

## LEGISLATIVE BILL 325

Approved by the Governor April 10, 1986

Introduced by Goodrich, 20; Pappas, 42

AN ACT relating to retirement; to amend sections 79-1514, 79-1522, 79-1528, 79-1529, 79-1565, 81-1325, and 84-1322, Reissue Revised Statutes of Nebraska, 1943, sections 79-1522.02, 79-1533, 84-1301, 84-1307, 84-1317, 84-1319, 84-1320, 84-1321, and 84-1332, Revised Statutes Supplement, 1984, sections 79-1501 and 79-1531, Revised Statutes Supplement, 1985, and section 79-1522.01, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 546, Eighty-ninth Legislature, Second Session, 1986; to change provisions relating to the school retirement system; to change provisions of the State Employees Retirement Act; to eliminate a restriction on certain employees; to provide powers and duties for the Public Employees Retirement Board; to harmonize provisions; to provide an operative date; to provide severability; and to repeal the original sections.

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

Section 1. That section 79-1501, Revised Statutes Supplement, 1985, be amended to read as follows:

79-1501. As used in sections 79-1501 to 79-1557 and sections 3, 4, and 6 of this act, unless the context otherwise requires:

(1) Accumulated contributions shall mean the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Employees' Savings Fund together with regular interest thereon, compounded annually;

(2) Beneficiary shall mean any person in receipt of a school retirement allowance or other benefit provided by sections 79-1501 to 79-1557 and sections 3, 4, and 6 of this act;

(3) Member shall mean any person who has an account in the School Employees' Savings Fund;

(4) County school official shall mean the county superintendent or district superintendent and any

person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service shall mean prior service for which credit is granted under sections 79-1515 to 79-1518 plus all service rendered while a member of the retirement system, and shall include working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service shall not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days;

(6) Disability retirement allowance shall mean the annuity paid to a person upon retirement for disability under section 79-1524;

(7) Employer shall mean the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees, as defined in this section, or to pay their salaries;

(8) Fiscal year shall mean any year beginning July 1 and ending June 30 next following;

(9) Regular interest shall mean interest at such a rate as shall be determined by the retirement board in conformity with actual and expected earnings on its investments;

(10) Junior school employee shall mean a school employee, as herein defined, who has not arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(11) Present senior school employee shall mean a senior school employee, as herein defined, who was employed within the State of Nebraska on September 1, 1945;

(12) Full-time employee shall mean a person whose services are engaged for full-time employment on an annual or continuing contract basis;

(13) Prior service shall mean service rendered as a school employee in the public schools of the State of Nebraska, as such is defined in this section, prior to July 1, 1945;

(14) Public school shall mean any and all schools supported by public funds and wholly under the control and management of the State of Nebraska, or any subdivision thereof, including schools established, maintained, and controlled by the school boards of local school districts and schools under the control and management of the state colleges, the Board of Regents of the University of Nebraska, any educational service unit, and any other educational institution wholly

supported by public funds;

(15) Retirement shall mean qualifying for and accepting a school or disability retirement allowance granted under sections 79-1501 to 79-1557 and sections 3, 4, and 6 of this act;

(16) Retirement board or board shall mean the Public Employees Retirement Board, which shall administer the retirement system;

(17) Retirement system shall mean the school retirement system of the State of Nebraska provided for in sections 79-1501 to 79-1557 and sections 3, 4, and 6 of this act;

(18) Required deposit shall mean the deduction from a member's compensation as provided for in section 79-1531 which shall all be deposited in the School Employees' Savings Fund;

(19) School year shall mean one fiscal year which shall include not less than one hundred twenty teaching days or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five per cent of the then legal school year;

(20) Senior school employee shall mean a school employee, as herein defined, who has arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(21) Service shall mean service as a school employee;

(22) School retirement allowance shall mean the total of the savings annuity and the service annuity paid a person who has retired under the provisions of sections 79-1520 and 79-1521. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began. The last payment shall be at the end of the calendar month in which such member shall die;

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

(24) State deposit shall mean the deposit by the state in the retirement system on behalf of any member;

(25) State school official shall mean the Commissioner of Education and his or her professional

staff and the assistant commissioner of education in charge of vocational education and his or her professional staff;

(26) School employee shall mean any employee of a public school whose services are engaged for at least half-time employment on an annual or continuing contract basis;

(27) Savings annuity shall mean payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(28) Emeritus member shall mean a person who has entered retirement under the provisions of sections 79-1501 to 79-1557 and sections 3, 4, and 6 of this act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-1512, and who has thereafter been reemployed in any capacity by a public school in Nebraska, or has become a state school official or county school official subsequent to such retirement, and who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district for such services; and

(29) Primary carrier shall mean the life insurance companies and trust companies designated as the underwriter or trustee of the retirement system.

Sec. 2. That section 79-1514, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1514. The membership of any person in the retirement system shall cease only if he or she (1) withdraws his or her accumulated contributions under the provisions of section 79-1527, (2) retires on a school or formula or disability retirement allowance, or (3) dies. The retirement board shall reinstate to membership, with the same status as when such membership ceased, a school employee who has withdrawn his or her accumulated contributions if he or she again becomes an employee and if such employee chooses to repay, within three years of the date on the third school year following the school year in which he first ceased to be an employee, and repays or she rejoins the retirement system, to the retirement board part or all of the amount he or she has withdrawn and plus interest which would have accrued on that amount under the retirement system, thereon at the rate of three per cent per annum

from the date of withdrawal to the date of reinstatement. If the school employee chooses not to repay such withdrawals are not so repaid with interest, the school employee shall enter the system as a new member with no prior rights.

Sec. 3. From January 1, 1987, to June 30, 1988, any person who withdrew his or her accumulated contributions pursuant to section 79-1527 prior to the operative date of this act and has again become a school employee may elect to repay the retirement system for any number of years of service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of service for which the repayment is being made plus the interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions. This section shall not apply to school employees retiring prior to the operative date of this act.

Sec. 4. From January 1, 1987, to June 30, 1988, any person who is now a school employee and who was employed in the State of Nebraska by an educational service unit prior to July 10, 1976, may buy credit for any number of prior years of service in an educational service unit. The amount to be paid to the retirement system shall not exceed the amount of the contribution which would have been paid into the system based on the salary and years of service in the educational service unit of the school employee, as verified by officials of the educational service unit, plus the interest on that amount which would have accrued under the retirement system. Any person who pays such amount shall be given credit for any number of years of service he or she has elected to pay for, not to exceed the number of years the employee served in an educational service unit prior to July 10, 1976. This section shall not apply to school employees retiring prior to the operative date of this act.

Sec. 5. That section 79-1522, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1522. (1) Upon retirement under the provisions of sections 79-1520 and 79-1521, if he or she has five or more years of creditable service, a member or emeritus member shall receive a school retirement

allowance which shall consist of the sum of: (a) A savings annuity which shall be the actuarial equivalent, as determined by the retirement board, of the member's accumulated contributions at the time of his or her retirement, or, in the case of an emeritus member, the savings annuity fixed by the retirement board at the time of his or her original retirement; and (b) a service annuity to be paid by the State of Nebraska. The amount of any individual service annuity for a full-time school employee or emeritus member shall be three dollars and fifty cents per month for each year of service commencing with his or her retirement on or after May 19, 1981. Each school employee or emeritus member who retired before July 1, 1973, and who is receiving a service annuity as of that date shall have such service annuity adjusted by the increase in the cost of living as determined by the difference between the Consumers Price Index for Urban Wage Earners and Clerical Workers from the date the service annuity commenced and July 1, 1973, except that such annuity shall not exceed three dollars and fifty cents monthly per year of service, based on the same number of years of service that is currently being used to determine his or her service annuity. Such increased service annuity shall commence on July 1, 1973.

(2) Under such rules and regulations as the board may prescribe, an employee, upon rejoining the system or first becoming a member, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state if such member shall have paid into the school retirement system of the State of Nebraska an amount equal to the required deposits he or she would have paid had he or she been employed in this state, with such required deposits to be paid as the board may direct plus the interest which would have accrued on such amount, within three years after membership or reinstatement in the retirement system begins.

(3) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state in excess of the time he or she has been in service as a school employee in this state. In order to receive such out-of-state credit such member must be employed as a school employee in this state at the time of his or her retirement.

(4) For a beneficiary who is employed as a public school substitute employee for more than ninety days in any school year, the state service annuity shall be reduced by fifty per cent. A ; PROVIDED, a person

receiving a retirement benefit may waive the payments and return to regular employment in a public school of this state if the beneficiary shall notify the retirement board in advance of the time and place of such employment. This notice shall be in writing upon forms prescribed by the retirement board. Any person collecting retirement payments without filing such notice shall be subject to a withholding of future retirement benefits equal to twice the amount collected after being regularly employed. The amount of individual service annuity for a part-time employee shall be determined on a proportional basis.

(5) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member shall have paid into the system an amount equal to the sum of the deductions from his or her salary and any contribution which the school district would have been required to make had he or she continued to receive salary at the level received immediately prior to the leave of absence, with such deposits to be paid as the board may direct within three years of the termination of his or her leave of absence. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this subsection shall not exceed four years in length and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(6) From January 1, 1987, to June 30, 1988.

any person who was a school employee in another state prior to the operative date of this act and has joined or rejoined the school retirement system of the State of Nebraska may elect to pay the retirement system for up to ten years of service which he or she accumulated in another state. The amount to be paid shall not exceed the contribution which would have been paid into the Nebraska School Employees Retirement System based on the salary and years of service out of state earned by the school employee, as verified by officials of the other state, plus the interest which would have accrued on such amount under the school retirement system of the State of Nebraska. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as a school employee in another state, and shall be given the same status as though he or she had been a member of the school retirement system of the State of Nebraska for such number of years. This subsection shall not apply to school employees retiring prior to the operative date of this act.

Sec. 6. The retirement board may adopt and promulgate rules and regulations to allow for lump sum or installment payments for school employees who elect to buy credit for prior years of service under sections 79-1514 and 79-1522 and sections 3 and 4 of this act. Any person who elects to buy credit for prior years of service on an installment basis may be charged reasonable service costs, shall be credited with those prior years of service only as the money is actually received by the retirement system, and shall have paid to the retirement system all installments prior to the commencement of a retirement annuity.

Sec. 7. That section 79-1522.01, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 546, Eighty-ninth Legislature, Second Session, 1986, be amended to read as follows:

79-1522.01. In lieu of the school retirement allowance provided by section 79-1522, any member who is an employee of a Class I, II, III, IV, or VI school district and who becomes eligible to make application for and receive a school retirement allowance under sections 79-1520 and 79-1521 may elect to receive a formula annuity retirement allowance.

Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of service for which such member would otherwise receive



the service annuity provided by section 79-1522, (1) by one and one-quarter per cent of his or her final average compensation, (2) by one and one half per cent of his or her final average compensation, or (3) by one and sixty-five hundredths per cent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member, the annuity at the date it begins shall be the actuarial equivalent of the formula annuity deferred to the sixty-fifth birthday of the member reduced by three per cent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday. A member must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter per cent of his or her final average compensation as one of the factors, must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one half per cent of his or her final average compensation as one of the factors, or must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths per cent of his or her final average compensation as one of the factors.

The normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments shall be continued to his or her estate or to such beneficiary as he or she shall have designated until sixty monthly payments have been made. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-1530.

Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member

has such compensation for less than three such fiscal years his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year. A member must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using only five fiscal years in the determination of his or her final average compensation.

All formula annuities shall be paid from the Annuity Reserve Fund. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Fund: (a) From the Service Annuity Fund, the value of the service annuity which would otherwise be payable; (b) from the School Employees' Savings Fund, the accumulated contributions of the member; and (c) from the School Employer's Deposit Fund, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Fund and the School Employees' Savings Fund.

For the purpose of providing the funds to be transferred from the School Employer's Deposit Fund for formula annuities, every employer shall be required to make deposits in the School Employer's Deposit Fund. Such deposits shall be a uniform percentage of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. In the fiscal year commencing July 1, 1968, such uniform percentage shall be twenty per cent of the required school employee contributions. For each fiscal year thereafter, such uniform percentage shall be determined by the retirement board upon recommendation of the actuary and shall be determined by deducting from the then present value of all future amounts to be transferred from the School Employer's Deposit Fund the amount then credited to such fund and dividing the remainder by the present value of the prospective future required contributions of all employees of the school districts covered by this section.

Sec. 8. That section 79-1522.02, Revised Statutes Supplement, 1984, be amended to read as follows:

79-1522.02. No provision of section 79-1512,

79-1522.01, 79-1531, 79-1533, or 79-1540 which would result in an increase in benefits that would have been payable prior to July 1, 1984, shall apply to any person until that person has acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following July 1, 1984.

No provision of sections 79-1522.01, 79-1529, 79-1531, or 79-1533 which would result in an increase in benefits that would have been payable prior to July 1, 1986, shall apply to any person until that person has acquired the equivalent of one half year of service or more as a school employee under the school retirement system following July 1, 1986.

Sec. 9. That section 79-1528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1528. (1) Should a member die before retirement, his or her accumulated contributions shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the retirement board. If no legal representatives or beneficiary designated in writing shall apply for his or her accumulated contributions within five years following (a) his or her sixty-fifth birthday if death occurred prior to such date, or (b) the date of his or her death if death occurred after his or her sixty-fifth birthday, they shall be forfeited to the retirement system and credited to the Contingent Fund at that time.

(2) When the deceased member had ~~had~~ attained the age of at least fifty-five years with not less than twenty years of creditable service, or had not less than thirty years of creditable service regardless of age, and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within sixty days after the death of the member, to receive the member's accumulated contributions in one lump sum. If no election is made, there shall be paid to such surviving spouse a monthly annuity for life. The amount of such annuity shall be equal to the amount of the annuity which would have been paid had the deceased member retired on the date of death and elected to have his or her retirement annuity paid as a joint and survivor annuity payable as long as either the member or the member's spouse should survive. If the surviving spouse is not the sole surviving primary beneficiary as

of the date of the member's death, the member's accumulated contributions shall be paid to his or her surviving primary beneficiary or beneficiaries as of such date or, in the absence of any surviving designated beneficiary, to his or her estate.

Sec. 10. That section 79-1529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1529. If any member ceases to be a school employee for any reason other than death, before qualifying for retirement under sections 79-1520 and 79-1521, the board shall, upon request, issue him or her a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five such member shall become eligible to the retirement allowance provided in sections 79-1522 and 79-1522.01. Any deferred formula annuity provided shall be based on the member's salary preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member, such annuity may commence at any time after such member attains the age of sixty and before his or her sixty-fifth birthday on an actuarially reduced basis and shall be reduced by the percentages prescribed in section 79-1522.01. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Sec. 11. That section 79-1531, Revised Statutes Supplement, 1985, be amended to read as follows:

79-1531. (1) Each member of the retirement system shall be required to make a deposit, or have a deposit made on his or her behalf, in the School Employees' Savings Fund equal to four and eight-tenths five and four-tenths per cent of all compensation. All amounts deposited by or on behalf of any school employee shall be held for the benefit of the individual school employee in the School Employees' Savings Fund and shall be credited to his or her account in this fund for the purpose of providing an annuity or other benefit as provided in sections 79-1501 to 79-1557.

(2) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer

contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated for all purposes of sections 79-1501 to 79-1565 in the same manner and to the same extent as member contributions made prior to the date picked up.

Sec. 12. That section 79-1533, Revised Statutes Supplement, 1984, be amended to read as follows:

79-1533. Every employer shall deduct and withhold from the compensation as a school employee of each member on each and every payroll period after such school employee becomes a member of the retirement system ~~four and eight-tenths~~ five and four-tenths per cent of such compensation of such member pursuant to section 79-1531. The employer, through its proper agents, the city or county superintendent, or the secretary of the school board or board of education, shall transmit monthly, quarterly, or semiannually if the retirement board shall so direct a copy of such payroll, in such form as shall be approved by the retirement board, and a remittance payable to the order of the State Treasurer for all deductions from the compensation of members on such payroll. The remittances may be by draft, money order, check, or otherwise according to the rule adopted by the retirement board. All such amounts due to the retirement board shall bear interest at the rate of six per cent per annum if the payment of the same is delayed more than thirty days after the time prescribed for payment. The proceeds of the interest charge shall be used to reimburse the account of each school employee, deprived of interest by the delay, with regular interest, and the balance shall be paid into the School Employees' Savings Fund of the retirement system.

Sec. 13. That section 79-1565, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1565. (1) An individual who was prior to July 19, 1980, is a state school official as defined in section 79-1501, may, within thirty days after July 19, 1980, file with the retirement board an election not to be included in the membership of the retirement system established pursuant to Chapter 79, article 15. Any person so electing shall and did not become a member of the State Employees Retirement System pursuant to Chapter 84, article 13, may, within sixty days after September 1, 1986, elect to become a member of such system, and upon such election an individual so electing shall pay the contributions required by such system when all eligibility requirements, except for the service and minimum age requirements have been met.

(2) Any such employee shall be eligible for immediate participation in the State Employees Retirement System with no minimum period of service if the minimum age requirement and length of service requirements under the State Employees Retirement System or the School Retirement System have been met and total the requirements met are equal to the requirements of the State Employees Retirement System.

(3) A state school official employed by the State Department of Education after July 19, 1980, shall become a member of the State Employees Retirement System.

(4) An employee electing not to be covered by the School Retirement System under the provisions of this act this section shall not be subject to section 79-1529, but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System according to the following:

(a) The years of participation in the School Retirement System before an election is made as provided in this act plus the years of participation in the State Employees Retirement System after the election is made as provided in this act, shall both be credited toward compliance with the five-year service requirement provided under section 79-1522; and -

(b) The years of participation in the School Retirement System before the election is made as provided in this act plus the years of participation in the State Employees Retirement System after the election is made as provided in this act shall both be credited toward compliance with section 84-1321.

Sec. 14. That section 81-1325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1325. Each employee who meets the minimum age and service requirements for is eligible for retirement under any existing state or federal retirement system shall, upon termination of his employment with the state by reason of retirement or voluntary resignation in lieu of retirement, be entitled to a one-time payment of one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the time of termination or retirement. Upon the death of an employee, his or her beneficiary shall be paid one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the date of his death.

Sec. 15. That section 84-1301, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1301. As used in sections 84-1301 to 84-1331 the State Employees Retirement Act, unless the context otherwise requires:

(1) Employee shall mean any employee of the State Board of Agriculture who is a member of the state retirement plan on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities; but shall not include judges, except associate county judges appointed after August 26, 1983, members of the Nebraska State Patrol, employees of the University of Nebraska, employees of the state colleges, employees of technical community colleges, employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, the Commissioner of Labor employed prior to July 1, 1984, employees of the State Board of Agriculture who are not members of the state retirement plan on July 1, 1982, the Nebraska National Guard air and army technicians, or persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the system pursuant to subsection (1) of section 79-1565 or been made members of the system pursuant to subsection (3) of section

79-1565, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System shall continue as members of such system. Any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee who works less than one half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and terminating employment after becoming qualified to receive the ~~accepting~~ a retirement allowance granted under ~~sections 84-1301 to 84-1331~~ the State Employees Retirement Act;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees as provided in section 84-1308;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board, but shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind;

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the board in order to provide the benefits described in sections 84-1319, 84-1320, 84-1321, and 84-1323 to 84-1323.02;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission, or other division of state government, not otherwise specifically defined or exempted in sections 84-1301 to 84-1331 the State Employees Retirement Act, whose employees and officers are not already covered by a retirement plan;

(13) Disability shall mean an inability to



engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board;

(15) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments;

(16) Fund shall mean the State Employees Retirement Fund created by section 84-1309;

(17) Guaranteed investment contract shall mean an investment contract which guarantees that the account maintained for any participant will not decrease in value, but will increase each year by the contribution allocated to the account and by investment earnings and will decrease by the amount of expenses reasonably determined to be allocated to the account; and

(18) Investment manager shall mean one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the fund.

Sec. 16. That section 84-1307, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1307. The membership of the retirement system shall be composed of (1) all permanent full-time employees who have been employees for a period of twenty-four continuous months at any time and who have attained the age of thirty and (2) all full-time or part-time employees, who have been employees for a total of twelve months, who have attained the age of twenty-five, and who exercise the option to join the retirement system. An employee who exercises the option to join the retirement system pursuant to this section shall remain in the retirement system until his or her termination or retirement. within sixty days after completion of the twelfth month of employment, except that any employee, twenty-five years of age or older, who has completed the twelfth month of employment prior to August 26, 1983, may exercise the option to join at any time within sixty days after August 26, 1983. Membership shall not include part-time or temporary employees, except (a) such part-time employees who have been full-time employees but because of age or otherwise have been partially incapacitated and have been placed

on a part-time service basis at a part-time rate of pay under rules and regulations of the retirement board, (b) such part-time employees who are members of the system, and (c) part-time employees who join the system as provided in subdivision (2) of this section.

Sec. 17. That section 84-1317, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1317. An employee may elect to retire on the attainment of age sixty-five or on the attainment of age ~~fifty-five~~ ~~sixty~~ after five years of service. ~~With the approval of the department concerned and the employee, an employee may retire on the attainment of age sixty regardless of the number of years of service.~~ An employee may retire as a result of disability at any age.

Any employee shall be required to retire at the end of the month in which his or her seventieth birthday occurs, except that with the annual approval of the department concerned and the employee, such employee may continue his or her employment beyond the attainment of age seventy, except that members of commissions and boards who serve periodically and only receive authorized per diems or expenses shall not be required to retire at age seventy.

The first of the month immediately following the last day of work shall be the retirement date, except that disability retirement benefits shall be paid from the date of disability as determined by the board. The provisions pertaining to mandatory retirement shall not apply to elected officials. First payments pertaining to retirements under prior service provisions of ~~sections 84-1301 to 84-1331~~ the State Employees Retirement Act shall be made at such time as the retirement board may determine.

Sec. 18. That section 84-1319, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1319. (1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent of the retirement value based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments, except as provided in pursuant to subsection (2) of this section.

At any time before the retirement date, the retiring employee may choose to receive his or her annuity either in the form of a straight life annuity or

any optional form that is determined acceptable by the board.

In lieu of the future service retirement annuity, a retiring employee may, upon application to the board, receive a retirement transition benefit which shall not exceed twenty-five per cent of the value of the member's employee account and an annuity which shall be equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board. In the alternative, a retiring employee may elect to receive the entire amount in his or her employee account, except that if he or she selects such alternative, he or she shall forfeit the accumulated sums in his or her employer account.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value, except as provided in this section.

The board shall provide to any state employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) The monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the date of purchase which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on January 1, 1984, or male annuity purchase rates on the date of purchase, if greater than those in effect on January 1, 1984; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this

section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4) Retirement benefits for persons who retire prior to January 1, 1984, shall not be affected by changes to this section which become operative on or after January 1, 1984.

(5) At the option of the retiring member, any annuity provided under this section or section 84-1320 may be deferred to commence as of the first of the month at any time prior to the member's seventieth birthday. Such election by the retiring member may be made at any time prior to the commencement of the annuity payments. Such deferred annuity shall be the actuarial equivalent, based on factors designated by the board, of the retirement value, or of the prior service annuity for an annuity provided under section 84-1320.

Sec. 19. That section 84-1320, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1320. The prior service retirement benefit shall be a straight life annuity, payable monthly with the first payment made as of the retirement date, in an amount determined in accordance with section 84-1312, except that the payments may be made less often than monthly if the monthly payment would be less than fifteen dollars. At the option of the member, the first payment may be deferred to commence as of the first of the month at any time prior to the member's seventieth birthday. Such deferred benefit shall be the actuarial equivalent, based on factors designated by the board, of the prior service benefit. In the event of retirement before age sixty-five under section 84-1317, the amount of the prior service annuity shall be reduced in accordance with the principles of actuarial equivalence based on factors designated by the board. Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under section 84-1317, who has accrued a prior service retirement benefit as defined in section 84-1312, and who has been continuously employed by the state for ten or more years immediately prior to termination, shall receive the prior service retirement benefit determined in accordance with section 84-1312 upon attaining age sixty-five. At the option of the terminating member, such annuity may commence as of the first of the month at any time after such member attains the age of fifty-five sixty and before his or her sixty-fifth seventieth birthday. Such election by the terminating member may be made at any time prior to the commencement

of the annuity payments. Any terminating employee who forfeits a vested future service retirement benefit by withdrawing his or her employee account shall also forfeit any vested prior service retirement benefit to which he or she would otherwise be entitled.

Sec. 20. That section 84-1321, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1321. (1) Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under section 84-1317 may, upon application to the board, receive (a) a termination benefit equal to the amount in his or her employee account payable in a lump sum plus a paid-up deferred annuity provided by the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday or (b) a paid-up deferred annuity provided by the employee account and the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday. If the terminating member does not make application he or she shall receive the benefits provided under subdivision (1)(b) of this section, except that any person who has been a member of the retirement system and has terminated his or her employment prior to July 1, 1983 September 1, 1986, and has not withdrawn the amount in his or her employee account shall have the option upon application prior to January 1, 1984 March 1, 1987, to receive the benefit provided in subdivision (1)(a) of this section.

(2) At the option of the terminating member, any paid-up deferred annuity provided under subsection (1) of this section may commence as of the first of the month at any time after such member attains the age of fifty-five ~~sixty~~ and before his or her seventieth ~~sixty-fifth~~ birthday. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Such paid-up deferred annuity shall be the actuarial equivalent, based on factors designated by the board, of the employee account and the vested portion of the employer account.

(3) The vesting percentage shall be one hundred after five years of participation in the retirement plan. The vesting percentage shall equal one hundred for any disability retirement under section 84-1317.

(4) In the event that the terminating member

shall not be credited with one hundred per cent of his or her employer account, the remainder shall be credited to the State Employees Retirement Fund and shall be applied to reduction of the liability for prior service benefits until such time as such liability is completely funded, and thereafter the remainder shall first be used to meet the expense charges incurred by the Public Employees Retirement Board in connection with administering the system and the remainder shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits.

Sec. 21. That section 84-1322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1322. (1) Except as provided in subsection (2) of this section, a member of the system who ceases to be an employee shall, upon again becoming an employee, be considered a new employee with respect to the provisions of sections 84-1301 to 84-1331 State Employees Retirement Act.

(2) A member of the system who terminates before his or her retirement date and again becomes a state employee within five years after the termination date or within an amount of time equal to the employee's original length of service, whichever is less, shall be reenrolled in the retirement system within sixty days under policies established by the board. For purposes of vesting employer contributions made after the reentry into the system under subsection (3) of section 84-1321, years of participation shall include years of participation prior to such employee's original termination.

Sec. 22. That section 84-1332, Revised Statutes Supplement, 1984, be amended to read as follows:

84-1332. (1) Any city or county employee who is a member under a city or county employees' retirement system, including retirement systems authorized by section 23-1118, and whose status as a city or county employee is changed by the Legislature to that of a state employee shall, upon application to the Public Employees Retirement Board and to the city or county, or to the county board of a county having a retirement system authorized by section 23-1118, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have been accrued to the date of transfer, except that the employee may not withdraw the amount in his or

her employee account prior to his or her retirement and still receive such vested benefits as provided in section 84-1321. Each employee's service as a city or county employee, after he or she has attained the minimum age required under the State Employees Retirement System and has completed two years of service, shall be credited as though it were participation in the State Employees Retirement System for purposes of calculating the termination benefits established by section 84-1321.

(2) Any city or county employee whose status as a city or county employee is or has been changed by the Legislature to that of a state employee shall be eligible for immediate participation in the State Employees Retirement System with no minimum period of service required if the minimum age requirement of the State Employees Retirement System is satisfied or, if the minimum age requirement is not satisfied on the date of transfer, the employee shall be eligible to participate at the date he or she satisfies the minimum age requirement.

Sec. 23. This act shall become operative on July 1, 1986.

Sec. 24. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 25. That original sections 79-1514, 79-1522, 79-1528, 79-1529, 79-1565, 81-1325, and 84-1322, Reissue Revised Statutes of Nebraska, 1943, sections 79-1522.02, 79-1533, 84-1301, 84-1307, 84-1317, 84-1319, 84-1320, 84-1321, and 84-1332, Revised Statutes Supplement, 1984, sections 79-1501 and 79-1531, Revised Statutes Supplement, 1985, and section 79-1522.01, Revised Statutes Supplement, 1984, as amended by section 2, Legislative Bill 546, Eighty-ninth Legislature, Second Session, 1986, are repealed.