after July 1, XXXX, pursuant to section 2 of this
12 act:

13 (1) The board shall determine the number of retired members or
14 beneficiaries in the retirement system and an annual benefit adjustment
15 shall be made by the board for each retired member or beneficiary. The
16 benefit paid to a retired member or beneficiary under this section shall
17 be increased annually by the lesser of (a) the percentage change in the
18 Consumer Price Index for Urban Wage Earners and Clerical Workers for the
19 period between June 30 of the prior year to June 30 of the present year
20 or (b) one percent;

21 (2) Each retired member or beneficiary shall receive the sum of the
22 annual benefit adjustment and such retiree's total monthly benefit less
23 withholding, which sum shall be the retired member's or beneficiary's
24 adjusted total monthly benefit. Each retired member or beneficiary shall
25 receive the adjusted total monthly benefit until the expiration of the
26 annuity option selected by the member or until the retired member or
27 beneficiary again qualifies for the annual benefit adjustment, whichever
28 occurs first;

29 (3) The annual benefit adjustment pursuant to this section shall not
30 cause a current benefit to be reduced, and a retired member or
31 beneficiary shall never receive less than the adjusted total monthly

1 benefit until the annuity option selected by the member expires; and

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

12 Sec. 10. Section 79-978, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 79-978 For purposes of the Class V School Employees Retirement Act,
15 unless the context otherwise requires:

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

19 (2) Board means the board of education of the school district;

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

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

27 (5) Member means ~~any employee included in the membership of the~~
28 ~~retirement system or~~ any former employee who has made contributions to
29 the system and has not received a refund;

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

31 (7) Beneficiary means any person entitled to receive or receiving a

1 benefit by reason of the death of a member;

2 (8) Membership service means service on or after September 1, 1951,
3 and before July 1, XXXX, as an employee of the school district and a
4 member of the system for which compensation is paid by the school
5 district. Credit for more than one year of membership service shall not
6 be allowed for service rendered in any fiscal year. Beginning September
7 1, 2005, a member shall be credited with a year of membership service for
8 each fiscal year in which the member performs one thousand or more hours
9 of compensated service as an employee of the school district. An hour of
10 compensated service shall include any hour for which the member is
11 compensated by the school district during periods where no service is
12 performed due to vacation or approved leave. If a member performs less
13 than one thousand hours of compensated service during a fiscal year, one-
14 tenth of a year of membership service shall be credited for each one
15 hundred hours of compensated service by the member in such fiscal year.
16 In determining a member's total membership service, all periods of
17 membership service, including fractional years of membership service in
18 one-tenth-year increments, shall be aggregated;

19 (9) Prior service means service rendered prior to September 1, 1951,
20 for which credit is allowed under section 79-999, service rendered by
21 retired employees receiving benefits under preexisting systems, and
22 service for which credit is allowed under sections 79-990, 79-991,
23 79-994, 79-995, and 79-997;

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

26 (11) Compensation means salary or wages payable by the school
27 district before reduction for contributions picked up under section
28 414(h) of the Internal Revenue Code, elective contributions made pursuant
29 to section 125 or 403(b) of the code, or amounts not currently includible
30 in income by reason of section 132(f)(4) of the code, subject to the
31 applicable limitations of section 401(a)(17) of the code;

1 (12) Military service means service in the uniformed services as
2 defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27,
3 1997;

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

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

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

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

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

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

25 (19) Annuity means annual payments, for both prior service and
26 membership service, for life as provided in the Class V School Employees
27 Retirement Act;

28 (20) Actuarial tables means:

29 (a) For determining the actuarial equivalent of any annuities other
30 than joint and survivorship annuities, a unisex mortality table using
31 twenty-five percent of the male mortality and seventy-five percent of the

1 female mortality from the 1994 Group Annuity Mortality Table with a One
2 Year Setback and using an interest rate of eight percent compounded
3 annually; and

4 (b) For joint and survivorship annuities, a unisex retiree mortality
5 table using sixty-five percent of the male mortality and thirty-five
6 percent of the female mortality from the 1994 Group Annuity Mortality
7 Table with a One Year Setback and using an interest rate of eight percent
8 compounded annually and a unisex joint annuitant mortality table using
9 thirty-five percent of the male mortality and sixty-five percent of the
10 female mortality from the 1994 Group Annuity Mortality Table with a One
11 Year Setback and using an interest rate of eight percent compounded
12 annually;

13 (21) Actuarial equivalent means the equality in value of the
14 retirement allowance for early retirement or the retirement allowance for
15 an optional form of annuity, or both, with the normal form of the annuity
16 to be paid, as determined by the application of the appropriate actuarial
17 table, except that use of such actuarial tables shall not effect a
18 reduction in benefits accrued prior to September 1, 1985, as determined
19 by the actuarial tables in use prior to such date;

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

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

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

29 Sec. 11. Section 79-979, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 79-979 (1)—Prior to September 13, 1997, in each Class V school

1 district in the State of Nebraska there is hereby established a separate
2 retirement system for all regular employees of such school district. Such
3 system shall be for the purpose of providing retirement benefits for all
4 regular employees of the school district as provided in the Class V
5 School Employees Retirement Act. The system shall be known as School
6 Employees' Retirement System of (corporate name of the school district as
7 described in section 79-405). All of its business shall be transacted,
8 all of its funds shall be invested, and all of its cash and securities
9 and other property shall be held in trust by such name for the purposes
10 set forth in the act. Such funds shall be kept separate from all other
11 funds of the school district and shall be used for no other purpose.

12 ~~(2) Except as provided in subsection (3) of this section, if any new~~
13 ~~Class V school districts are formed after September 13, 1997, such new~~
14 ~~Class V school district shall elect to become or remain a part of the~~
15 ~~retirement system established pursuant to the School Employees Retirement~~
16 ~~Act.~~

17 ~~(3) Any new Class V school districts formed pursuant to the Learning~~
18 ~~Community Reorganization Act shall continue to participate in the~~
19 ~~retirement system established pursuant to the Class V School Employees~~
20 ~~Retirement Act if such new Class V school district was formed at least in~~
21 ~~part by territory that had been in a Class V school district that~~
22 ~~participated in the retirement system established pursuant to the Class V~~
23 ~~School Employees Retirement Act.~~

24 Sec. 12. Section 79-988, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 79-988 (1) Until July 1, XXXX, any Any person who becomes an
27 employee on or after the date of establishment of the retirement system
28 shall become a member of the retirement system upon employment.
29 Contributions by such employee under the Class V School Employees
30 Retirement Act shall begin with the first payroll period after becoming a
31 member, and creditable service shall then begin to accrue.

1 (2) Any employee who qualifies for membership in the retirement
2 system pursuant to subsection (1) of this section may not be disqualified
3 for membership in the retirement system solely because such employee also
4 maintains separate employment which qualifies the employee for membership
5 in another public retirement system, nor may membership in this
6 retirement system disqualify such an employee from membership in another
7 public retirement system solely by reason of separate employment which
8 qualifies such employee for membership in this retirement system.

9 Sec. 13. Original sections 79-901, 79-902, 79-910, 79-916, 79-918,
10 79-942, 79-978, 79-979, and 79-988, Reissue Revised Statutes of Nebraska,
11 are repealed.