

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 532**

Introduced by Karpisek, 32.

Read first time January 18, 2011

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the State Employees Retirement Act; to amend  
2 section 84-1301, Reissue Revised Statutes of Nebraska,  
3 and section 84-1307, Revised Statutes Cumulative  
4 Supplement, 2010; to provide for the potential transfer  
5 of certain Department of Labor employees into the state  
6 retirement system; and to repeal the original sections.

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

1                   Section 1. Section 84-1301, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   84-1301 For purposes of the State 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 84-1319;

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 disability means the date on which a member

1 is determined to be disabled by the board;

2 (7) Defined contribution benefit means a member's  
3 retirement benefit from a money purchase plan in which member  
4 benefits equal annual contributions and earnings pursuant to section  
5 84-1310 and, if vested, employer contributions and earnings pursuant  
6 to section 84-1311;

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

11 (9) Employee means any employee of the State Board of  
12 Agriculture who is a member of the state retirement system on July 1,  
13 1982, and any person or officer employed by the State of Nebraska  
14 whose compensation is paid out of state funds or funds controlled or  
15 administered by a state department through any of its executive or  
16 administrative officers when acting exclusively in their respective  
17 official, executive, or administrative capacities. Employee does not  
18 include (a) judges as defined in section 24-701, (b) members of the  
19 Nebraska State Patrol, except for those members of the Nebraska State  
20 Patrol who elected pursuant to section 60-1304 to remain members of  
21 the State Employees Retirement System of the State of Nebraska, (c)  
22 employees of the University of Nebraska, (d) employees of the state  
23 colleges, (e) employees of community colleges, (f) employees of the  
24 Department of Labor employed prior to July 1, 1984, and paid from  
25 funds provided pursuant to Title III of the federal Social Security

1 Act or funds from other federal sources, except that if the  
2 contributory retirement plan or contract let pursuant to section  
3 48-609 is terminated, such employees shall become employees for  
4 purposes of the State Employee Retirement Act on the first day of the  
5 first pay period following the termination of such contributory  
6 retirement plan or contract, (g) the Commissioner of Labor employed  
7 prior to July 1, 1984, (h) employees of the State Board of  
8 Agriculture who are not members of the state retirement system on  
9 July 1, 1982, (i)-(h) the Nebraska National Guard air and army  
10 technicians, (j)-(i) persons eligible for membership under the School  
11 Retirement System of the State of Nebraska who have not elected to  
12 become members of the retirement system pursuant to section 79-920 or  
13 been made members of the system pursuant to such section, except that  
14 those persons so eligible and who as of September 2, 1973, are  
15 contributing to the State Employees Retirement System of the State of  
16 Nebraska shall continue as members of such system, or (k)-(j)  
17 employees of the Coordinating Commission for Postsecondary Education  
18 who are eligible for and have elected to become members of a  
19 qualified retirement program approved by the commission which is  
20 commensurate with retirement programs at the University of Nebraska.  
21 Any individual appointed by the Governor may elect not to become a  
22 member of the State Employees Retirement System of the State of  
23 Nebraska;

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

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

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

9                   (13) Five-year break in service means five consecutive  
10 one-year breaks in service;

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

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

16                   (16) Guaranteed investment contract means an investment  
17 contract or account offering a return of principal invested plus  
18 interest at a specified rate. For investments made after July 19,  
19 1996, guaranteed investment contract does not include direct  
20 obligations of the United States or its instrumentalities, bonds,  
21 participation certificates or other obligations of the Federal  
22 National Mortgage Association, the Federal Home Loan Mortgage  
23 Corporation, or the Government National Mortgage Association, or  
24 collateralized mortgage obligations and other derivative securities.  
25 This subdivision shall not be construed to require the liquidation of

1 investment contracts or accounts entered into prior to July 19, 1996;

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

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

23 (19) Member cash balance account means an account equal  
24 to the sum of the employee cash balance account and, if vested, the  
25 employer cash balance account and dividend amounts credited in

1 accordance with subdivision (4)(c) of section 84-1319;

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

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

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

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

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

14 (25) Regular interest means the rate of interest earned  
15 each calendar year commencing January 1, 1975, as determined by the  
16 retirement board in conformity with actual and expected earnings on  
17 the investments through December 31, 1984;

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

20 (27) Retirement means qualifying for and accepting the  
21 retirement benefit granted under the State Employees Retirement Act  
22 after terminating employment;

23 (28) Retirement board or board means the Public Employees  
24 Retirement Board;

25 (29) Retirement system means the State Employees

1 Retirement System of the State of Nebraska;

2 (30) Service means the actual total length of employment  
3 as an employee and shall not be deemed to be interrupted by (a)  
4 temporary or seasonal suspension of service that does not terminate  
5 the employee's employment, (b) leave of absence authorized by the  
6 employer for a period not exceeding twelve months, (c) leave of  
7 absence because of disability, or (d) military service, when properly  
8 authorized by the retirement board. Service does not include any  
9 period of disability for which disability retirement benefits are  
10 received under section 84-1317;

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

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 the agency which employs the member determines that the  
4 member's employer-employee relationship with the State of Nebraska is  
5 dissolved. The agency which employs the member shall notify the board  
6 of the date on which such a termination has occurred. Termination of  
7 employment does not occur if an employee whose employer-employee  
8 relationship with the State of Nebraska is dissolved enters into an  
9 employer-employee relationship with the same or another agency of the  
10 State of Nebraska and there are less than one hundred twenty days  
11 between the date when the employee's employer-employee relationship  
12 ceased with the state and the date when the employer-employee  
13 relationship commenced with the same or another agency. It shall be  
14 the responsibility of the current employer to notify the board of  
15 such change in employment and provide the board with such information  
16 as the board deems necessary. If the board determines that  
17 termination of employment has not occurred and a termination benefit  
18 has been paid to a member of the retirement system pursuant to  
19 section 84-1321, the board shall require the member who has received  
20 such benefit to repay the benefit to the retirement system; and

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

24           Sec. 2. Section 84-1307, Revised Statutes Cumulative  
25 Supplement, 2010, is amended to read:

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

5                   (2) The following employees of the State of Nebraska are  
6 authorized to participate in the retirement system: (a) All permanent  
7 full-time employees shall begin participation in the retirement  
8 system upon employment; and (b) all permanent part-time employees who  
9 have attained the age of twenty years may exercise the option to  
10 begin participation in the retirement system. An employee who  
11 exercises the option to begin participation in the retirement system  
12 pursuant to this section shall remain in the retirement system until  
13 his or her termination of employment or retirement, regardless of any  
14 change of status as a permanent or temporary employee.

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

22                   (4) For purposes of this section, (a) permanent full-time  
23 employees includes employees of the Legislature or Legislative  
24 Council who work one-half or more of the regularly scheduled hours  
25 during each pay period of the legislative session and (b) permanent

1 part-time employees includes employees of the Legislature or  
2 Legislative Council who work less than one-half of the regularly  
3 scheduled hours during each pay period of the legislative session.

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

13 (b) If the contributory retirement plan or contract let  
14 pursuant to section 48-609 is terminated, employees of the Department  
15 of Labor who are active participants in such contributory retirement  
16 plan or contract on the date of termination of such plan or program  
17 shall be granted vesting credit for their years of participation in  
18 such plan or contract.

19 (6) Any employee who qualifies for membership in the  
20 retirement system pursuant to this section may not be disqualified  
21 for membership in the retirement system solely because such employee  
22 also maintains separate employment which qualifies the employee for  
23 membership in another public retirement system, nor may membership in  
24 this retirement system disqualify such an employee from membership in  
25 another public employment system solely by reason of separate

1 employment which qualifies such employee for membership in this  
2 retirement system.

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

9 Sec. 3. Original section 84-1301, Reissue Revised  
10 Statutes of Nebraska, and section 84-1307, Revised Statutes  
11 Cumulative Supplement, 2010, are repealed.