

LEGISLATIVE BILL 1191

Approved by the Governor April 14, 1998

Introduced by Nebraska Retirement Systems Committee:

Janssen, 15, Chairperson; Crosby, 29; Lynch, 13; C. Peterson, 35; Stuhr, 24; Wehrbein, 2

AN ACT relating to retirement; to amend sections 2-1608, 2-3228, 12-101, 13-2401, 14-1802, 14-1804, 14-1806, 14-1809 to 14-1811, 14-1814, 14-1822, 14-1826, 14-2111, 15-1017, 16-1017, 16-1033, 16-1037, 19-3501, 23-1118, 23-2301, 23-2306, 23-2308, 23-2312, 23-2317.01, 23-2319, 23-2323.01, 23-2325, 23-2331, 23-2333, 23-3526, 24-705, 24-711, 79-905, 79-926, 79-947.02, 79-949, 79-967, 79-987, 79-9.100, 84-1305.01, 84-1319.01, 84-1327, and 84-1513, Reissue Revised Statutes of Nebraska, sections 42-1108, 50-438, 84-1308, and 84-1503, Revised Statutes Supplement, 1996, and sections 24-701.01, 79-901, 79-902, 79-916, 79-922, 79-933.03, 79-933.05, 79-951, 79-955, 79-958, 79-9.113, 81-2014.01, 81-2016, 84-1301, 84-1307, 84-1331, 84-1504, and 84-1505, Revised Statutes Supplement, 1997; to require actuarial and financial analyses and reports; to change provisions relating to retirement funds, benefits, service credits, contributions, liability, records, investments, claims, and penalties; to provide and change powers and duties; to redefine terms; to change and eliminate provisions relating to members' accounts; to eliminate obsolete provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 16-1026, 23-2310.01, 23-2310.02, and 23-2335, Reissue Revised Statutes of Nebraska, and sections 24-703.01, 24-703.02, 79-936, 79-937, 81-2027.01, 81-2027.02, 84-1311.01, 84-1311.02, and 84-1503.01, Revised Statutes Supplement, 1997.

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

Section 1. Section 2-1608, Reissue Revised Statutes of Nebraska, is amended to read:

2-1608. Whenever two or more county extension organizations have united as provided in section 2-1607 for the purpose of support and management of extension work, county extension employees jointly employed by the participating extension organizations shall be considered persons employed by a county for the purpose of subdivision (6) of section 23-2301 and shall participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act. To accomplish such participation the participating county extension organizations shall (1) pick up employee contributions as salary deductions on behalf of such county extension employees in the manner required for a county in section 23-2307, and (2) pay to the ~~earlier~~ Public Employees Retirement Board or an entity designated by the board an amount in accordance with the provisions of section 23-2308. In all other respects the participation of such county extension employees in the retirement system shall be in accordance with the act.

Sec. 2. Section 2-3228, Reissue Revised Statutes of Nebraska, is amended to read:

2-3228. (1) Each district shall have the power and authority to:

~~(1)~~ (a) Receive and accept donations, gifts, grants, bequests, appropriations, or other contributions in money, services, materials, or otherwise from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any person as defined in section 49-801 and use or expend all such contributions in carrying on its operations;

~~(2)~~ (b) Establish advisory groups by appointing persons within the district, pay necessary and proper expenses of such groups as the board shall determine, and dissolve such groups;

~~(3)~~ (c) Employ such persons as are necessary to carry out the purposes of sections 2-3201 to 2-3257 and 2-32,109 to 2-32,114 and, in addition to other compensation provided, establish and fund a pension plan designed and intended for the benefit of all permanent full-time employees of the district. Any recognized method of funding a pension plan may be employed. Employee contribution shall be required to fund at least fifty percent of the benefits, and past service benefits may be included. The district shall pay all costs of any such past service benefits, which may be retroactive to July 1, 1972, and the plan may be integrated with old age and

survivors' insurance, generally known as social security. A uniform pension plan, including the method for jointly funding such plan, shall be established for all districts in the state. A district may elect not to participate in such a plan but shall not establish an independent plan;

44) (d) Purchase liability, property damage, workers' compensation, and other types of insurance as in the judgment of the board are necessary to protect the assets of the district;

45) (e) Borrow money to carry out such sections;

46) (f) Adopt and promulgate rules and regulations to carry out the purposes of such sections; and

47) (g) Invite the local governing body of any municipality or county to designate a representative to advise and counsel with the board on programs and policies that may affect the property, water supply, or other interests of such municipality or county.

(2) (a) Beginning December 31, 1998, and each December 31 thereafter, the Nebraska Association of Resources Districts as organized under the Interlocal Cooperation Act shall file an annual report on each retirement plan established pursuant to this section with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan established pursuant to this section, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section contains no current active participants, the association may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the association shall cause to be prepared one of the following quadrennial reports for each retirement plan, and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 3. Section 12-101, Reissue Revised Statutes of Nebraska, is amended to read:

12-101. (1) The cemetery in Lincoln, Nebraska, known as Wyuka Cemetery, is hereby declared to be a public charitable corporation. The general control and management of the affairs of such cemetery shall be vested in a board of three trustees who shall serve without compensation and who shall be a body corporate to be known as Wyuka Cemetery, with power to sue and be sued, to contract and to be contracted with, acquire, hold, and convey both real and personal property for all purposes consistent with the provisions of

sections 12-101 to 12-105, and to have the power of eminent domain to be exercised in the manner provided in section 12-201.

(2) The trustees of Wyuka Cemetery shall have the power, by resolution duly adopted by a majority vote, to authorize one of their number to sign a petition for paving, repaving, curbing, recurring, grading, changing grading, guttering, resurfacing, relaying existing pavement, or otherwise improving any street, streets, alley, alleys, or public ways or grounds abutting cemetery property. When such improvements have been ordered, the trustees shall pay, from funds of the cemetery, such special taxes or assessments as may be properly determined.

(3) The trustees of Wyuka Cemetery shall be appointed by the Governor of the State of Nebraska at the expiration of each trustee's term of office. The first appointed trustee shall serve until January 1, 1965, the second trustee until January 1, 1967, and the third trustee until January 1, 1969. Thereafter, each trustee shall be appointed by the Governor for a term of six years. In the event of a vacancy occurring among the members of the board, the vacancy shall be filled by appointment by the Governor, and such appointment shall continue for the unexpired term.

(4) The board of trustees of Wyuka Cemetery shall file with the Secretary of State, on or before the second Tuesday in March of each year, an itemized report of all the receipts and expenditures in connection with its management and control of said cemetery.

(5) The trustees of Wyuka Cemetery shall have the power to provide, in their discretion, retirement benefits for present and future employees of the cemetery, and to establish, participate in, and administer plans for the benefit of its employees or its employees and their dependents, which may provide disability, hospitalization, medical, surgical, accident, sickness and life insurance coverage, or any one or more coverages, and which shall be purchased from a corporation or corporations authorized and licensed by the Department of Insurance.

(6) (a) Beginning December 31, 1998, and each December 31 thereafter, the trustees shall file an annual report on each retirement plan established pursuant to this section with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan established pursuant to this section, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section contains no current active participants, the trustees may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the trustees shall cause to be prepared one of the following quadrennial reports for each retirement plan, and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each

such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 4. Section 13-2401, Reissue Revised Statutes of Nebraska, is amended to read:

13-2401. (1) For purposes of this section:

(a) Political subdivision includes villages, cities of all classes, counties, school districts, and all other units of local government, including entities created by local public agencies pursuant to the Interlocal Cooperation Act. Political subdivision does not include any contractor with a political subdivision;

(b) Receiving entity means a political subdivision which receives transferred employees from a separate political subdivision; and

(c) Transferring entity means a political subdivision which is transferring employees to a separate political subdivision.

(2) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the transferring entity maintains a defined benefit plan, an initial benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the transferring entity so that the effect on the retirement system of the transferring entity will be actuarially neutral; and

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the employee actually completed at the transferring entity prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the receiving entity so that the effect on the retirement system of the receiving entity will be actuarially neutral.

(3) A full-time or part-time employee of a transferring entity who becomes an employee of a receiving entity pursuant to a merger of services shall receive credit for his or her years of participation in the retirement system of the transferring entity for purposes of membership in the retirement system of the receiving entity.

(4) An employee referred to in subsection (3) of this section shall have his or her participation in the retirement system of the transferring entity transferred to the retirement system of the receiving entity through elect one of the following options:

(a) ~~The employee may elect to take a termination benefit in the retirement system of the transferring entity as if the employee were terminating employment with the transferring entity and shall thereafter be treated as a new employee for purposes of the retirement system of the receiving entity; or~~

(b)-(i) If the retirement system of the receiving entity maintains a defined contribution plan, the employee ~~may~~ shall transfer all of his or her funds by paying to the retirement system of the receiving entity from funds held by the retirement system of the transferring entity an amount equal to one of the following: ~~(A)~~ (i) If the retirement system of the transferring entity maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the transferring entity, or ~~(B)~~ (ii) if the retirement system of the transferring entity maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the transferring entity. The employee shall receive eligibility and vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(4) (b) If the retirement system of the receiving entity maintains a defined benefit plan, the employee may shall transfer all of his or her funds out of the retirement system of the transferring entity to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the transferring entity. After such purchase, the employee shall receive eligibility and vesting credit in the retirement system of the receiving entity for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. ~~The election to purchase service credit shall be made within three years after the employment begins with the receiving entity.~~ The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the receiving entity for allowing such additional service credit to the employee. If any funds remain in the retirement system of the transferring entity after the employee has purchased service credits in the retirement system of the receiving entity, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the employee ~~elects to purchase the service credit or prior to retirement, whichever comes first, transfer of services, but prior to retirement,~~ and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(5) The transferring entity, the receiving entity, and the employees who are being transferred may by binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the receiving entity sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of a direct rollover from the retirement system of the transferring entity is not sufficient to provide a final benefit transfer value in the retirement system of the receiving entity.

(6) The retirement system of the receiving entity may accept cash rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the amount of payment required for the service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, ~~the entire all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount.~~ The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(7) Cash transferred to the retirement system of the receiving entity as a rollover contribution shall be deposited as other contributions.

(8) The retirement system of the receiving entity may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(9) The receiving entity or its retirement system shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(10) Any retirement system authorized pursuant to section 14-1805, 15-1017, 16-1004, 16-1023, 19-3501, or 23-1118 or any retirement system for a city of the metropolitan class authorized pursuant to home rule charter shall be modified to conform with this section prior to any merger of service involving such system.

Sec. 5. (1) Beginning December 31, 1998, and each December 31 thereafter, the pension board of a city of the metropolitan class shall file an annual report on each retirement plan established by such city with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates and levels of benefits of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;

(e) The names and positions of persons investing plan assets;

(f) The form and nature of investments;

(g) For each defined contribution plan established by the city, a full description of investment policies and options available to plan participants;

(h) For each defined benefit plan established by the city, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(i) If a plan established by the city contains no current active participants, the pension board may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, the pension board of a city of the metropolitan class shall cause to be prepared one of the following quadrennial reports for each retirement plan, and the pension board shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(a) For each defined benefit plan, a full actuarial analysis of each such retirement plan established by the city. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(b) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established by the city. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 6. Section 14-1802, Reissue Revised Statutes of Nebraska, is amended to read:

14-1802. As used in sections 14-1801 to 14-1826 the Transit Authority Law, unless the context otherwise requires:

(1) Authority shall mean means any transit authority created under sections 14-1801 to 14-1826 the Transit Authority Law;

(2) Board shall mean means the board of directors of any transit authority created under sections 14-1801 to 14-1826 the Transit Authority Law;

(3) City of the metropolitan class shall mean means all cities in the State of Nebraska defined to be cities of the metropolitan class by section 14-101;

(4) Municipality and municipal shall mean means any city of the metropolitan class in the State of Nebraska; and

(5) Bonds shall mean means revenue bonds of any transit authority established under the provisions of sections 14-1801 to 14-1826 Transit Authority Law.

Sec. 7. Section 14-1804, Reissue Revised Statutes of Nebraska, is amended to read:

14-1804. The authority shall be a body corporate and politic and shall be known as Transit Authority of (filling out the blank with the name of the city), and shall be a governmental subdivision of the State of Nebraska with the powers and authority provided by sections 14-1801 to 14-1826 the Transit Authority Law. The authority is declared to be an instrumentality of the state exercising public and essential governmental functions in the exercise of the powers conferred upon it by sections 14-1801 to 14-1826 the Transit Authority Law.

Sec. 8. (1) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board shall file an annual report on each retirement plan established pursuant to section 14-1805 with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(a) The number of persons participating in the retirement plan;

(b) The contribution rates and levels of benefits of participants in the plan;

(c) Plan assets and liabilities;

(d) The names and positions of persons administering the plan;

(e) The names and positions of persons investing plan assets;

(f) The form and nature of investments;

(g) For each defined contribution plan established pursuant to section 14-1805, a full description of investment policies and options available to plan participants;

(h) For each defined benefit plan established pursuant to section 14-1805, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(i) If a plan established pursuant to section 14-1805 contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, the authority shall cause to be prepared one of the following quadrennial reports for each retirement plan established pursuant to section 14-1805, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(a) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to section 14-1805. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(b) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to section 14-1805. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 9. Section 14-1806, Reissue Revised Statutes of Nebraska, is amended to read:

14-1806. The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system and necessary cash working funds, or for reconstructing, extending, or improving its transportation system or any part thereof, and for acquiring any property and equipment useful for the reconstruction, extension, improvement, and operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed as aforesaid, the authority may pursuant to resolution adopted by the board from time to time issue and dispose of its interest-bearing revenue bonds or certificates. It may also from time to time issue and dispose of its interest-bearing revenue bonds or certificates to refund any bonds or certificates at maturity, or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof. All such bonds and certificates shall be payable solely from the revenue or income to be derived from the transportation system, from such tax receipts as may be herein authorized, and from such grants and loans as may be received. Such bonds and certificates may bear such date or dates, may mature at such time or times as may be fixed by the board, may bear interest at such rate or rates as may be fixed by the board, payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner, and may contain such terms and covenants as may be provided in such resolution. The bonds may be registered in the manner prescribed by sections 10-201 to 10-209. Notwithstanding the form or tenor thereof and in the absence of an express recital on the face thereof that they are nonnegotiable, all such bonds and certificates shall be negotiable instruments. Pending the preparation and execution of any such bonds or certificates, temporary bonds or certificates may be issued with or without interest coupons as may be provided by resolution of the board. To secure the payment of any or all of such bonds or certificates, and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof, and the issuance of any additional bonds or

certificates, as well as the use and application of the revenue or income to be derived from the transportation system, and from such tax receipts as may be herein authorized, and from any grants or loans, as provided in ~~sections 14-1801 to 14-1826~~ the Transit Authority Law, the authority may execute and deliver a trust agreement or agreements. No lien upon any physical property of the authority shall be created by such trust agreement or agreements. A remedy for any breach or default of the terms of any such trust agreement by the authority may be by mandamus or other appropriate proceedings in any court of competent jurisdiction to compel performance and compliance therewith. The trust agreement may prescribe by whom or on whose behalf such action may be instituted.

Sec. 10. Section 14-1809, Reissue Revised Statutes of Nebraska, is amended to read:

14-1809. Bonds issued by the authority under the ~~provisions of sections 14-1801 to 14-1826~~ Transit Authority Law are hereby made securities in which the state and all political subdivisions of the state, their officers, boards, commissions, departments, or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control. Such bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

Sec. 11. Section 14-1810, Reissue Revised Statutes of Nebraska, is amended to read:

14-1810. An authority created pursuant to ~~sections 14-1801 to 14-1826~~ the Transit Authority Law being a governmental subdivision of the State of Nebraska to exercise public and essential governmental functions, all property thereof, all operations thereof, and all rights to operate, of whatsoever character, and all bonds and equipment trust notes or certificates issued by it, shall be exempt from any and all forms of assessment and taxation, and from all other governmental and municipal licenses, excises, and charges.

Sec. 12. Section 14-1811, Reissue Revised Statutes of Nebraska, is amended to read:

14-1811. (1) The authority shall have power to purchase equipment, including motor buses, and may execute agreements, leases, conditional sales contracts, conditional lease contracts, and equipment trust notes or certificates in the form customarily used in such cases appropriate to effect such purchase, and may dispose of such equipment trust notes or certificates. All money required to be paid by the authority under the provisions of such agreements, leases, and equipment notes or trust certificates shall be payable solely from the revenue or income to be derived from the transportation systems, and from such tax receipts as may be herein authorized and from grants and loans received, as provided in ~~sections 14-1801 to 14-1826~~ the Transit Authority Law. Payment for such equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust notes or certificates payable solely from such sources of income, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid, but when payment is accomplished the equipment title shall vest in the authority.

(2) The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the State of Nebraska, as trustee, for the benefit and security of the equipment trust notes or certificates, and may direct the trustee to deliver the equipment to one or more designated officers of the authority, and may authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(3) The agreements, leases, contracts, or equipment trust certificates shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds, and in the form required for acknowledgment of deeds, and such agreements, leases, and equipment trust notes or certificates shall be authorized by resolution of the board, and shall contain such covenants, conditions, and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust notes or certificates from the revenue and income of the authority.

(4) The covenants, conditions, and provisions of the agreements,

leases, contracts, and equipment trust notes or certificates shall not conflict with any of the provisions of any trust agreement securing the payment of revenue bonds or certificates of the authority.

Sec. 13. Section 14-1814, Reissue Revised Statutes of Nebraska, is amended to read:

14-1814. Not later than seven days after the qualification of the members, the board shall organize for the transaction of business, shall select a ~~chairman and vice-chairman~~ chairperson and vice-chairperson from among its members, and shall adopt bylaws, rules, and regulations to govern its proceedings. The ~~chairman and vice-chairman~~ chairperson and vice-chairperson and their successors shall be elected annually by the board and shall serve for a term of one year. Any vacancy in the offices of ~~chairman and vice-chairman~~ chairperson and vice-chairperson shall be filled by election by the board. A quorum for the transaction of business shall consist of three members of the board. Regular meetings of the board shall be held at least once in each calendar month at the time and place to be fixed by the board. All actions of the board shall be by resolution, except as may otherwise be provided in ~~sections 14-1801 to 14-1826~~ the Transit Authority Law, and the affirmative vote of at least three members shall be necessary for the adoption of any resolution. Any such resolution shall be approved by the ~~chairman~~ chairperson of the board, or in his ~~or her~~ absence by the ~~vice-chairman~~ vice-chairperson of the board, before taking effect. If he ~~or she~~ shall approve thereof he ~~or she~~ shall sign the same. If he ~~or she~~ shall not approve thereof, he ~~or she~~ shall return the resolution to the board with his ~~or her~~ objections thereto in writing at the next regular meeting of the board occurring after the passage thereof. If the ~~chairman~~ chairperson shall fail to return any resolution with his ~~or her~~ written objections to the board within the time aforesaid, he ~~or she~~ shall be deemed to have approved the same and it shall take effect; any resolution not approved by the ~~chairman~~ chairperson may be passed by the affirmative vote of at least four members of the board. The board shall cause to be kept accurate minutes of all of its proceedings. All resolutions and all proceedings of the authority and all official documents and records of the authority shall be public records and open to public inspection, except such documents and records as shall be prepared and kept for use in negotiations, actions, or proceedings, to which the authority is a party.

Sec. 14. Section 14-1822, Reissue Revised Statutes of Nebraska, is amended to read:

14-1822. The board shall make all rules and regulations, according to its discretion, governing the operation of the transportation system, and shall determine all routings and change the same whenever deemed advisable by the board. The board shall fix rates, fares, and charges for transportation, ~~except~~ except ~~PROVIDED~~, that such revenue, together with revenue made available through taxation and revenue from any grants or loans received as provided in ~~sections 14-1801 to 14-1826~~ the Transit Authority Law, shall be at all times sufficient in the aggregate to provide revenue: (1) For the payment of the interest on and principal of all revenue bonds or certificates and equipment trust notes or certificates and other obligations of the authority, and to meet all other charges upon such revenue as provided by any trust agreement executed by the authority in connection with the issuance of revenue bonds or certificates under ~~sections 14-1801 to 14-1826~~ the Transit Authority Law; (2) for the payment of all operating costs of whatsoever character incidental to the operation of the transportation system; and (3) for the payment of any other costs and charges for the acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through issuance of revenue bonds or certificates.

Sec. 15. Section 14-1826, Reissue Revised Statutes of Nebraska, is amended to read:

14-1826. Sections 14-1801 to 14-1826 and section 8 of this act shall be known and may be cited as the Transit Authority Law.

Sec. 16. Section 14-2111, Reissue Revised Statutes of Nebraska, is amended to read:

14-2111. (1) The board of directors of any metropolitan utilities district may also provide benefits for, insurance of, and annuities for the present and future employees and appointees of the district covering accident, disease, death, total and permanent disability, and retirement, all or any of them, under such terms and conditions as the board may deem proper and expedient from time to time. Any retirement plan adopted by the board of directors shall be upon some contributory basis requiring contributions by both the district and the employee or appointee, except that the district may pay the entire cost of the fund necessary to cover service rendered prior to the adoption of any new retirement plan. Any retirement plan shall take into

consideration the benefits provided for employees and appointees of metropolitan utilities districts under the Social Security Act, and any benefits provided under a contributory retirement plan shall be supplemental to the benefits provided under the Social Security Act as defined in section 68-602 if the employees entitled to vote in a referendum vote in favor of old age and survivors' insurance coverage. To effectuate any plan adopted pursuant to this authority, the board of directors of the district is empowered to establish and maintain reserves and funds, provide for insurance premiums and costs, and make such delegation as may be necessary to carry into execution the general powers granted by this section. Payments made to employees and appointees, under the authority in this section, shall be exempt from attachment or other legal process and shall not be assignable.

(2) Any retirement plan adopted by the board of directors of any metropolitan utilities district may allow the district to pick up the employee contribution 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 Internal Revenue Code, except that the employer shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The employer shall pick up the contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

(3)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board shall file an annual report on each retirement plan established pursuant to this section with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;
(ii) The contribution rates and levels of benefits of participants in the plan;
(iii) Plan assets and liabilities;
(iv) The names and positions of persons administering the plan;
(v) The names and positions of persons investing plan assets;
(vi) The form and nature of investments;
(vii) For each defined contribution plan established pursuant to this section, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the board of directors of any metropolitan utilities district shall cause to be prepared one of the following quadrennial reports for each retirement plan established pursuant to this section, and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each

such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 17. Section 15-1017, Reissue Revised Statutes of Nebraska, is amended to read:

15-1017. (1) A city of the primary class which has a city pension and retirement plan or fund, or a city fire and police pension plan or fund, or both, may provide by ordinance as authorized by its home rule charter, and not prohibited by the Constitution of Nebraska, for the investment of any plan or fund, and it may provide that ~~(1) (a)~~ such a city shall place in trust any part of such plan or fund, ~~(2) (b)~~ it shall place in trust any part of any such plan or fund with a corporate trustee in Nebraska, or ~~(3) (c)~~ it shall purchase any part of any such plan from a life insurance company licensed to do business in the State of Nebraska. The powers conferred by this section shall be independent of and in addition and supplemental to any other provisions of the laws of the State of Nebraska with reference to the matters covered hereby and this section shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the clerk of a city of the primary class shall file an annual report on each retirement plan established pursuant to this section and section 15-1026 with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;
(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan established pursuant to this section and section 15-1026, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section and section 15-1026, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section and section 15-1026 contains no current active participants, the city clerk may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the city council of a city of the primary class shall cause to be prepared one of the following quadrennial reports for each retirement plan established pursuant to this section and section 15-1026, and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section and section 15-1026. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to this section and section 15-1026. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 18. Section 16-1017, Reissue Revised Statutes of Nebraska, is amended to read:

16-1017. (1) It shall be the duty of the retirement committee to:

~~(1)~~ (a) Provide each employee a summary of plan eligibility requirements and benefit provisions;

~~(2)~~ (b) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and

~~(3)~~ (c) Make available for review an annual report of the system's operations describing both ~~(i)~~ the amount of contributions to the system from both employee and employer sources and ~~(ii)~~ an identification of the total assets of the retirement system, and

~~(4)~~ (2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file an annual report on each retirement system established pursuant to sections 16-1001 to 16-1019 with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan administered by a system established pursuant to sections 16-1001 to 16-1019:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan administered by a system established pursuant to sections 16-1001 to 16-1019, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan administered by a system established pursuant to sections 16-1001 to 16-1019, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan administered by a system established pursuant to sections 16-1001 to 16-1019 contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the retirement committee shall cause to be prepared one of the following quadrennial reports for each retirement plan administered by a system established pursuant to sections 16-1001 to 16-1019, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1001 to 16-1019. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan administered by a system established pursuant to sections 16-1001 to 16-1019. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant. Have an analysis made of the investment return that has been achieved on the assets of the retirement system administered by the committee. Such analysis shall be prepared as of January 17, 1988, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Sec. 19. Section 16-1033, Reissue Revised Statutes of Nebraska, is amended to read:

16-1033. In the event a firefighter quits or is discharged before his or her retirement date as defined in subsection (3) of section 16-1028, the firefighter may request and receive, as a lump-sum payment, an amount equal to the value of his or her employee account as determined at the valuation date preceding his or her termination of employment pursuant to subdivision (9) of section 16-1021. Such firefighter, if vested, may, in lieu thereof, receive a deferred pension benefit or lump-sum benefit in an amount purchased or provided by the vested retirement value at the date of retirement. The retirement value at such retirement date shall consist of the then accumulated value of the firefighter's employee account at the date of the retirement as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the firefighter's employer account at the date of retirement. The vesting schedule shall be as follows:

(1) If the terminating firefighter has been a member of the system for less than four years, the vesting percentage shall be zero; and

(2) If the terminating firefighter has been a member of the paid department of the city for at least four years, the vesting percentage shall be forty percent. The vesting percentage shall be sixty percent after five years, eighty percent after six years, and one hundred percent after seven years.

The deferred pension benefit shall be payable on the first of the month immediately following the terminating firefighter's fifty-fifth birthday. At the option of the firefighter, such pension benefit may be paid as of the first of the month after he or she attains the age of fifty. Such election may be made by the firefighter any time prior to the payment of the pension benefits.

The deferred pension benefit shall be paid in the optional benefit forms specified at subsection (1) of section 16-1027 as elected by the firefighter. Notwithstanding anything in sections 16-1020 to 16-1042 to the contrary, if the firefighter's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, such firefighter shall, upon request within one year of such termination, be paid his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a firefighter may elect, upon his or her termination of employment, to receive his or her vested retirement value in the form of a single lump-sum payment. For a firefighter whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating firefighters in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating firefighter's retirement value under this section, such firefighter will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such firefighter or his or her beneficiaries any benefits under sections 16-1020 to 16-1042.

In the event that the terminating firefighter is not credited with one hundred percent of his or her employer account, the remaining nonvested portion of the account shall be forfeited and shall be deposited in the unallocated employer account. If the actuarial evaluation analysis required by section ~~16-1026~~ 16-1037 shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities, such forfeitures shall instead be used to meet the expenses incurred by the city in connection with administering the retirement system, and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Sec. 20. Section 16-1037, Reissue Revised Statutes of Nebraska, is amended to read:

16-1037. (1) It shall be the duty of the retirement committee to:

~~(1)~~ (a) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;

~~(2)~~ (b) Hold regular quarterly meetings and special meetings upon the call of the chairperson;

~~(3)~~ (c) Conduct meetings pursuant to sections 84-1408 to 84-1414;

~~(4)~~ (d) Provide each employee a summary of plan eligibility requirements, benefit provisions, and investment options available to such employee;

~~(5)~~ (e) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and

~~(6)~~ (f) Make available for review an annual report of the system's operations describing both ~~(a)~~ (i) the amount of contributions to the system

from both employee and employer sources and (b) (i) an identification of the total assets of the retirement system, + and

(7) (2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file an annual report on each retirement system established pursuant to sections 16-1020 to 16-1042 with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan administered by a system established pursuant to sections 16-1020 to 16-1042, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan administered by a system established pursuant to sections 16-1020 to 16-1042, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan administered by a system established pursuant to sections 16-1020 to 16-1042 contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the retirement committee shall cause to be prepared one of the following quadrennial reports for each retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant. Have an analysis made of the investment return that has been achieved on the funds of the Firefighters Retirement System Fund invested by the committee. Such analysis shall be prepared as of January 1, 1989, and at least once every five years thereafter. The analysis shall be prepared by an independent private organization or public entity which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Sec. 21. Section 19-3501, Reissue Revised Statutes of Nebraska, is amended to read:

19-3501. (1) The governing body of cities of the first and second class and villages may, by appropriate ordinance or proper resolution, establish a pension plan designed and intended for the benefit of the regularly employed or appointed full-time employees of the city. Any recognized method of funding a pension plan may be employed. The plan shall be established by appropriate ordinance or proper resolution, which may provide for mandatory contribution by the employee. The city may also contribute, in addition to any amounts contributed by the employee, amounts to be used for the purpose of funding employee past service benefits. Any two or

more cities of the first and second ~~class~~ classes and villages may jointly establish such a pension plan by adoption of appropriate ordinances or resolutions. Such a pension plan may be integrated with old age and survivors insurance, otherwise generally known as social security.

(2) (a) Beginning December 31, 1998, and each December 31 thereafter, the clerk of a city or village with a retirement plan established pursuant to this section shall file an annual report on such plan with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan established pursuant to this section, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section contains no current active participants, the city or village clerk may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the city council or village board of a city or village with a retirement plan established pursuant to this section shall cause to be prepared one of the following quadrennial reports for each retirement plan, and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

(3) Subsection (1) of this section shall not apply to firefighters or police officers who are included under an existing pension or retirement system established by the municipality employing such firefighters or police officers or the Legislature. If a city of the first class decreases in population to less than five thousand, as determined by the latest federal census, any police officer or firefighter employed by such city on or prior to the date such city becomes a city of the second class shall retain the level of benefits established by the Legislature for police officers or firefighters employed by a city of the first class on the date such city becomes a city of the second class.

Sec. 22. Section 23-1118, Reissue Revised Statutes of Nebraska, is amended to read:

23-1118. (1)(a) Unless the county has adopted a retirement system pursuant to section 23-2329, the county board of any county having a population of one hundred fifty thousand inhabitants or more may, in its discretion and with the approval of the voters, provide retirement benefits for present and future employees of the county. The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary cost being treated in the county budget in the same way as any

other operating expense.

(b) Except as provided in subdivision (c) of this subsection, each employee shall be required to contribute, or have contributed on his or her behalf, an amount at least equal to the county's contribution to the cost of any such retirement program as to service performed after the adoption of such retirement program, but the cost of any benefits based on prior service shall be borne solely by the county.

(c) In a county having a population of two hundred thousand or more inhabitants but not more than three hundred thousand inhabitants, the county shall establish the employee and employer contribution rates to the retirement program for each year after July 15, 1992. The county shall contribute at least an amount equal to each employee's mandatory contribution, if any, to the cost of any such retirement program and by January 1, 1996, shall be contributing one hundred fifty percent of each employee's mandatory contribution. The combined contributions of the county and its employees to the cost of any such retirement program shall not exceed thirteen percent of the employees' salaries.

(2) Before the county board provides retirement benefits for the employees of the county, such question shall be submitted at a regular general or primary election held within the county, and in which election all persons eligible to vote for the county officials of the county shall be entitled to vote on such question, which shall be submitted in the following language: Shall the county board provide retirement benefits for present and future employees of the county? If a majority of the votes cast upon such question are in favor of such question, then the county board shall be empowered to provide retirement benefits for present and future employees as provided in this section. If such retirement benefits for present and future county employees are approved by the voters and authorized by the county board, then the funds of such retirement system, in excess of the amount required for current operations as determined by the county board, may be invested and reinvested in the class of securities and investments described in section 30-3209.

(3) As used in this section, employees shall mean all persons or officers devoting more than twenty hours per week to employment by the county, all elected officers of the county, and such other persons or officers as are classified from time to time as permanent employees by the county board.

(4) The county may pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the county 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 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 county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The county 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 in the same manner and to the same extent as member contributions made prior to the date picked up.

(5) (a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the county board with a retirement plan established pursuant to this section shall file an annual report on such plan with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

(i) The number of persons participating in the retirement plan;
(ii) The contribution rates and levels of benefits of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan established pursuant to this section, a full description of investment policies and options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section, the number of members who are eligible for a benefit and the total

present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the county board of a county with a retirement plan established pursuant to this section shall cause to be prepared one of the following quadrennial reports for each retirement plan, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 23. Section 23-2301, Reissue Revised Statutes of Nebraska, 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. ~~both of which are guaranteed by an insurance company or bank.~~ 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) ~~Primary carrier~~ means the life insurance company or trust company designated by the retirement board as the administrator of the retirement system;

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

(16) ~~(17)~~ 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) ~~(18)~~ Required contribution means the deduction to be made from the compensation of employees as provided in the act;

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

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

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

(21) ~~(22)~~ 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) ~~(23)~~ 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) ~~(24)~~ 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) ~~(25)~~ 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 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. 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. 24. Section 23-2306, Reissue Revised Statutes of Nebraska, is amended to read:

23-2306. (1) The membership of the retirement system shall be composed of (a) all full-time employees who have been employees for a period of twelve continuous months, except that full-time elected officials shall be members on taking office, (b) all full-time or part-time employees who have attained the age of twenty-five, have been employed for a total of twelve months within a five-year period, and exercise the option to join the retirement system, and (c) all part-time elected officials who exercise the option to join the retirement system. A part-time employee who exercises the option to join the retirement system shall remain in the system until termination or retirement.

(2) 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 a 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.

(3) 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 retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(4) A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive credit for his or her years of employment with the city, village, or township for purposes of the membership provisions of this section and shall receive eligibility and vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

Sec. 25. Section 23-2308, Reissue Revised Statutes of Nebraska, is amended to read:

23-2308. The county clerk shall pay to the primary carrier board or an entity designated by the board an amount equal to two hundred fifty percent of the amounts deducted from the compensation of employees in accordance with the provisions of section 23-2307, which two hundred fifty percent equals the employees' contributions plus the county's contributions of one hundred fifty percent of the employees' contributions.

The board may charge the county a late fee, not to exceed fifty dollars, for any amount required by this section to be paid which is not received and any report which is not properly completed by the tenth day of the month following the end of the month for which the report is submitted.

Sec. 26. Section 23-2312, Reissue Revised Statutes of Nebraska, is amended to read:

23-2312. The primary carrier board or an entity designated by the board shall keep a complete record of all members with respect to names, current addresses, ages, contributions, and any other facts as may be necessary in the administration of the County Employees Retirement Act. For the purpose of obtaining such facts, the board and the primary carrier and its designee shall have access to the records of the various counties and state departments and agencies. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

Sec. 27. Section 23-2317.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-2317.01. There is hereby created the County Equal Retirement Benefit Fund to be administered by the board. Each county participating in

the county employees retirement system on January 1, 1984, pursuant to the County Employees Retirement Act shall make a contribution at least once a year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the ~~primary carrier board~~ to provide all similarly situated male and female members of the county employees retirement system with equal benefits pursuant to subsection (2) of section 23-2317 and to provide for direct expenses incurred in administering the fund. The board shall keep a record of the contributions made by each county.

Sec. 28. Section 23-2319, Reissue Revised Statutes of Nebraska, is amended to read:

23-2319. (1) Except as provided in section 42-1107, upon termination of employment, except for retirement or disability, and after filing an application with the board, a member may receive: ~~from the primary carrier~~

(a) If not vested, a termination benefit not to exceed the amount of his or her employee account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit not to exceed (i) the amount of his or her employee account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years plus (ii) the amount of his or her employer account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years.

Benefits of a terminating member shall be deferred until the application is received.

(2) At the option of the terminating member, any lump sum of the employer account or any annuity payment provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the county and no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of five years of (a) participation in the system plus (b) eligibility and vesting credit. If an employee retires pursuant to section 23-2315, such employee shall be fully vested in the retirement system.

Sec. 29. Section 23-2323.01, Reissue Revised Statutes of Nebraska, 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, 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)~~ (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)~~ (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)~~ (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.

Sec. 30. All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income

attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the County Employees Retirement Act.

Sec. 31. Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to the amounts credited to the members' accounts shall be nonforfeitable.

Sec. 32. Section 23-2325, Reissue Revised Statutes of Nebraska, is amended to read:

23-2325. Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system shall knowingly make any false statement or shall falsify or permit to be falsified any record or records for the purpose of defrauding or attempting to defraud the Retirement System for Nebraska Counties retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Sec. 33. Section 23-2331, Reissue Revised Statutes of Nebraska, is amended to read:

23-2331. Sections 23-2301 to 23-2332 and sections 30 and 31 of this act shall be known and may be cited as the County Employees Retirement Act.

Sec. 34. Section 23-2333, Reissue Revised Statutes of Nebraska, is amended to read:

23-2333. For purposes of sections 23-2333 to 23-2335 and 23-2334, the definitions found in section 23-2301 shall apply.

As of the date of adoption of the retirement system, a prior service annuity shall be computed for all employees who have been employees continuously for one year prior to the date of the adoption of the retirement system and who are at least twenty-five years of age. Such prior service annuity shall be equal to the number of years of creditable prior service multiplied by the prior service annuity factor.

The number of years of creditable prior service shall be the number of completed years of prior service less all years during which the employee was participating in or for which he or she received a benefit from a public retirement plan, but not more than twenty-five.

The prior service annuity factor shall be the smaller of (1) one dollar or (2) the employee's compensation for the last completed twelve months of prior service divided by two thousand four hundred.

Sec. 35. Section 23-3526, Reissue Revised Statutes of Nebraska, is amended to read:

23-3526. (1) The board of trustees of each facility, as provided by section 23-3501, shall, upon approval of the county board, have the power and authority to establish and fund a retirement plan for the benefit of its full-time employees. The plan may be funded by any actuarially recognized method approved by the county board. Employees participating in the plan may be required to contribute toward funding the benefits. The facility shall pay all costs of establishing and maintaining the plan. The plan may be integrated with old age and survivor's insurance.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board of trustees of a facility with a retirement plan established pursuant to this section shall file an annual report on such plan with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates and levels of benefits of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act, a full description of investment policies and

options available to plan participants;

(viii) For each defined benefit plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(ix) If a plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, the board of trustees shall cause to be prepared one of the following quadrennial reports for each retirement plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(i) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(ii) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 36. Section 24-701.01, Revised Statutes Supplement, 1997, is amended to read:

24-701.01. Sections 24-701 to 24-714 and sections 39 and 40 of this act shall be known and may be cited as the Judges Retirement Act.

Sec. 37. Section 24-705, Reissue Revised Statutes of Nebraska, is amended to read:

24-705. The board shall have the power to secure and employ the services of such technical and administrative employees as are necessary to carry out the provisions of sections 24-701 to 24-714 the Judges Retirement Act.

Pursuant to subdivision ~~(2)(g)~~ (2)(e) of section 84-1503, the board shall have an annual report prepared by a member of the American Academy of Actuaries showing a complete valuation of the present and prospective assets and liabilities of the fund created by the provisions of such sections act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. The report shall further include a prospectus of the amount of the appropriation that will be required from the Legislature for the succeeding year. This report shall be furnished to the Clerk of the Legislature at each regular session. Each member of the Legislature shall receive a copy of such report by making a request for it to the director. The employees of the board shall be paid at such rates as the board shall approve. All administrative expenses shall be paid from the retirement fund.

Sec. 38. Section 24-711, Reissue Revised Statutes of Nebraska, is amended to read:

24-711. (1) Any judge, or guardian of a judge, who retires under the provisions of section 24-708 or 24-709, or his or her guardian, shall give to the board a statement of facts which shall include an accurate record of all service claimed by such judge, his or her compensation when he or she last served as a judge, the amount of contributions he or she has made to the fund, the amount of benefits he or she is receiving or shall be entitled to receive under the Nebraska and federal old-age and survivors insurance acts, designation of beneficiary, and any other information the board may request. The board shall determine the accuracy of all pertinent facts claimed and may call a hearing to determine any or all matters necessary in order to determine

the amount of the annuity to which such judge is entitled. After obtaining all facts it deems necessary, the board shall render its decision as to the amount of the annuity, if any, to which such judge shall be entitled.

(2) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Sec. 39. All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the Judges Retirement Act.

Sec. 40. Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Sec. 41. Section 42-1108, Revised Statutes Supplement, 1996, is amended to read:

42-1108. The alternate payee shall file a copy of the domestic relations order involving benefits under a statewide public retirement system with the Public Employees Retirement Board within ninety days after the date that the order was entered. Upon good cause shown, the board may accept an order after ninety days following its entry. Within ten days, the board shall notify in writing the member and alternate payee that the board has received the domestic relations order. Such notice shall include a description of the procedure to determine if the domestic relations order is a qualified domestic relations order under the Spousal Pension Rights Act. The Public Employees Retirement Board shall be held harmless by the alternate payee and the member for any amounts paid in violation of an order prior to the date on which the order is filed with the board.

Sec. 42. Section 50-438, Revised Statutes Supplement, 1996, is amended to read:

50-438. There is hereby created the Legislative Council Retirement Study Fund. The fund shall consist of money appropriated to it by the Legislature and transfers made pursuant to subdivision ~~(2)(f)~~ (2)(f) of section 84-1503. Money in the fund shall only be used for a comprehensive study of the retirement systems listed in subdivision (1)(a) of section 84-1503. Any money remaining in the fund eighteen months after the date of transfer shall be transferred by the State Treasurer back to the retirement systems for credit to the various retirement funds. Any money in the Legislative Council Retirement Study Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 43. (1) Beginning December 31, 1998, and each year thereafter, the health director of a board of health with an independent retirement plan established pursuant to section 71-1631 shall file an annual report on such plan with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates and levels of benefits of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each independent defined contribution plan established pursuant to section 71-1631, a full description of investment policies and options available to plan participants;
- (h) For each independent defined benefit plan established pursuant to section 71-1631, the number of members who are eligible for a benefit and

the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(i) If an independent plan established pursuant to section 71-1631 contains no current active participants, the health director may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, a board of health with an independent retirement plan established pursuant to section 71-1631 shall cause to be prepared one of the following quadrennial reports for each retirement plan, and the health director shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(a) For each defined benefit plan, a full actuarial analysis of each such independent retirement plan established pursuant to section 71-1631. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(b) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such independent retirement plan established pursuant to section 71-1631. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 44. Section 79-901, Revised Statutes Supplement, 1997, is amended to read:

79-901. Sections 79-901 to 79-977.01 and sections 47, 59, and 60 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 45. Section 79-902, Revised Statutes Supplement, 1997, is amended to read:

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

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

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

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

(4) County school official means 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 means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes 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 does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

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

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

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

(9) Regular interest means interest fixed at a rate equal to the

bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills in effect on the last day of the preceding plan year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) Junior school employee means a school employee who has not arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(11) School employee means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees hired upon a full-time basis which contemplates a workweek of not less than thirty hours and (b) part-time employees hired on a workweek of for not less than fifteen sixty hours per month;

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

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

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

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

(16) Retirement system means the School Retirement System of the State of Nebraska;

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

(18) School year means one fiscal year which includes not less than one thousand thirty-two instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(19) Senior school employee means a school employee who has arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(20) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) 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 sections 79-951 to 79-953;

(21) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to ~~79-937~~ 79-935. 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. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

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

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

(24) State school official means 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;

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

(26) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) 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 or agency for such services;

(27) ~~Primary carrier means the life insurance companies and trust companies designated as the underwriter or trustee of the retirement system;~~

(28) ~~Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;~~

(28) ~~(29)~~ Retirement date means the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system if the member has ~~ceased terminated~~ employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member ~~ceases terminates~~ employment in the school system;

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

(30) ~~(31)~~ Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

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

(32) ~~(33)~~ Final average compensation means (a) for full-time employees, the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest divided by thirty-six and (b) for part-time employees, the member's total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest divided 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 the total number of months of his or her creditable 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.

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

(33) ~~(34)~~ Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(34) ~~(35)~~ Current benefit means the initial benefit increased by all adjustments made pursuant to section 79-947.02;

(35) ~~(36)~~ Initial benefit means the retirement benefit calculated at the time of retirement;

(36) ~~(37)~~ 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;

~~(17) (a) (38) (a)~~ Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include amounts which the retirement board determines were fraudulently obtained, compensation for unused sick leave or unused vacation leave converted to cash payments, 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; and

~~(38) (39)~~ Termination of employment occurs on the date on which the members' employer determines that the member's employer-employee relationship with the employer is dissolved. The employer 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 include ceasing active work at the end of the school year if the member will return to active work during the following school year with any school district under the retirement system.

Sec. 46. Section 79-905, Reissue Revised Statutes of Nebraska, is amended to read:

79-905. The retirement board shall:

(1) Determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;

(2) Adopt rules and regulations for the management of the board;

(3) Prescribe forms which shall be used by employers to report contributions, hours worked by school employees, payroll information, and other information necessary to carry out the board's duties;

(4) Keep a complete record of all proceedings taken at any meeting of the board;

(5) Employ a director and other assistance as may be necessary in the performance of its duties; and

(6) Obtain actuarial services pursuant to subdivision ~~(2) (g)~~ (2) (e) of section 84-1503.

Sec. 47. (1) (a) After October 1, 1998, and before October 1, 2000, and on or before October 1 every two years thereafter, the retirement board shall send to each contributing member of the retirement system by certified mail, return receipt requested, a statement of creditable service earned by that member for the two prior fiscal years. The member shall have ninety days after its receipt to dispute such statement and request that the board modify or correct such statement of creditable service earned. If the member does not dispute the statement on or before the ninety days have elapsed, the statement shall be binding upon the member and the member shall be forever barred from challenging such statement thereafter.

(b) If the member requests a modification or correction of his or her statement of creditable service, the member shall provide documentation to the board supporting such modification or correction and provide clear and convincing evidence that the statement is in error. The board shall, within sixty days after receipt of the documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement of creditable service earned shall be modified or corrected. If the board determines that the member has provided clear and convincing evidence, the board shall modify or correct the statement. If the board determines that the member has not provided clear and convincing evidence, the board shall deny the modification or correction. In either case, the board shall notify the member in writing. The member may appeal the

decision of the board pursuant to section 79-950.

(2) After July 1, 1998, and before July 1, 2000, the board shall send to each member of the retirement system by certified mail, return receipt requested, a statement of creditable service earned by that member for all fiscal years prior to the statement required by subsection (1) of this section, with priority of receipt given to members with the most creditable service and years of participation in the system. The member shall have ninety days after its receipt to dispute such statement and request that the board modify or correct it. Disputes and appeals arising from such statements shall be taken in the same manner and shall require the same standard of proof as provided in subsection (1) of this section.

(3) The board shall adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

Sec. 48. Section 79-916, Revised Statutes Supplement, 1997, is amended to read:

79-916. (1) At the time of retirement of any employee who serves a Class V school district operating under a retirement system established pursuant to section 79-979, the retirement board shall, upon receipt of a certification from the school district as to the number of years of service upon which the retirement is based, order the primary carrier to transfer cause to be transferred to the funds of the retirement system of which such employee is a member the actuarial value of the service annuity to be paid by the state for the years of service thus certified in the same amount and basis as provided for members of the School Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such employee, in order to qualify for prior service credit toward a service annuity, shall have the same qualifications as members of the School Retirement System of the State of Nebraska who became members on or before July 1, 1950, as provided by section 79-926 but shall not come under the provisions of the School Employees Retirement Act while so employed. Such transfer of actuarial value to the retirement system of which such employee is a member shall be in lieu of the payment of the service annuity to which he or she would be entitled on the condition that the monthly payment received by him or her from such system shall be in the amount not less than the sum of his or her service annuity and the member's annuity which is the actuarial equivalent of his or her own contributions accumulated at interest to retirement. The school district which such employee serves shall furnish to the retirement board all information required by the retirement board regarding service records of its employees.

(2) In addition to the transfer of the actuarial value of the service annuity to be paid by the state, the state shall also transfer to the funds of the Class V school district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in section 79-966 for determining the amount of the state's payment to the School Employers Deposit Account. The transfer shall be made annually on or before July 1 of each fiscal year.

Sec. 49. Section 79-922, Revised Statutes Supplement, 1997, is amended to read:

79-922. (1) Commencing on September 13, 1997, a beneficiary retired under the School Employees Retirement Act who returns to employment as a school employee, except for members retired under sections 79-951 to 79-954, shall continue receiving retirement benefits and shall be treated for all purposes of the act as a new school employee. A new member account shall be created for such school employee, and the member shall make contributions to such new account and shall receive service credit only for future service commencing from the date of reemployment.

(2) A person receiving a retirement benefit may accept employment in a postsecondary school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, a community college board of governors for any community college area established by section 85-1504, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

~~(3) For a beneficiary who is employed as a public school substitute employee for more than seventy-five percent of the instructional hours in any school year, the state service annuity shall be reduced by fifty percent. 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 notifies 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 the individual service annuity for a part-time employee shall be determined on a proportional basis.

Sec. 50. Section 79-926, Reissue Revised Statutes of Nebraska, is amended to read:

79-926. (1) Under such rules and regulations as the retirement board adopts and promulgates, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the School Retirement System of the State of Nebraska on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

(2) Any person who, after having served or signing a contract to serve as a school employee, entered into and served or enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, as described and prescribed under such rules and regulations as the retirement board adopts and promulgates, and who, within three calendar years after honorable discharge or honorable separation from active duty or within one year from the date of completion of training provided in the federal Servicemen's Readjustment Act of 1944 or the federal Veterans Readjustment Assistance Act of 1952, became or becomes a school employee shall be credited, in determining benefits due such member from the retirement system, for a maximum of five years of the time actually served in the armed forces as if such person had been a school employee throughout such time.

(3) Under such rules and regulations as the retirement board adopts and promulgates, any school employee who is reemployed on or after December 12, 1994, pursuant to ~~28 U.S.C. chapter 43~~ 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan. The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

(4) Retirement benefits for persons who have retired prior to April 18, 1992, shall not be affected by changes made to this section which become effective on such date.

Sec. 51. Section 79-933.03, Revised Statutes Supplement, 1997, 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, 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. 52. Section 79-933.05, Revised Statutes Supplement, 1997, 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, 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. 53. Section 79-947.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-947.02. Commencing with the first payment in the sixth year after distribution of the initial benefit, the current benefit of a member who ceased terminated employment on or after April 10, 1996, or the surviving beneficiary of such a member, shall be increased annually by thirty-hundredths of one percent. All payments to increase current benefits shall be paid from the School Employees Purchasing Power Stabilization Fund.

Sec. 54. Section 79-949, Reissue Revised Statutes of Nebraska, is amended to read:

79-949. (1) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system knowingly makes any false statement or falsifies or permits to be falsified any record or records for the purpose of defrauding or attempting to defraud the School Retirement System of the State of Nebraska retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

(2) Any school employee, member of a school board or board of education, or agent of any employer, who willfully fails or refuses to furnish to the retirement board upon its request and in the manner prescribed by it such information, data, or records, as may be necessary for carrying into effect the School Employees Retirement Act, shall be guilty of a Class V

misdeemeanor.

Sec. 55. Section 79-951, Revised Statutes Supplement, 1997, is amended to read:

79-951. A member shall be retired on account of disability, either upon his or her own application or the application of his or her employer or a person acting in his or her behalf, if a medical examination, made at the expense of the retirement system and conducted by a competent disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, selected by the retirement board, shows and the physician certifies to the retirement board that the member is physically or mentally incapacitated for the further performance of duty as a school employee and ought to be retired. The member shall have one year from the date he or she ceases ~~employment~~ terminates employment in a public school located in Nebraska in which to make application for disability retirement benefits. Any application for retirement on account of disability shall be made on a retirement application provided by the retirement system. Upon approval by the board, benefits shall begin on the disability retirement date.

Sec. 56. Section 79-955, Revised Statutes Supplement, 1997, is amended to read:

79-955. Upon termination of employment for any cause other than death or retirement, the retirement board shall, upon the member's demand, terminate his or her membership in the retirement system and ~~order the primary~~ ~~earlier to pay cause to be paid to~~ such member the accumulated contributions standing to the credit of his or her individual account in the School Retirement Fund. Any member who attains or has attained membership in another Nebraska state or school retirement system authorized by the Legislature and who elects not to be or remain a member of the School Retirement System of the State of Nebraska shall have his or her accumulated contributions returned to him or her forthwith.

Sec. 57. Section 79-958, Revised Statutes Supplement, 1997, is amended to read:

79-958. (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account for formula annuities, every employee shall be required to make deposits in the School Retirement Fund. Such deposits shall be a percentage of total compensation and shall be transmitted at the same time and in the same manner as required employer contributions. For the fiscal year beginning on July 1, 1996, the employee percentage shall be seven and twenty-five hundredths percent of compensation, of which three-tenths of one percent of compensation shall be transferred from the School Employees Savings Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-975. For the fiscal year beginning on July 1, 1997, and each fiscal year thereafter, the retirement board shall set the employee percentage at forty-nine and seventy-five hundredths percent of the funding rate determined by the actuary or at seven and twenty-five hundredths percent of compensation, whichever is greater. The actuary for the retirement board shall determine the funding rate by taking the excess formula annuity liabilities less the actuarial value of both the School Employees Savings Account and the School Employers Deposit Account less the actuarial present value of the state deposit of seven-tenths of one percent of compensation of all members of the retirement system and dividing such result by the actuarial present value of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account for formula annuities, every employer shall be required to make deposits in the School Retirement Fund. Such deposits shall be one hundred one percent 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. For the fiscal year beginning on July 1, 1996, three-tenths of one percent of compensation shall be transferred from the School Employers Deposit Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-975.

(3) 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 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 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 compensation deduction either through a reduction in the cash compensation of the member or a combination of a reduction in compensation and offset against a future compensation increase. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, and 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

Sec. 58. Section 79-967, Reissue Revised Statutes of Nebraska, is amended to read:

79-967. As often as may be necessary, the retirement board shall cause to be made a thorough investigation of the several funds or accounts of the retirement system for the purpose of determining the rates at which the benefits will be granted. It shall make adjustments in such rates as, upon recommendation of the actuary, may appear to be proper for maintaining solvency of the several funds or accounts. No revision of rates shall affect adversely the rights of any beneficiary under an application made prior to such revision. The retirement board shall, from time to time, order and make such distribution of gains and savings to the several funds or accounts as it may deem equitable. ~~The rate per one thousand dollars of savings applied at which savings annuities are granted, on or after July 1, 1968, shall at no time be less than the corresponding rate in use at that time by the primary carrier.~~

Sec. 59. All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the School Employees Retirement Act.

Sec. 60. Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Sec. 61. Section 79-987, Reissue Revised Statutes of Nebraska, is amended to read:

79-987. (1) An annual audit of the affairs of the retirement system shall be conducted. At the option of the governing board of the retirement system, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts. The costs of such audit shall be paid from funds of the retirement system. A copy of such audit shall be filed with the Auditor of Public Accounts.

(2) Beginning December 31, 1998, and each December 31 thereafter, the administrator of the retirement system established pursuant to section 79-979 shall file an annual report on such system with the Public Employees Retirement Board and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each retirement plan administered under the system:

(a) The number of persons participating in the retirement plan;
 (b) The contribution rates and levels of benefits of participants in the plan;

(c) Plan assets and liabilities;
 (d) The names and positions of persons administering the plan;
 (e) The names and positions of persons investing plan assets;
 (f) The form and nature of investments;
 (g) For each defined contribution plan established pursuant to section 79-979, a full description of investment policies and options available to plan participants;

(h) For each defined benefit plan established pursuant to section 79-979, the number of members who are eligible for a benefit and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits; and

(i) If a plan established pursuant to section 79-979 contains no current active participants, the administrator may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of

funding for such benefits.

(3) Beginning December 31, 1998, and every four years thereafter, the trustees of a retirement system established pursuant to section 79-979 shall cause to be prepared one of the following quadrennial reports for each retirement plan administered under the system, and the administrator shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report as follows:

(a) For each defined benefit plan, a full actuarial analysis of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan; or

(b) For each defined contribution plan, a financial audit and analysis of the investment return that has been achieved on the assets of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement plan, and the audit portion of the report shall be prepared by a certified public accountant.

Sec. 62. Section 79-9,100, Reissue Revised Statutes of Nebraska, is amended to read:

79-9,100. In lieu of the retirement annuity provided by section 79-999 or 79-9,113, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under sections 79-978 to 79-9,116 shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation.

Final average compensation shall be determined by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six.

For retirements before June 7, 1995, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(1) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(2) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(3) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(4) The sum of the member's attained age and creditable service

totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

The normal form of the formula retirement annuity based on final average compensation 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 will be continued to his or her estate or to the beneficiary he or she has designated until a total of 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 79-9,101.

Any member receiving a formula retirement annuity based on final average compensation shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-933 to ~~79-937~~ 79-935 and 79-951.

Sec. 63. Section 79-9,113, Revised Statutes Supplement, 1997, is amended to read:

79-9,113. (1) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. The contributions by the school district shall be such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under sections 79-978 to 79-9,116. After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with

a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement. Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-937 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district 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 Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of sections 79-978 to 79-9,116 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 64. Section 81-2014.01, Revised Statutes Supplement, 1997, is amended to read:

81-2014.01. Sections 81-2014 to 81-2036 and sections 66 to 68 of this act shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Sec. 65. Section 81-2016, Revised Statutes Supplement, 1997, is amended to read:

81-2016. (1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of this system.

(2) Within the first thirty days of employment, a member may apply to the board for eligibility and vesting credit for years of participation in a another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code.

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

Sec. 66. Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the officer to recover any benefits already paid on the basis of such information.

Sec. 67. All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the Nebraska State Patrol Retirement Act.

Sec. 68. Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Sec. 69. Section 84-1301, Revised Statutes Supplement, 1997, 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, ~~7 both of which are guaranteed by an insurance company or bank.~~ 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) ~~Primary carrier means the life insurance company or trust company designated as the administrator of the group annuity contract;~~

~~(15) Prior service means service before January 1, 1964;~~

(15) ~~(16)~~ 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) ~~(17)~~ Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

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

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

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

(20) ~~(21)~~ 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) ~~(22)~~ 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) ~~(23)~~ 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) ~~(24)~~ 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) (25) 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 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. 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. 70. Section 84-1305.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1305.01. The primary carrier board or an entity designated by the board shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the State Employees Retirement Act. For the purpose of obtaining such facts, the board and the carrier its designee shall have access to the records of the various state departments and agencies. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

Sec. 71. Section 84-1307, Revised Statutes Supplement, 1997, 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 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 a 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. 72. Section 84-1308, Revised Statutes Supplement, 1996, is amended to read:

84-1308. (1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to three and

~~six-tenths four and thirty-three hundredths~~ percent of his or her monthly compensation until such time as he or she has paid during any calendar year a total of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths percent of his or her monthly compensation for the remainder of such calendar year. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

(2) The employer shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the 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 Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction either through a reduction in the cash compensation of the employee or a combination of a reduction in compensation and offset against a future compensation increase. Employee contributions picked up shall be treated for all purposes of the State Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 73. Section 84-1319.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1319.01. There is hereby created the State Equal Retirement Benefit Fund, to be administered by the ~~Public Employees Retirement Board~~ board. Each state agency participating in the ~~state employees retirement system pursuant to Chapter 84, article 13,~~ shall make a contribution at least once a year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the ~~board primary earner administering the group annuity contract~~ to provide all similarly situated male and female members of the ~~state employees retirement system with equal benefits pursuant to subsection (2) of section 84-1319 and to provide for direct expenses incurred in administering the fund.~~ The amount contributed to the fund by each state agency participating in the ~~state employees retirement system shall be proportionate to the total amount such agency contributes to the system for retirement benefits.~~

Sec. 74. All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the State Employees Retirement Act.

Sec. 75. Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to the amounts credited to the members' accounts shall be nonforfeitable.

Sec. 76. Section 84-1327, Reissue Revised Statutes of Nebraska, is amended to read:

84-1327. Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system shall knowingly make any false statement or shall falsify or permit to be falsified any record or records for the purpose of defrauding or attempting to defraud the State Employees Retirement System of the State of Nebraska retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Sec. 77. Section 84-1331, Revised Statutes Supplement, 1997, is amended to read:

84-1331. Sections 84-1301 to 84-1331 and sections 74 and 75 of this act shall be known and may be cited as the State Employees Retirement Act.

Sec. 78. Section 84-1503, Revised Statutes Supplement, 1996, is amended to read:

84-1503. (1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504; and

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To adopt and implement reporting standards which shall ensure the accuracy, timeliness, and verifiability of information which is received from agencies, counties, school districts, and other public entities whose employees participate in retirement systems administered by the board. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision; and

(g) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, and 79-987 and sections 5, 8, and 43 of this act and to notify the Nebraska Retirement Systems Committee of the Legislature of the failure of any governmental entity to file such reports.

(2) In administering the retirement systems listed in subdivision (1) (a) of this section, it shall be the duty of the board:

(a) ~~Until January 1, 1997, and with respect to the retirement systems for which the board invests funds, to use the services of the state investment officer or to select, on the basis of the most sound proposal or proposals received, after written notice of such proposition to all domestic companies, one or more life insurance companies, banks, trust companies, or investment managers authorized to do business in Nebraska to underwrite, serve as trustee, or manage investments for the retirement system and to enter into a contract or contracts with such company or companies in the name of the retirement system; except that if a bank, trust company, or investment manager is chosen as the primary carrier or investment manager, the funds shall be invested or reinvested in such securities and investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the life insurance company, bank, trust company, or investment manager has special skills or is named on the basis of representations of special skills or expertise, such person is under a duty to use such skills;~~

~~(b) Until January 1, 1997, and with respect to the retirement systems for which the board invests funds, to change underwriters, trustees, or investment managers if, in the judgment of the board, such action would be desirable. The cancellation notice may be given by telephone and shall be confirmed in writing within five days by the board or a designated person appointed by the board;~~

~~(c) To determine the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;~~

~~(b) (d) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;~~

~~(c) (e) To adopt and promulgate rules and regulations for the management of the board;~~

~~(d) (f) To keep a complete record of all proceedings taken at any meeting of the board;~~

~~(e) (g) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be~~

necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once in every three years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(f) ~~(+)~~ To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 31, 1992, and at intervals of not less than ten years and not more than fifteen years and shall be in such amounts as the Legislature shall direct, except that up to seventy-five thousand dollars may be transferred in FY1993-94 to assist in completing the study authorized in Legislative Resolution 328, Ninety-second Legislature, Second Session, 1992;

(g) ~~(+)~~ To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1) (a) of this section, which shall include, but not be limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) ~~(+)~~ To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 1997, and every four years thereafter. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. The written audit report shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee and shall be presented to the committee at a public hearing; ~~and~~

(i) ~~(+)~~ To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; and (iii) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) The board and the Nebraska Investment Council shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. The analysis shall be prepared annually as of January 1. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement system. The analysis may be waived jointly by the board and the council for any retirement system with assets of less than ten million dollars. A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee. By March 1 of each year, the analysis shall be presented to the Nebraska Retirement Systems Committee.

(4) By March 1 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to, the board's funding policy, member education and informational programs, the director's duties and the limits on his or her authority, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

Sec. 79. Section 84-1504, Revised Statutes Supplement, 1997, 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, to defer a portion of such employee'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 from the employer or exceed the limits established by the Internal Revenue Service for such a plan.

(3) ~~The state investment officer may invest the compensation to be deferred under an agreement in the following categories of investment or insurance:~~

- ~~(a) Annuities;~~
- ~~(b) Mutual funds;~~
- ~~(c) Bank savings accounts or savings and loan associations;~~
- ~~(d) Trust companies qualified to act as fiduciaries in this state;~~

or

~~(e) An organization established for the purpose of administering public employee deferred compensation retirement plans and authorized to do business in the State of Nebraska.~~

~~(4) The deferred compensation program shall serve in addition to but not be a part of any existing retirement or pension system provided for state employees or any other benefit program.~~

~~(5) (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.~~

~~(6) (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.~~

~~(7) (6) The state, the board, the state investment officer, or the agency shall not be responsible for any investment results entered into by the employee or independent contractor in the deferred compensation agreement.~~

~~(8) (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.~~

Sec. 80. Section 84-1505, Revised Statutes Supplement, 1997, is amended to read:

84-1505. (1) 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 State of Nebraska until such time as payments shall be paid under the terms of the deferred compensation plan. All such assets held in trust shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall be the custodian of the funds and securities of the deferred compensation plan and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers duly authorized by the retirement board. The State Treasurer shall furnish annually to the retirement board a sworn statement of the amount of the funds in his or her custody belonging to the deferred compensation plan, which statement shall be as of the calendar year ending December 31 of each year.

(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 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.

Sec. 81. Section 84-1513, Reissue Revised Statutes of Nebraska, is amended to read:

84-1513. No member of the Public Employees Retirement Board shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to investment administrative decisions pertaining to the retirement funds of retirement plans administered by the board.

Sec. 82. Sections 72 and 84 of this act become operative on August 1, 1998. The other sections of this act become operative on their effective date.

Sec. 83. Original sections 2-1608, 2-3228, 12-101, 13-2401, 14-1802, 14-1804, 14-1806, 14-1809 to 14-1811, 14-1814, 14-1822, 14-1826, 14-2111, 15-1017, 16-1017, 16-1033, 16-1037, 19-3501, 23-1118, 23-2301, 23-2306, 23-2308, 23-2312, 23-2317.01, 23-2319, 23-2323.01, 23-2325, 23-2331, 23-2333, 23-3526, 24-705, 24-711, 79-905, 79-926, 79-947.02, 79-949, 79-967, 79-987, 79-9100, 84-1305.01, 84-1319.01, 84-1327, and 84-1513, Reissue Revised Statutes of Nebraska, sections 42-1108, 50-438, and 84-1503, Revised Statutes Supplement, 1996, and sections 24-701.01, 79-901, 79-902, 79-916, 79-922, 79-933.03, 79-933.05, 79-951, 79-955, 79-958, 79-9113, 81-2014.01, 81-2016, 84-1301, 84-1307, 84-1331, 84-1504, and 84-1505, Revised Statutes Supplement, 1997, are repealed.

Sec. 84. Original section 84-1308, Revised Statutes Supplement, 1996, is repealed.

Sec. 85. The following sections are outright repealed: Sections 16-1026, 23-2310.01, 23-2310.02, and 23-2335, Reissue Revised Statutes of Nebraska, and sections 24-703.01, 24-703.02, 79-936, 79-937, 81-2027.01, 81-2027.02, 84-1311.01, 84-1311.02, and 84-1503.01, Revised Statutes Supplement, 1997.