

LEGISLATIVE BILL 703

Approved by the Governor March 24, 1999

Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson;
Bourne, 8; Bruning, 3; Crosby, 29; C. Peterson, 35;
Wickersham, 49

AN ACT relating to retirement; to amend sections 23-2309.01, 23-2320, and 48-1401, Reissue Revised Statutes of Nebraska, and sections 23-2301, 23-2323.01, 24-706, 24-710.10, 24-710.11, 79-921, 79-933.03 to 79-933.06, 79-933.08, 79-947.04, 79-947.05, 81-2027.06, 81-2027.07, 81-2031, 84-1301, 84-1307, 84-1310.01, 84-1311, 84-1322, 84-1323.01, 84-1325, and 84-1504, Revised Statutes Supplement, 1998; to change provisions relating to repayment of contributions, military service credits, deferred compensation, annual benefits and adjustments, investment result liability, consumer price indices, disability, membership, and administrative expenses; to define and redefine terms; to provide duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 23-2301, Revised Statutes Supplement, 1998, is amended to read:

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

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

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

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

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

(4) Disability means 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 be of a long and indefinite duration;

(5) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the retirement system and vesting the employer account;

(6) Employees means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by whom they are employed, except that employees does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

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

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

(9) Future service means service following the date of adoption of

the retirement system;

(10) Group annuity contract means the contract issued by one or more life insurance companies to the board in order to provide the future service benefits described in the act;

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

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

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

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

(15) Prior service means service prior to the date of adoption of the retirement system;

(16) Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments;

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

(18) Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the act;

(19) Retirement board or board means the Public Employees Retirement Board;

(20) Retirement system means the Retirement System for Nebraska Counties;

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

(22) Straight life annuity means 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;

(23) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(24) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved ~~(a) enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and (b) has completed or will complete more than five hundred hours of service in a plan year in which such change in employment occurs~~ there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board in writing of such change in employment and provide the board with such information as the board

deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 2. Section 23-2309.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-2309.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. The investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in increments of ten percent in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of the various investment options and shall assess the costs so that each member pays a fair proportion based upon his or her choice of options and number of transfers among options.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 3. Section 23-2320, Reissue Revised Statutes of Nebraska, is amended to read:

23-2320. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the County Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 23-2315 and again becomes a permanent full-time or permanent part-time county employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions under rules and regulations adopted by the board. For purposes of vesting employer contributions made prior to and after the reentry into the retirement system under subsection (3) of section 23-2319, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination

benefit pursuant to section 23-2319, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 23-2319.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 23-2319. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years of reemployment and shall be completed within five years of reemployment or prior to ~~retirement~~ termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) After the member completes one year of service following reemployment, the value of the member's forfeited employer account, as of the date of forfeiture, shall be restored at the end of the plan year in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account shall be restored first out of the current forfeiture amounts of the county that received the member's forfeited employer account and then by additional employer contributions by the county that received the member's forfeited employer account.

(3) For a member who retired pursuant to section 23-2315 and becomes a permanent full-time employee or permanent part-time employee with a county under the County Employees Retirement Act after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the county shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Sec. 4. Section 23-2323.01, Revised Statutes Supplement, 1998, is amended to read:

23-2323.01. (1) Any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of section 23-2315, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subsection (2) of this section.

(2) Under such rules and regulations as the retirement board adopts and promulgates, an employee who is reemployed on or after December 12, 1994, pursuant to ~~38 U.S.C. chapter 43~~ 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (a) the employee shall be treated as not having incurred a break in service by reason of his or her period of military service, (b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan, and (c) the employer shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of member and employer contributions under this section, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, the average rate the member received during the twelve-month period immediately preceding military service.

(3) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to this section, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under section 23-2307.

Sec. 5. Section 24-706, Revised Statutes Supplement, 1998, is amended to read:

24-706. (1) Upon termination of employment, any member whose service is terminated prior to age sixty-five for any cause other than death or disability may, upon written request to the board:

(a) Have returned to him or her the total amount of contributions which he or she has made to the fund, plus regular interest, and the return of such contributions to such judge shall preclude such judge from any benefits under the Judges Retirement Act unless and until such judge again serves in such capacity and repays, commencing within three years after rejoining the retirement system and prior to five years after rejoining the retirement system or prior to ~~retirement~~ termination of employment, whichever is first, part or all of the amount withdrawn plus interest which would have accrued on such amount under the retirement system. If the member chooses not to repay such withdrawals with interest, the member shall enter the retirement system as a new member with no prior rights; or

(b) Leave his or her contributions in the fund and receive a retirement annuity as provided in sections 24-708 and 24-710.

(2) Any member whose service is terminated at or subsequent to age sixty-five shall be considered as beginning normal retirement and annuity payments shall begin as provided in section 24-710.

Sec. 6. Section 24-710.10, Revised Statutes Supplement, 1998, is amended to read:

24-710.10. The minimum accrual rate is thirty-five dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Sec. 7. Section 24-710.11, Revised Statutes Supplement, 1998, is amended to read:

24-710.11. (1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 24-710.10 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 8. Section 48-1401, Reissue Revised Statutes of Nebraska, is amended to read:

48-1401. (1) Any county, municipality, or other political

subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, may enter into an agreement to defer a portion of any ~~employee's or independent contractor's~~ individual's compensation derived from such county, municipality, or other political subdivision, instrumentality, or agency to a future period in time pursuant to section 457 of the Internal Revenue Code. Such deferred compensation plan shall be voluntary and shall be available to all regular employees and elected officials.

(2) The income compensation to be deferred may never exceed the total compensation to be received by the ~~employee or independent contractor~~ individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

(3) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries by the county, municipality, or other political subdivision, instrumentality, or agency until such time as payments are made under the terms of the deferred compensation plan. ~~Existing plans shall be amended by January 1, 1999, to comply with this provision.~~

(4) The ~~treasurer~~ of the county, municipality, or other political subdivision, instrumentality, or agency shall designate its treasurer or an equivalent official, including the State Treasurer, to be the custodian of the funds and securities of the deferred compensation plan.

(5) The county, municipality, or other political subdivision, instrumentality, or agency may invest the income compensation to be deferred under an agreement in the following categories of investment or insurance or with: (a) Life insurance Annuities; (b) annuities; ~~(c)~~ mutual funds; ~~(d)~~ bank savings accounts or (c) banks; (d) savings and loan associations; (e) trust companies qualified to act as fiduciaries in this state; ~~or~~ (f) an organization established for the purpose of administering public employee deferred compensation retirement plans and which have been approved by the United States Internal Revenue Service as nonprofit and tax exempt, licensed authorized to do business in the State of Nebraska; or (g) investment advisers as defined in the federal Investment Advisers Act of 1940.

(6) The deferred compensation program shall exist and serve in addition to, and shall not be a part of, any existing retirement or pension system provided for state, county, municipal, or other political subdivision, instrumentality, or agency employees, or any other benefit program.

(7) Any income compensation deferred under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(8) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such ~~employee or independent contractor~~ individual.

(9) The state, county, municipality, or other political subdivision, instrumentality, or agency shall not be responsible for any investment results entered into by the ~~employee or independent contractor~~ individual in the deferred compensation agreement.

(10) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable.

(11) Nothing contained in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(12) If a county has not established a deferred compensation plan pursuant to this section, each individual may require that the county enter into an agreement with the individual to defer a portion of such individual's compensation and place it under the management and supervision of the state deferred compensation plan created pursuant to sections 84-1504 to 84-1506. If such an agreement is made, the county shall designate the State Treasurer as custodian of such deferred compensation funds and such deferred compensation funds shall become a part of the trust administered by the Public Employees Retirement Board pursuant to sections 84-1504 to 84-1506.

(13) For purposes of this section, individual means (a) any person designated by the county, municipality, or other political subdivision,

instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, as a permanent part-time or full-time employee of the county, municipality, or other political subdivision, instrumentality, or agency and (b) a person under contract providing services to the county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered into a contract with such county, municipality, political subdivision, instrumentality, or agency to have compensation deferred prior to the effective date of this act.

Sec. 9. Section 79-921, Revised Statutes Supplement, 1998, is amended to read:

79-921. The membership of any person in the retirement system shall cease only if he or she (1) withdraws his or her accumulated contributions under section 79-955, (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 within three years after rejoining the system to repay, within five years after the date on which he or she rejoins the retirement system or prior to ~~retirement~~ termination of employment, whichever is first, to the retirement board part or all of the amount he or she has withdrawn plus interest which would have accrued on that amount under the retirement system. Repayment may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization. If the school employee chooses not to repay such withdrawals with interest, the school employee shall enter the system as a new member with no prior rights.

Sec. 10. Section 79-933.03, Revised Statutes Supplement, 1998, is amended to read:

79-933.03. (1) Under such rules and regulations as the board shall adopt and promulgate, a contributing member under contract or employed on July 19, 1996, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by a school retirement system established pursuant to section 79-979, if such member files an application for service credit within three years of membership or reinstatement in the School Retirement System of the State of Nebraska and makes payment into the retirement system of an amount equal to the required deposits he or she would have paid had he or she been employed in this state by a school covered by the School Retirement System of the State of Nebraska, plus the interest which would have accrued on such amount. Payment must be completed within five years of membership or reinstatement in the retirement system, or prior to ~~retirement~~ termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

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

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

Sec. 11. Section 79-933.04, Revised Statutes Supplement, 1998, is amended to read:

79-933.04. (1) For contributing members under contract or employed on July 19, 1996, and under such rules and regulations as the board shall adopt and promulgate, 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 such 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 compensation at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member has paid into the retirement system an amount equal to the sum of the deductions from his or her compensation and any contribution which the school district would have been required to make had he or she continued to receive compensation at the level received immediately prior to the leave of absence with such deposits plus interest which would have accrued on such deposits to be paid as the retirement board may direct within five years of his or her return to membership in the retirement system, or prior to ~~retirement~~ termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) 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 section 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 and must apply for such credit within three years of the return to membership in the retirement system.

Sec. 12. Section 79-933.05, Revised Statutes Supplement, 1998, is amended to read:

79-933.05. (1) A contributing member hired or rehired after July 19, 1996, may purchase service credit for not to exceed ten years of creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-979. The election to purchase service credit shall be made within three years of membership or reinstatement. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years of membership or reinstatement or prior to ~~retirement~~ termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

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

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

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

Sec. 13. Section 79-933.06, Revised Statutes Supplement, 1998, is amended to read:

79-933.06. (1) Any contributing member hired or rehired after July 19, 1996, may purchase service credit for time he or she was on a leave of absence 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. 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 election to purchase service credit shall be made within three years of such member's return to membership in the retirement system. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years of such member's return to membership in the retirement system or prior to ~~retirement~~ termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) 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. Such leave 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.

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

Sec. 14. Section 79-933.08, Revised Statutes Supplement, 1998, is amended to read:

79-933.08. (1) An employer and a school employee who has completed at least five years of creditable service plus eligibility and vesting credit may by agreement made in contemplation of retirement, to be effective within twelve months of the agreement, purchase service credit for such employee for not to exceed five years of creditable service. Such an agreement may be executed up to twelve months prior to the employee's retirement date. The agreement shall specify whether the school employee shall pay for the service credits, whether the employer shall pay for the service credits, or whether both the employee and employer shall share the cost of the service credits. Such service credits shall be purchased for an amount equal to the actuarial cost to the retirement system for allowing such additional service credit to the employee.

(2) Payment for such service credits shall be completed prior to the employee's ~~retirement~~ termination of employment date and may be made through direct payment, installment payments, or an irrevocable deduction authorization. If payments are made on an installment basis, interest shall be charged at the rate of regular interest.

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

(4) The retirement board shall credit funds collected pursuant to this section to the Contingent Account pending the employee's retirement. If the employee does not retire within twelve months after the signing of the agreement made pursuant to this section, such funds shall be refunded, excluding interest earned, and the employee shall not be given credit for the service credit attempted to be purchased.

Sec. 15. Section 79-947.04, Revised Statutes Supplement, 1998, is amended to read:

79-947.04. The minimum accrual rate is eighteen dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Sec. 16. Section 79-947.05, Revised Statutes Supplement, 1998, is amended to read:

79-947.05. (1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until

the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 79-947.04 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 17. Section 81-2027.06, Revised Statutes Supplement, 1998, is amended to read:

81-2027.06. The minimum accrual rate is thirty dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Sec. 18. Section 81-2027.07, Revised Statutes Supplement, 1998, is amended to read:

81-2027.07. (1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 81-2027.06 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 19. Section 81-2031, Revised Statutes Supplement, 1998, is amended to read:

81-2031. (1) Upon termination of employment prior to becoming

eligible to retire, as provided in section 81-2025, and for reasons other than death or disability, an officer shall be entitled to receive all payments which have been made by compensation deductions into the State Patrol Retirement Fund plus regular interest. The return of such contributions and interest to such officer shall preclude such officer from any benefits under the Nebraska State Patrol Retirement Act unless and until such officer is reemployed in such capacity and repays, commencing within three years after rejoining the system and prior to five years after rejoining the retirement system or prior to ~~retirement~~ termination of employment, whichever is first, part or all of the amount withdrawn plus interest which would have accrued on that amount under the system. If the officer chooses not to repay such withdrawals with interest, the officer shall enter the system as a new member with no prior rights.

(2) In lieu of the benefit described in subsection (1) of this section, the officer may elect to receive a deferred annuity to commence as early as age fifty. If this election is made, the contributions made to the system by the officer may not be withdrawn from the system. The deferred annuity shall be computed as a percentage of the retirement annuity, as computed in subsection (1) of section 81-2026. The percentage shall be:

(a) Zero percent for the first five years of (i) creditable service plus (ii) eligibility and vesting credit;

(b) Twenty percent for each completed year for the next five years of (i) creditable service plus (ii) eligibility and vesting credit; and

(c) One hundred percent after ten completed years of (i) creditable service plus (ii) eligibility and vesting credit.

In the event of the death of any officer during the deferred period, the accumulated value of the officer's contributions at the date of termination plus regular interest to the date of his or her death shall be paid to such officer's beneficiary.

Sec. 20. Section 84-1301, Revised Statutes Supplement, 1998, is amended to read:

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

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

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

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

(3) Disability means 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;

(4) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the system and vesting the employer account;

(5) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system 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. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed

prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(6) Five-year break in service means five consecutive one-year breaks in service;

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

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

(9) Group annuity contract means 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, 84-1323, and 84-1323.01;

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

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

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

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

(14) Prior service means service before January 1, 1964;

(15) Regular interest means 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 the investments;

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

(17) Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the State Employees Retirement Act;

(18) Retirement board or board means the Public Employees Retirement Board;

(19) Retirement system means the State Employees Retirement System of the State of Nebraska;

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

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

(22) Straight life annuity means 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;

(23) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights

Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(24) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved ~~(a)~~ enters into an employer-employee relationship with the same or another agency of the State of Nebraska and ~~(b)~~ has completed or will complete more than five hundred hours of service in a plan year in which such change in employment occurs there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board in writing of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 21. Section 84-1307, Revised Statutes Supplement, 1998, is amended to read:

84-1307. (1) The membership of the retirement system shall be composed of (a) all permanent full-time employees who have twenty-four continuous months of service and who have attained the age of thirty and (b) all permanent full-time or permanent part-time employees who have twelve months of service within a five-year period, who have attained the age of twenty, 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 of employment or retirement. ~~Membership shall not include part-time or temporary employees except (i) such permanent part-time employees who have been permanent full-time employees but because of age or otherwise have been partially incapacitated and have been placed on a permanent part-time service basis at a part-time rate of pay under rules and regulations of the retirement board, (ii) such permanent part-time employees who are members of the system, and (iii) permanent part-time employees who join the system as provided in subdivision (1)(b) of this section.~~

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

(3) Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee.

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

Sec. 22. Section 84-1310.01, Revised Statutes Supplement, 1998, is amended to read:

84-1310.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in increments of ten percent in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of the various investment options and shall assess the costs so that each member pays a fair proportion based upon his or her choice of options and number of transfers among options.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 23. Section 84-1311, Revised Statutes Supplement, 1998, is amended to read:

84-1311. (1) A member's share of the fund arising from the state contributions made in accordance with section 84-1309 shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred four percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred four percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty-six percent of the amount so deducted for the final three months of the year in accordance with section 84-1308. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty-six percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section ~~84-1321~~ 84-1321.01, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with section ~~84-1321~~ 84-1321.01.

(2) On and after January 1, 1997, the state investment officer shall invest the employer account, and upon maturity, the employer account funds

which have been invested in guaranteed investment contracts prior to January 1, 1997. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he or she is under a duty to use such skills.

Sec. 24. Section 84-1322, Revised Statutes Supplement, 1998, is amended to read:

84-1322. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions within sixty days under rules and regulations established by the board. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to ~~retirement~~ termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) After the member completes one year of service following reemployment, the value of the member's forfeited employer account, as of the date of forfeiture, shall be restored at the end of the plan year in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Sec. 25. Section 84-1323.01, Revised Statutes Supplement, 1998, is amended to read:

84-1323.01. (1) Any member who is an employee, disregarding the length of service, may be retired as a result of disability either upon the member's own application or upon the application of the member's employer or any person acting in the member's behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member is physically or mentally incapable of further performing his or her duties as a state employee and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of ~~sixty-five~~ fifty-five to undergo a medical examination at the expense of the board once each year. If any disability beneficiary refuses to undergo such an examination, the disability retirement benefit may be discontinued by the board.

Sec. 26. Section 84-1325, Revised Statutes Supplement, 1998, is amended to read:

84-1325. (1) Any employee who, while an employee, entered into and served or shall enter into and serve in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became or becomes an employee shall be credited, for the purposes of the provisions of section 84-1317, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces.

(2) Under such rules and regulations as the retirement board adopts and promulgates, any employee who is reemployed on or after December 12, 1994, pursuant to ~~38 U.S.C. chapter 43~~ 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (a) the employee shall be treated as not having incurred a break in service by reason of his or her period of military service, (b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan, and (c) the employer shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of member and employer contributions under this subsection, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, the average rate the member received during the twelve-month period immediately preceding military service.

(3) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to this section, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (1) of section 84-1308.

Sec. 27. Section 84-1504, Revised Statutes Supplement, 1998, is amended to read:

84-1504. (1) The Public Employees Retirement Board, on behalf of the state, may contract with any ~~state employee, whether employed on a permanent or temporary basis, full-time or part-time, including an individual under contract providing services to the state who is not employed by the University of Nebraska or any of the state colleges or community colleges,~~ individual to defer a portion of such ~~employee's individual's~~ compensation pursuant to section 457 of the Internal Revenue Code.

(2) The compensation to be deferred shall not exceed the total compensation to be received by the ~~employee or independent contractor individual~~ from the employer or exceed the limits established by the Internal Revenue ~~Service Code~~ for such a plan.

(3) The deferred compensation program shall serve in addition to but not be a part of any existing retirement or pension system provided for state or county employees or any other benefit program.

(4) Any compensation deferred under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(5) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such ~~employee or independent contractor individual~~.

(6) The state, the board, the state investment officer, ~~or~~ the agency, or the county shall not be responsible for any investment results entered into by the ~~employee or independent contractor individual~~ in the deferred compensation agreement.

(7) Nothing in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any instrumentality or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(8) For purposes of this section, individual means (a) any state employee, whether employed on a permanent or temporary basis, full-time or part-time, (b) a person under contract providing services to the state who is

not employed by the University of Nebraska or any of the state colleges or community colleges and who has entered into a contract with the state to have compensation deferred prior to the effective date of this act, and (c) any county employee designated as a permanent part-time or full-time employee or elected official whose employer does not offer a deferred compensation plan and who has entered into an agreement pursuant to section 48-1401.

Sec. 28. Original sections 23-2309.01, 23-2320, and 48-1401, Reissue Revised Statutes of Nebraska, and sections 23-2301, 23-2323.01, 24-706, 24-710.10, 24-710.11, 79-921, 79-933.03 to 79-933.06, 79-933.08, 79-947.04, 79-947.05, 81-2027.06, 81-2027.07, 81-2031, 84-1301, 84-1307, 84-1310.01, 84-1311, 84-1322, 84-1323.01, 84-1325, and 84-1504, Revised Statutes Supplement, 1998, are repealed.