

LEGISLATIVE BILL 624

Approved by the Governor June 4, 1997

Introduced by Nebraska Retirement Systems Committee:
 Wickersham, 49, Chairperson; Crosby, 29; Lynch, 13;
 C. Peterson, 35; Stuhr, 24; Wehrbein, 2

AN ACT relating to retirement; to amend sections 24-708, 79-910, 79-922, 79-955, 79-957, 79-988, 79-991, 79-992, 79-9,111, and 84-1322, Reissue Revised Statutes of Nebraska; sections 23-2301, 23-2306, 23-2310, 23-2319, 23-2320, 24-701, 24-701.01, 24-706, 24-707, 24-710, 81-2014, 81-2014.01, 81-2016, 81-2031, 81-2033, 84-1301, 84-1307, 84-1313, 84-1317, 84-1321, and 84-1511, Revised Statutes Supplement, 1996; sections 79-902, 79-921, 79-979, and 81-2025, Reissue Revised Statutes of Nebraska, as amended by sections 12, 16, 29, and 35, respectively, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997; section 23-2323.03, Revised Statutes Supplement, 1996, as amended by section 7, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997; sections 81-2026, 84-1331, and 84-1504, Revised Statutes Supplement, 1996, as amended by sections 36, 45, and 49, respectively, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997; section 23-2331, Revised Statutes Supplement, 1996, as amended by section 6, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, and section 8, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997; and section 4, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997; to change provisions relating to membership, service, termination of employment, reemployment, repayment of benefits, death benefits, cash rollover contributions, interest, prior service credit, investments, deferred annuities, breaks in service, deferred compensation, political subdivision mergers, and retirement age; to define and redefine terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 23-2301, Revised Statutes Supplement, 1996, 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; ~~or employees and officers of any county having a population in excess of one hundred fifty thousand inhabitants;~~

(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;

~~(8)~~ (9) Future service means service following the date of adoption of the retirement system;

(9) (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;

(10) (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;

(11) ~~Until January 1, 1997, investment manager means the state investment officer or one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the funds of the act;~~

(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;

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

(14) (15) Primary carrier means the life insurance company or trust company designated by the retirement board as the administrator of the retirement system;

~~(15)~~ (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 its 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 includes 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 ~~except that 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; ~~and~~

~~(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

(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.

Sec. 2. Section 23-2306, Revised Statutes Supplement, 1996, 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, ~~and~~ (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 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.

Sec. 3. Section 23-2310, Revised Statutes Supplement, 1996, is amended to read:

23-2310. (1) A member's share of the fund arising from the county contributions shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty percent for the final three months of the year in accordance with section 23-2307. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty percent of the amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section 5 of this act, 23-2319, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with such section, 23-2319.

(2) On and after January 1, 1997, the state investment officer shall invest the employer account, and upon maturity, the employer account funds which have been invested in guaranteed investment contracts prior to January 1, 1997. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he

or she is under a duty to use such skills.

Sec. 4. Section 23-2319, Revised Statutes Supplement, 1996, is amended to read:

23-2319. (1) Except as provided in section 42-1107, any member of the retirement system who ceases to be an employee before his or her fifty-fifth birthday may, upon application, 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 the member's fifty-fifth birthday 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 attains the age of fifty-five years 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) The vesting percentage shall be one hundred 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. The vesting percentage shall equal one hundred for any disability retirement under section 23-2315-

(4) If the terminating member is not credited with one hundred percent of his or her employer account, the remainder shall first be used to meet the expense charges incurred by the board in connection with administering the system, and the remainder shall then be used to reduce the county contributions which would be otherwise required to fund future service retirement benefits-

Sec. 5. (1) For a member who has terminated employment and is not vested, the balance of the member's employer account shall be forfeited. The forfeited employer account shall be credited to the County Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, and the remainder shall then be used to reduce the county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts.

(2) If a member ceases to be an employee due to the termination of his or her employment by the county and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account shall be suspended pending the final outcome of the grievance or other appeal.

Sec. 6. Section 23-2320, Revised Statutes Supplement, 1996, is amended to read:

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

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 23-2315 and again becomes a permanent full-time or permanent part-time county employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions under rules and regulations adopted by the board. For purposes of vesting employer contributions made prior to and after the reentry into the retirement system under subsection (3) of section 23-2319, years of participation include years of participation prior to such employee's original

termination. For a member who is not vested and has received a termination benefit pursuant to section 23-2319, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 23-2319.

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

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

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

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the county shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending. A member of the system who ceases to be an employee shall, upon again becoming an employee of a county which is a part of the retirement system, contribute to the system as if he or she had maintained continuous employment with one county. For purposes of computing prior service benefits, an employee shall be treated the same as if the employee had maintained continuous service with the county employing such employee on his or her sixty-fifth birthday and any refund due from the primary carrier, as provided in section 23-2319, shall be paid to the last county of employment.

Sec. 7. Section 23-2323.03, Revised Statutes Supplement, 1996, as amended by section 7, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997, is amended to read:

23-2323.03. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 23-2320 or 23-2323.01 or section 6 of this act if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section authorized to be paid by the member pursuant to section 23-2320 or 23-2323.01 or section 6 of Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997, 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 amount 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 from the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other contributions payments made under section 23-2320 or 23-2323.01 or section 6 of Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997.

(3) The retirement system 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.

(4) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 8. Section 23-2331, Revised Statutes Supplement, 1996, as amended by section 6, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, and section 8, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997, is amended to read:

23-2331. Sections 23-2301 to 23-2332 and sections 1 and 2 of this act and section 6 of this act and section 5 of this act shall be known and may be cited as the County Employees Retirement Act.

Sec. 9. Section 24-701, Revised Statutes Supplement, 1996, is amended to read:

24-701. For purposes of the Judges Retirement Act, unless the context otherwise requires:

(1) Fund means the Nebraska Retirement Fund for Judges;

(2) Judge means and includes (a) all duly elected or appointed Chief Justices or judges of the Supreme Court and judges of the district courts of Nebraska who serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who served in such capacity on and after September 20, 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska Workers' Compensation Court who serve in such capacity on and after July 17, 1986, (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties who serve in such capacity on and after January 5, 1961, except acting judges of the county court appointed pursuant to section 24-507, (e) judges of the county court and clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates, (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985, and (g) judges of the Court of Appeals;

(3) Prior service means all the periods of time any person has served as a (a) judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(4)(a) Current service means the period of service ~~(a)~~ (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, ~~(b)(i)~~ (ii)(A) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and ~~(ii)~~ (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, ~~(c)~~ (iii) any county judge serves in such capacity from and after January 5, 1961, ~~(d)~~ (iv) any judge of a separate juvenile court serves in such capacity, ~~(e)~~ (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, ~~(f)~~ (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, ~~(g)~~ (vii) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, serves in such capacity from and after July 1, 1986, and ~~(h)~~ (viii) any judge of the Court of Appeals serves in such capacity on or after September 6, 1991.

(b) Current service shall not be deemed to be interrupted by (i) temporary or seasonal suspension of service that does not terminate the employee's employment, (ii) leave of absence authorized by the employer for a period not exceeding twelve months, (iii) leave of absence because of disability, or (iv) military service, when properly authorized by the board. Current service does not include any period of disability for which disability retirement benefits are received under section 24-709;

(5) Military service means active service of (a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge was holding the office of judge, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, (d) any judge of the county court or associate county judge in any of the armed forces of the

United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge, (e) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate, and (f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Total years of Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

(7)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include 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 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;

(8) Beneficiary means a person so designated by a judge in the last written designation of beneficiary on file with the board or, if no designated person survives or if no designation is on file, the estate of such judge;

(9) Normal form annuity means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710, except as provided in section 42-1107. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(10) Board means the Public Employees Retirement Board;

(11) Member means a judge eligible to participate in the retirement system established under the Judges Retirement Act;

(12) Original member means a judge who first served as a judge prior to December 25, 1969, who does not elect to become a future member pursuant to subsection (8) of section 24-703 or section 24-710.01, and who was retired on or before December 31, 1992;

(13) Future member means a judge who first served as a judge on or after December 25, 1969, or means a judge who first served as a judge prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) of section 24-703 or section 24-710.01;

(14) Final average compensation means the average monthly compensation for the three twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than three twelve-month periods, the average monthly compensation for such judge's period of service;

(15) Regular interest means the rate of interest earned each fiscal year commencing July 1, 1974, as determined by the board in conformity with actual and expected earnings on its investments 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;

(16) Normal retirement date means the first day of the month following attainment of age sixty-five;

(17) Actuarial equivalence means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations are to be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations;

(18) Current benefit means the initial benefit increased by all adjustments made pursuant to section 24-710.08;

(19) Initial benefit means the retirement benefit calculated at the time of retirement;

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

(21) Retirement system or system means the Nebraska Judges Retirement System as provided in sections 24-701 to 24-714 the Judges Retirement Act; and

(22) 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 the 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

(23) Termination of employment occurs on the date on which the State Court Administrator's office determines that the judge's employer-employee relationship with the State of Nebraska is dissolved. The State Court Administrator's office shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred.

Sec. 10. Section 24-701.01, Revised Statutes Supplement, 1996, is amended to read:

24-701.01. Sections 24-701 to 24-714 and section 14 of this act shall be known and may be cited as the Judges Retirement Act.

Sec. 11. Section 24-706, Revised Statutes Supplement, 1996, is amended to read:

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

(a) Have returned to him or her the total amount of contributions which he or she has made to the fund, plus regular interest, and the return of such contributions to such judge shall preclude such judge from any benefits under sections 24-701 to 24-714 the Judges Retirement Act unless and until such judge again serves in such capacity and repays, commencing within three years after rejoining the retirement system and prior to five years after rejoining the retirement system or prior to retirement, whichever is first, part or all of the amount withdrawn plus interest which would have accrued on such amount under the retirement system. If the member chooses not to repay such withdrawals with interest, the member shall enter the retirement system as a new member with no prior rights; or

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

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

Sec. 12. Section 24-707, Revised Statutes Supplement, 1996, is amended to read:

24-707. In the event of the death of a judge prior to retirement, if such judge shall have had five or more years of creditable service, the surviving spouse of such judge shall at his or her option be immediately entitled to receive those benefits which the surviving spouse would have been entitled to under subsection (3) of section 24-710 had the judge elected to have the retirement annuity paid as a joint and survivor annuity payable as long as either the judge or the judge's surviving spouse should survive and had the judge retired (1) on the date of death if his or her age at death is sixty-five or more or (2) at age sixty-five if his or her age at death is less than sixty-five. If such option is not exercised by such surviving spouse within ninety days of the judge's death, if there is no surviving spouse, or

if the judge has not served for five years, then the beneficiary, or the estate if the judge has not filed a written statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such judge plus regular interest. In the event of the death of a judge subsequent to retirement, if such judge has not filed a written statement of intent with the board to elect to receive any other form of annuity which may be provided for by section 24-710, the amount of annuities such judge has received under the provisions of ~~sections 24-701 to 24-714~~ the Judges Retirement Act shall be computed and, if such amount shall be less than the contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate. Benefits to which the surviving spouse, beneficiary, or estate of a judge shall be entitled shall commence immediately upon the death of such judge.

Sec. 13. Section 24-708, Reissue Revised Statutes of Nebraska, is amended to read:

24-708. (1) Any judge may retire upon reaching the age of sixty-five and upon making application to the board. Upon retiring each such judge shall receive retirement annuities as provided in section 24-710.

(2) A judge may retire upon the attainment of age fifty-five and elect to receive a reduced monthly retirement income in lieu of a deferred vested annuity. The judge may request that the reduced monthly retirement income commence at any date, beginning on the first day of the month following the actual retirement date and ending on the normal retirement date. The amount of the monthly retirement income shall be calculated based on the length of creditable service and average compensation at the actual retirement date and shall be reduced when the payments commence prior to the normal retirement date to an amount that is actuarially equivalent to the deferred vested annuity payable at the normal retirement date.

(3) Payment of any benefit provided under ~~sections 24-701 to 24-714~~ the Judges Retirement Act may not be deferred later than the sixtieth day after the end of the year in which the judge has both attained at least age seventy and one-half years and terminated his or her employment as a judge.

(4) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the retirement system, whichever is later. An application may be filed no more than ninety days in advance of qualifying for retirement.

Sec. 14. For a member who retired under section 24-708 and becomes employed full-time or part-time as a judge in the state after his or her retirement date, the retired member shall continue receiving retirement benefits, shall be treated as a new judge for all purposes of the Judges Retirement Act, and shall receive service credit only for service commencing from the date of reemployment. Retired judges who are assigned to temporary duty as provided in sections 24-729 to 24-733 shall not become contributing active members in the retirement system and shall not receive any service credits.

Sec. 15. Section 24-710, Revised Statutes Supplement, 1996, is amended to read:

24-710. (1) The retirement annuity of a judge who is an original member, who has not made the election provided for in subsection (8) of section 24-703 or section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her ~~total~~ years of creditable service. The amount stated in this section shall be supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by ~~sections 24-701 to 24-714~~ the Judges Retirement Act shall not exceed sixty-five percent of the final average compensation such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-half percent of his or her final average compensation as such judge, multiplied by the number of his or her ~~total~~ years of creditable service, except that the monthly benefits received under this subsection shall not exceed seventy

percent of the final average compensation such judge was receiving when he or she last served as such judge.

(3) Except as provided in section 42-1107, any member may, when filing an application as provided by the retirement system, elect to receive, in lieu of the normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under sections 24-701 to 24-714 the Judges Retirement Act, any form of annuity which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board shall (a) adopt and promulgate appropriate rules and regulations establishing joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) A one-time cost-of-living adjustment shall be made for each retired judge and each surviving beneficiary who is receiving a retirement annuity as provided for in this section. The annuity shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increases shall not exceed three percent per year of retirement and the total increase shall not exceed two hundred fifty dollars per month.

Sec. 16. Section 79-902, Reissue Revised Statutes of Nebraska, as amended by section 12, Legislative Bill 623, Ninety-fifth Legislature, First Session, 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 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;

(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 at such a rate as determined by the retirement board in conformity with actual and expected earnings on its investments 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) Present senior school employee means a senior school employee who was employed within the State of Nebraska on September 1, 1945;

(12) 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 teachers and administrators employed on a written contract basis; (b) regular employees, not certified, hired upon a full-time basis which contemplates a workweek of not less than thirty hours; and (c) (b) part-time employees hired on a workweek of not less than fifteen hours;

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

(14) Public school means any and all schools supported by public funds and wholly under the control and management of the State of Nebraska or any subdivision thereof, including (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;

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

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

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

(18) 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;

(19) 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;

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

(21) Service means service as a school employee 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;

(22) 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. 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;

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

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

(25) 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;

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

(27) 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;

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

(29) 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;

(30) 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 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 employment in the school system;

(31) 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 employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

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

(33) 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;

(34) 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;

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

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

(37) Initial benefit means the retirement benefit calculated at the time of retirement;

(38) 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

(39)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include 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

(40) 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. 17. Section 79-910, Reissue Revised Statutes of Nebraska, is amended to read:

79-910. (1) The membership of the retirement system shall be composed as follows: ~~(1)~~ (a) All persons who become school employees after September 1, 1945, except those specifically excluded under sections 79-916 and 79-919, shall become members as soon as they become senior school employees; ~~(2)~~ (b) senior school employees on July 1, 1945, except those specifically excluded in sections 79-916 and 79-919, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and ~~(3)~~ (c) emeritus members.

(2) Any school employee who qualifies for membership in the retirement system pursuant to subsection (1) of 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.

Sec. 18. Section 79-921, Reissue Revised Statutes of Nebraska, as amended by section 16, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, is amended to read:

79-921. The membership of any person in the retirement system shall cease only if he or she (1) withdraws his or her accumulated contributions under section 79-955, (2) retires on a school or formula or disability retirement allowance, or (3) dies. The retirement board shall reinstate to membership, with the same status as when such membership ceased, a school employee who has withdrawn his or her accumulated contributions if he or she again becomes an employee and if such employee chooses within three years of after rejoining the system to repay, within five years of after the date on which he or she rejoins the retirement system or prior to retirement, whichever is first, to the retirement board part or all of the amount he or she has withdrawn plus interest which would have accrued on that amount under the retirement system. Repayment may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization. If the school employee chooses not to repay such withdrawals with interest, the school employee shall enter the system as a new member with no prior rights.

Sec. 19. Section 79-922, Reissue Revised Statutes of Nebraska, is amended to read:

79-922. (1) Commencing July 1, 1985 on the effective date of this act, 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, 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 and that he or she will become a member of the retirement system. The 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.

Upon termination of such employment, if the beneficiary notifies the retirement board in writing upon forms prescribed by such board, his or her school retirement allowance under the option previously elected, specified under group annuity contract if one exists or under the option permitted by the retirement board if no group annuity contract exists, shall be reinstated.

(2) For any service credit earned after returning to employment, upon rereirement such member shall become eligible for the retirement allowance provided in sections 79-933 and 79-934.

At any time before the new retirement date, a member may elect to receive his or her new school retirement allowance as provided in section 79-933 or 79-934.

(3) 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.

(4) (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. 20. Section 79-955, Reissue Revised Statutes of Nebraska, is amended to read:

79-955. If a member ceases to be a school employee upon termination of employment for any cause other than death or retirement, the retirement board shall, upon his or her the member's demand, terminate his or her membership in the retirement system and order the primary carrier to pay 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. 21. Section 79-957, Reissue Revised Statutes of Nebraska, is amended to read:

79-957. If any member ceases to be a school employee upon termination of employment for any reason other than death, before qualifying for retirement under section 79-931, the retirement board shall, upon request, issue him or her the member a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, regular interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five or after thirty-five years of creditable service, such member shall become eligible to receive the retirement allowance provided in sections 79-933 and 79-934. Any deferred formula annuity provided shall be based on the member's compensation preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member, and if such member has completed at least five but less than thirty-five years of creditable service, such annuity may commence at any time after such member attains the age of sixty years and before his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section 79-934. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Sec. 22. Section 79-979, Reissue Revised Statutes of Nebraska, as amended by section 29, Legislative Bill 623, Ninety-fifth Legislature, First

Session, 1997, is amended to read:

79-979. In every (1) Prior to the effective date of this act, in each Class V school district in the State of Nebraska there is hereby established a separate retirement system for all regular employees of such school district. Such system shall be for the purpose of providing retirement benefits for all regular employees of the school district as provided in sections 79-978 to 79-9,116. The system shall be known as School Employees' Retirement System of (corporate name of the school district as described in section 79-405). All of its business shall be transacted, all of its funds shall be invested, and all of its cash and securities and other property shall be held in trust by such name for the purposes set forth in sections 79-978 to 79-9,116. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

(2) If any new Class V school districts are formed after the effective date of this act, such new Class V school district shall elect to become or remain a part of the retirement system established pursuant to the School Employees Retirement Act.

Sec. 23. Section 79-988, Reissue Revised Statutes of Nebraska, is amended to read:

79-988. (1) Any person who becomes an employee on or after the date of establishment of the retirement system shall become a member of the retirement system upon employment. Contributions by such employee under sections 79-978 to 79-9,116 shall begin with the first payroll period after becoming a member, and creditable service shall then begin to accrue.

(2) Any employee who qualifies for membership in the retirement system pursuant to subsection (1) of 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.

Sec. 24. Section 79-991, Reissue Revised Statutes of Nebraska, is amended to read:

79-991. (1) If any employee becomes a member without prior service credit, prior service credit for a period of not to exceed ten years may be acquired by furnishing satisfactory proof that the employee has been employed for such period of time by a school district or by a Nebraska educational service unit and by the payment by the member of the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system during such period, together with regular interest thereon. Such contribution shall be based on the most recent years' salary the employee earned in another school district or Nebraska educational service unit if the salary is verified by the other school district or Nebraska educational service unit or, if not, on his or her current annual salary at the time he or she becomes a member and payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit, and by the payment into the fund by the school district of an equivalent amount. These amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from date of membership. Interest on delayed payments shall be at the rate of regular interest. Creditable service may be purchased only in one-half-year increments, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-half-year increment.

(2) Any member having five or more years of creditable service, excluding years of prior service acquired pursuant to sections 79-990, 79-994, 79-995, 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years except as otherwise specifically provided in sections 79-978 to 79-9,116. Creditable service may be purchased only in one-half-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the trustees for this purpose. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all

payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the trustees may direct through a single payment to the system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the trustees and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the system to purchase each additional one-half-year increment. Interest shall be charged on installment payments at the rate of regular interest.

Sec. 25. Section 79-992, Reissue Revised Statutes of Nebraska, is amended to read:

79-992. (1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who severs his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: ~~(1)~~ (a) An amount equal to the accumulated contributions to the retirement system by the member; and ~~(2)~~ (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the regular interest for the period of his or her absence from the district's service, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the trustees may direct through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed two five years from the date of reemployment. Interest on delayed payments shall be at the rate of regular interest. Creditable service may be purchased only in one-half-year increments, starting with the most recent year's salary.

(2) A retired member who returns to employment as an employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment. The retirement annuity of a retired member who returns to employment with the school district shall continue to be paid by the retirement system. A retired member who returns to employment as an employee of the school district shall receive creditable service only for service performed after his or her return to employment and in no event shall creditable service which accrues or the compensation paid to the member after such return to employment after retirement increase the amount of the member's original retirement annuity.

(3) Upon termination of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (a) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to sections 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in sections 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (b) if the member has not accrued five years or more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of this section and sections 79-978 to 79-9,116.

Sec. 26. Section 79-9,111, Reissue Revised Statutes of Nebraska, is amended to read:

79-9,111. The trustees shall invest the funds of the retirement system in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trustees shall not buy on margin or buy call options or put options but may write call options and put options. The trustees shall not purchase investments on margin or enter into any futures contract or other contract obligation which requires the payment of margin or enter into any similar contractual arrangement which may result in losses in excess of the amount paid or deposited with respect to such investment or contract, unless such transaction constitutes a hedging transaction or is incurred for the purpose of portfolio or risk management for the funds and investments of the system. The trustees may write covered call options or put options. The trustees shall establish written guidelines for any such option, purchase, or contract obligation. Any such option, purchase, or contract obligation shall be governed by the prudent investment rule stated in this section for investment of the funds of the system. The trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. If shares of stock are purchased under this section, all proxies may be voted by the trustees.

Sec. 27. Section 81-2014, Revised Statutes Supplement, 1996, is amended to read:

81-2014. For purposes of the Nebraska State Patrol Retirement Act:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age. The determinations shall be based on the 1983 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature;

(2) Board means the Public Employees Retirement Board;

(3)(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. For any officer employed after January 4, 1979, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 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;

(4) Creditable service means service granted pursuant to section 81-2034 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 officer is paid regular wages. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid.

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to section 81-2027.04;

~~(5)~~ (6) 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 ~~sections 81-2014 to 81-2036~~ the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

~~(6)~~ (7) Initial benefit means the retirement benefit calculated at the time of retirement;

~~(7)~~ (8) Officer means an officer provided for in sections 81-2001 to 81-2009;

~~(8)~~ (9) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

~~(10) 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;~~

~~(9)~~ (11) Retirement system or system means the Nebraska State Patrol Retirement System as provided in sections 81-2014 to 81-2037, and the act;

~~(12) Service means employment as a member of the Nebraska State Patrol 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 board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;~~

~~(10)~~ (13) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement 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

~~(14) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred.~~

Sec. 28. Section 81-2014.01, Revised Statutes Supplement, 1996, is amended to read:

81-2014.01. Sections 81-2014 to 81-2036 and section 33 of this act shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Sec. 29. Section 81-2016, Revised Statutes Supplement, 1996, 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 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. 30. Section 81-2025, Reissue Revised Statutes of Nebraska, as amended by section 35, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, is amended to read:

81-2025. (1) Every officer who has been in the employ of the state as such and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as such for ten years or more, as calculated in section 81-2033, and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the

state for ten years as such shall be entitled to the annuity as provided for in the Nebraska State Patrol Retirement Act.

(4) Every officer who has been in the employ of the state as such for twenty-five years or more, as calculated in section 81-2033, and has attained the age of fifty years shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years with twenty-five years or more of creditable service or more shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(5) Every officer who has been in the employ of the state as such for thirty years or more, as calculated in section 81-2033, shall be entitled to retire and receive an annuity as provided by law. The right to retire with thirty years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(6) Payment of any benefit provided under the Nebraska State Patrol Retirement Act ~~act~~ may not be deferred later than the sixtieth day after the end of the year in which the officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.

(7) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An application may be filed no more than ninety days in advance of qualifying for retirement.

Sec. 31. Section 81-2026, Revised Statutes Supplement, 1996, as amended by section 36, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, is amended to read:

81-2026. (1) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The amount of the annuity shall be a percentage of the officer's final average monthly compensation. For retirement on or after the fifty-fifth birthday of the member or on or after the fiftieth birthday of a member who has been in the employ of the state for twenty-five years, as calculated in section 81-2033, the percentage shall be three percent multiplied by the number of years of creditable service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

For retirement pursuant to subsection (2) of section 81-2025 on or after the fiftieth birthday of the member but prior to the fifty-fifth birthday of the member who has been in the employ of the state for less than twenty-five years, as calculated in section 81-2033, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five or for each month by which the early retirement date precedes the date upon which the member has served for twenty-five years, whichever is earlier. Any officer who has completed thirty years of creditable service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached age fifty-five.

For purposes of this computation, final average monthly compensation shall mean the sum of the officer's total compensation during the three twelve-month periods of service as an officer in which compensation was the greatest divided by thirty-six, and for any officer employed on or before January 4, 1979, the officer's total compensation shall include payments received for unused vacation and sick leave accumulated during the final three years of service.

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly compensation at the date of disablement if the officer has completed seventeen or fewer years of creditable service. If the officer has completed more than seventeen years of creditable service, the amount of the annuity shall be three percent of the final monthly compensation at the date of disablement multiplied by the total years of creditable service but not to exceed seventy-five percent of the final average monthly compensation as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, the officer's surviving spouse shall receive seventy-five

percent of the amount of such officer's annuity for the remainder of the surviving spouse's life or until the surviving spouse remarries. If the surviving spouse has a dependent child or children of the officer under the age of nineteen years in his or her care, the benefit shall be one hundred percent of the amount of such officer's annuity until such time as the youngest such dependent child attains the age of nineteen years, after which time the benefit shall be reduced to seventy-five percent of the amount of such officer's annuity. If there is no surviving spouse living at the date of the officer's death, the officer's child or children, if any, shall continue to receive seventy-five percent of the amount of such officer's annuity until such time as the youngest such child attains the age of nineteen years. If there is more than one such child under the age of nineteen years at such time, the amount thereof shall be divided equally among such children under such age and, as they attain the age of nineteen years, only the other child or children under such age shall participate therein. If there is no surviving spouse or no child of the officer under the age of nineteen years at the date of the officer's death, the amount of annuities such officer has received under the Nebraska State Patrol Retirement Act shall be computed. If such amount is less than the contributions to the State Patrol Retirement Fund made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate.

Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability.

Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death as follows: (a) To the surviving spouse, regardless of the length of time the spouse and officer had been married, and dependent child or children of the officer under the age of nineteen years in such spouse's care, the benefit shall be one hundred percent of the amount of such officer's annuity until such time as the youngest dependent child attains the age of nineteen years after which time the benefit shall be reduced to seventy-five percent of the officer's annuity for the remainder of his or her life or until he or she remarries; (b) if there is no spouse living at the date of the officer's death, his or her child or children, if any, shall continue to receive seventy-five percent of the amount of such officer's annuity until such time as the youngest child attains the age of nineteen years; (c) if there is more than one child of the officer under the age of nineteen years at the date of the officer's death, the benefit shall be divided equally among such children and, as they attain the age of nineteen years, only the child or children under the age of nineteen years shall participate therein; and (d) if there is no child or children of the officer under the age of nineteen years living at the date of the officer's death, the surviving spouse, regardless of the length of time the spouse and officer had been married, shall receive seventy-five percent of the amount of such officer's annuity for the remainder of his or her life or until he or she remarries. If no benefits are paid to a surviving spouse or dependent children of the officer, benefits will be paid as described in subsection (1) of section 81-2031.

(4) Any benefits provided in subsections (1), (2), and (3) of this section shall apply only to retirements, disabilities, and deaths occurring on or after September 2, 1977. No benefits being paid under the system on September 2, 1977, shall be modified, in any way, by the enactment of Laws 1977, LB 347.

Sec. 32. Section 81-2031, Revised Statutes Supplement, 1996, is amended to read:

81-2031. (1) If any officer, upon termination of employment prior to becoming eligible to retire, as provided in section 81-2025, separates from state service as an officer and for reasons other than death or disability, either voluntarily or involuntarily, such an officer shall thereupon be entitled to receive all payments which have been made by compensation deductions into the State Patrol Retirement Fund plus regular interest, earned each fiscal year commencing July 1, 1974, as determined by the board in conformity with actual and expected earnings on its investments and credited monthly, quarterly, semiannually, or annually as the board may direct. The return of such contributions and interest to such officer shall preclude such officer from any benefits under sections 81-2014 to 81-2036 the Nebraska State Patrol Retirement Act unless and until such officer is reemployed in such capacity and repays, commencing within three years of after rejoining the system and prior to five years after rejoining the retirement system or prior to retirement, whichever is first, part or all of the amount withdrawn plus interest which would have accrued on that amount under the system. If the

officer chooses not to repay such withdrawals with interest, the officer shall enter the system as a new member with no prior rights.

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

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

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

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

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

Sec. 33. A retired officer of the Nebraska State Patrol who becomes a member of the Nebraska State Patrol shall continue receiving retirement benefits and shall be treated for all purposes of the Nebraska State Patrol Retirement Act as a new member of the system.

Sec. 34. Section 81-2033, Revised Statutes Supplement, 1996, is amended to read:

81-2033. In computing length of creditable service under ~~sections 81-2014 to 81-2036~~ the Nebraska State Patrol Retirement Act, such service shall include the years of service with the Nebraska State Patrol, permanent force, as established by the law creating the Nebraska State Patrol computed to the nearest one-twelfth year and shall only include such years during which the person was a contributing member of the Nebraska State Patrol Retirement System. Length of creditable service shall also include credit for time served in the armed forces pursuant to section 81-2034. For subsection (2) of section 81-2031 only, service shall also include credit for vesting pursuant to sections 81-2016 and 81-2031.02.

Sec. 35. Section 84-1301, Revised Statutes Supplement, 1996, 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;

~~(7)~~ (8) Fund means the State Employees Retirement Fund created by section 84-1309;

~~(8)~~ (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;

(9) (10) 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;

~~(10)~~ (10) Until January 1, 1997, investment manager means the state investment officer or one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the fund;

(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;

~~(12)~~ (13) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

~~(13)~~ (14) Primary carrier means the life insurance company or trust company designated as the administrator of the group annuity contract;

~~(14)~~ (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~~ 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 includes 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

but does not include any period of disability for which disability retirement benefits are received under the provisions of 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; and

(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

(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.

Sec. 36. Section 84-1307, Revised Statutes Supplement, 1996, 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 been employees for a period of twenty-four continuous months at any time of service and who have attained the age of thirty and (b) all permanent full-time or permanent part-time employees who have been employees for a total of 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 (1) 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 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. 37. Section 84-1313, Revised Statutes Supplement, 1996, is amended to read:

84-1313. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 84-1322 or 84-1325 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section authorized to be paid by the member pursuant to section 84-1322 or 84-1325 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 amount 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 from the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for military service made under section 84-1322 or 84-1325.

(3) The retirement system 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.

(4) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 38. Section 84-1317, Revised Statutes Supplement, 1996, is amended to read:

84-1317. An employee may elect to retire on the attainment of age sixty-five or after the attainment of age fifty-five, with five years of service. An employee may retire as a result of disability at any age.

The date specified in the retirement application or the first of the month immediately following the date the retirement application is received, whichever is later, shall be the retirement date, except that disability retirement benefits shall be paid from the date of disability as determined by the board. First payments pertaining to retirements under prior service provisions of the State Employees Retirement Act shall be made at such time as the retirement board may determine.

Payment of any benefit provided under the retirement system may not be deferred later than the sixtieth day after the end of the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the state.

Sec. 39. Section 84-1321, Revised Statutes Supplement, 1996, is amended to read:

84-1321. (1) Except as provided in section 42-1107, any member of the retirement system who ceases to be an employee upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit not to exceed the amount in 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 in 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 the member's fifty-fifth birthday 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 vested portion of the employer account or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member attains the age of fifty-five has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than the sixtieth day after the end of the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. 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 84-1317, such an employee shall be fully vested in the retirement system. The vesting percentage shall be one hundred after a total of five years of (a)

participation in the retirement system plus (b) eligibility and vesting credit. The vesting percentage shall equal one hundred for any disability retirement under section 84-1317.

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

(5) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account shall be suspended pending the final outcome of the grievance or other appeal.

Sec. 40. (1) For a member who has terminated employment and is not vested, the balance of the member's employer account shall be forfeited. The forfeited employer account shall be credited to the fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, and the remainder shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts.

(2) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account shall be suspended pending the final outcome of the grievance or other appeal.

Sec. 41. Section 84-1322, Reissue Revised Statutes of Nebraska, is amended to read:

84-1322. (1) Except as provided in subsection (2) of this section and with respect to an employee as described in subsection (5) of section 84-1321 who is reinstated to employment, a member of the system who ceases to be an employee shall upon again becoming an employee be considered a new employee with respect to the State Employees Retirement Act.

(2) A member of the system who terminates before his or her retirement date and again becomes a state employee within five years after the termination date or within an amount of time equal to the employee's original length of service, whichever is less, shall be reenrolled in the retirement system within sixty days under policies established by the board. For purposes of vesting employer contributions made after the reentry into the system under subsection (3) of section 84-1321, years of participation shall include years of participation prior to such employee's original termination. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986. Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

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

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to retirement, whichever occurs first, through (i) direct payments to

the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

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

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

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

Sec. 42. Section 84-1331, Revised Statutes Supplement, 1996, as amended by section 45, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, is amended to read:

84-1331. Sections 84-1301 to 84-1331 and section 40 of this act and section 40 of this act shall be known and may be cited as the State Employees Retirement Act.

Sec. 43. Section 84-1504, Revised Statutes Supplement, 1996, as amended by section 49, Legislative Bill 623, Ninety-fifth Legislature, First Session, 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) 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) 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) 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) 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. 44. Section 84-1511, Revised Statutes Supplement, 1996, is

amended to read:

84-1511. (1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act pursuant to Chapter 23, article 23, Chapter 24, article 7, Chapter 87, article 20, and Chapter 84, article 13, and pursuant to sections 79-978 to 79-9,116. The program shall provide information and advice regarding the many changes employees face upon retirement including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Sec. 45. Section 4, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997, is amended to read:

Sec. 4. (1) For purposes of this section:

(a) Political subdivision includes villages, cities of all classes, counties, school districts, public power 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 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 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) 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) 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

(ii) If the retirement system of the receiving entity maintains a defined benefit plan, the employee may 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, 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 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. 46. Original sections 24-708, 79-910, 79-922, 79-955, 79-957, 79-988, 79-991, 79-992, 79-9111, and 84-1322, Reissue Revised Statutes of Nebraska; sections 23-2301, 23-2306, 23-2310, 23-2319, 23-2320, 24-701, 24-701.01, 24-706, 24-707, 24-710, 81-2014, 81-2014.01, 81-2016, 81-2031, 81-2033, 84-1301, 84-1307, 84-1313, 84-1317, 84-1321, and 84-1511, Revised Statutes Supplement, 1996; sections 79-902, 79-921, 79-979, and 81-2025, Reissue Revised Statutes of Nebraska, as amended by sections 12, 16, 29, and 35, respectively, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997; section 23-2323.03, Revised Statutes Supplement, 1996, as amended by section 7, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997; sections 81-2026, 84-1331, and 84-1504, Revised Statutes Supplement, 1996, as amended by sections 36, 45, and 49, respectively, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997; section 23-2331, Revised Statutes Supplement, 1996, as amended by section 6, Legislative Bill 623, Ninety-fifth Legislature, First Session, 1997, and section 8, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997; and section 4, Legislative Bill 250, Ninety-fifth Legislature, First Session, 1997, are repealed.