

## LEGISLATIVE BILL 1048

Approved by the Governor April 19, 1986

Introduced by Goodrich, 20; Chambers, 11

AN ACT relating to retirement; to amend section 79-1051, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1051.03, 79-1051.04, and 79-1056.06, Revised Statutes Supplement, 1984; to provide for an adjustment to certain annuities; to provide restrictions on certain investments; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 79-1051, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1051. The funds of the retirement system which are not required for current operations shall be invested and reinvested by the trustees subject to the approval of the board of education as provided in sections 79-1051.01 to 79-1051.05 and section 4 of this act. Except as otherwise provided herein, no trustee and no member of the board shall have any direct interest in the income, gains, or profits of any investment made by the trustees, nor shall any such person receive any pay or emolument for services in connection with any such investment. No trustee or member of the board shall become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the system. Any person who shall have violated any of these restrictions shall be guilty of a Class II misdemeanor.

Sec. 2. That section 79-1051.03, Revised Statutes Supplement, 1984, be amended to read as follows:

79-1051.03. Investments Except as provided in section 4 of this act, investments may be made in bonds and debt obligations issued or guaranteed by a corporation created or existing under the laws of the United States, any state, district, or territory of the United States of America, or Canada or any province thereof if the principal and interest on such securities are payable in United States currency as follows: (1) In obligations of the United States, this state, or any federal agency, or instrumentality, or obligations of

Canada or any province thereof, (2) in bonds, notes, and certificates of indebtedness, and other obligations of the state, of any county, township, municipal corporation, school district, any conservancy district, or sanitary district of the state, or any other legally constituted taxing or bond-issuing authority, subdivision, or municipal corporation within the state, (3) in revenue bonds issued by a taxing subdivision of the state, (4) in bonds or other interest-bearing obligations of any other state of the United States which, within twenty years prior to the making of such investment, has not defaulted for more than ninety days in the payment of principal or interest on any of its bonds or other interest-bearing obligations, (5) in savings accounts in a national bank located in this state or a state bank located in and organized under the laws of this state by depositing such funds therein, but no such deposit shall be made unless the deposits of the depository bank are insured by the Federal Deposit Insurance Corporation created under an act of Congress, entitled the Federal Deposit Insurance Act, and amendments thereto, and the deposit of funds in any such savings accounts in any one bank shall not exceed the sum insured under such act and the amendments thereto, (6) in obligations consisting of notes, bonds, debentures, or equipment trust certificates issued under an indenture which are the direct obligations, or in the case of equipment trust certificates, are secured by direct obligations, of a railroad, industrial, or financial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them, but only if the obligor corporation is one which is incorporated under the laws of the United States, or any state thereof, of the District of Columbia, or of Canada or any province thereof, and such obligations shall be rated at the time of purchase in one of the four highest classifications established by at least two standard rating services selected from a list of the standard rating services which shall be prescribed by the Director of Banking and Finance, or (7) in notes, bonds, or debentures, secured by mortgages as provided in section 79-1051.05.

Sec. 3. That section 79-1051.04, Revised Statutes Supplement, 1984, be amended to read as follows:

79-1051.04. Investments Except as provided in

section 4 of this act, investments may also be made in stock, common or preferred, issued or guaranteed by a corporation created or existing under the laws of the United States, any state, district, or territory of the United States, or Canada or any province thereof if the principal and interest on such securities are payable in United States currency, subject to the following: (1) For a period of five fiscal years for which the necessary statistical data are available next preceding the date of investment, such corporation as disclosed by its published annual financial statement shall have had an average annual net income plus its average annual fixed charges at least equal to one and one half times the sum of its average annual dividend requirements for preferred stock and its annual average fixed charges for the same period, and during neither of the last two years of such period shall the sum of its annual net income and its annual fixed charges have been less than one and one half times the sum of its dividend requirements for preferred stock and its fixed charges for the same period, and as used in this subdivision, fixed charges shall mean interest on funded or unfunded debt, contingent interest charges, amortization of debt discount and expense in rentals for leased property and, in the case of consolidated earnings statements of parent and subsidiary corporations, shall include all fixed charges of preferred dividend requirements, if any, of the subsidiaries; (2) such corporation has no arrears of dividends on its preferred stock; (3) the preferred stock of such corporation, if any be outstanding, shall qualify for investment under this section; (4) such corporation, having no preferred stock outstanding, shall have had earnings for the five fiscal years next preceding the date of investment of at least twice the interest on all mortgages, bonds, debentures, and funded debts, if any, after deduction of the proper charges for replacements, depreciation, and obsolescence; and (5) such corporation shall have had earnings available for payment of dividends on common stock of not less than one hundred thousand dollars per annum for at least three years of the five-year period next preceding the date of investment.

In applying any earnings test under the provisions of this section to any issuing, assuming, or guaranteeing corporation, when such corporation has acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidation or merger, or by the purchase of all or a substantial portion of the property

of any other corporation or corporations, or has acquired the assets of any unincorporated business enterprise by purchase or otherwise, net income, fixed charges, and preferred dividend of predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this section have been complied with. The total value of common stocks shall not exceed fifty per cent and the total value of all preferred stocks shall not exceed ten per cent of the total value of all funds of the system, and not more than five per cent of the total value of such funds shall be invested in the common stock of a single corporation. The total number of common shares purchased in a single corporation shall not exceed one per cent of the issued and outstanding common stock of such corporation.

Sec. 4. An investment which is authorized by sections 79-1051 to 79-1051.05 shall not be made if it does not meet the requirements for the investment of state funds pursuant to sections 72-1270 to 72-1276. After July 1, 1989, no funds shall remain invested in any stock which does not meet the requirements of sections 72-1270 to 72-1276.

Sec. 5. That section 79-1056.06, Revised Statutes Supplement, 1984, be amended to read as follows:

79-1056.06. (1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to sections 79-1032 to 79-1060, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost-of-living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-1056 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living

adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost-of-living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one half per cent for annuities first paid on or after September 1, 1984, (b) seven per cent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one half per cent for all other annuities.

Sec. 6. That original section 79-1051, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1051.03, 79-1051.04, and 79-1056.06, Revised Statutes Supplement, 1984, are repealed.