

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 467

FINAL READING

Introduced by Kolterman, 24; Davis, 43; Groene, 42; Kolowski, 31;
Lindstrom, 18; Mello, 5; Nordquist, 7.

Read first time January 20, 2015

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act;
2 to amend sections 81-2014, 81-2014.01, 81-2017, 81-2026, 81-2027.08,
3 and 81-2041, Reissue Revised Statutes of Nebraska; to define and
4 redefine terms; to change provisions relating to contributions,
5 benefit calculations, benefit adjustments, and DROP participation;
6 to provide for cost-of-living payments as prescribed; to harmonize
7 provisions; to provide severability; to repeal the original
8 sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2014, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

4 (1) Actuarial equivalent means the equality in value of the
5 aggregate amounts expected to be received under different forms of
6 payment or to be received at an earlier retirement age than the normal
7 retirement age. The determinations shall be based on the 1994 Group
8 Annuity Mortality Table reflecting sex-distinct factors blended using
9 seventy-five percent of the male table and twenty-five percent of the
10 female table. An interest rate of eight percent per annum shall be
11 reflected in making the determinations until such percent is amended by
12 the Legislature;

13 (2) Board means the Public Employees Retirement Board;

14 (3)(a)(i) Compensation means gross wages or salaries payable to the
15 member for personal services performed during the plan year. Compensation
16 does not include insurance premiums converted into cash payments,
17 reimbursement for expenses incurred, fringe benefits, per diems, or
18 bonuses for services not actually rendered, including, but not limited
19 to, early retirement inducements, cash awards, and severance pay, except
20 for retroactive salary payments paid pursuant to court order,
21 arbitration, or litigation and grievance settlements. ~~For any officer~~
22 ~~employed after January 4, 1979, compensation does not include~~
23 ~~compensation for unused sick leave or unused vacation leave converted to~~
24 ~~cash payments.~~ Compensation includes overtime pay, member retirement
25 contributions, and amounts contributed by the member to plans under
26 sections 125 and 457 of the Internal Revenue Code as defined in section
27 49-801.01 or any other section of the code which defers or excludes such
28 amounts from income.

29 (ii) For any officer employed on or prior to January 4, 1979,
30 compensation includes compensation for unused sick leave or unused
31 vacation leave converted to cash payments.

1 (iii) For any officer employed after January 4, 1979, and prior to
2 July 1, 2016, compensation does not include compensation for unused sick
3 leave or unused vacation leave converted to cash payments and includes
4 compensation for unused holiday compensatory time and unused compensatory
5 time converted to cash payments.

6 (iv) For any officer employed on or after July 1, 2016, compensation
7 does not include compensation for unused sick leave, unused vacation
8 leave, unused holiday compensatory time, unused compensatory time, or any
9 other type of unused leave, compensatory time, or similar benefits,
10 converted to cash payments.

11 (b) Compensation in excess of the limitations set forth in section
12 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
13 shall be disregarded. For an employee who was a member of the retirement
14 system before the first plan year beginning after December 31, 1995, the
15 limitation on compensation shall not be less than the amount which was
16 allowed to be taken into account under the retirement system as in effect
17 on July 1, 1993;

18 (4) Creditable service means service granted pursuant to section
19 81-2034 and all service rendered while a contributing member of the
20 retirement system. Creditable service includes working days, sick days,
21 vacation days, holidays, and any other leave days for which the officer
22 is paid regular wages except as specifically provided in the Nebraska
23 State Patrol Retirement Act. Creditable service does not include
24 eligibility and vesting credit nor service years for which member
25 contributions are withdrawn and not repaid;

26 (5) Current benefit means the initial benefit increased by all
27 adjustments made pursuant to the Nebraska State Patrol Retirement Act;

28 (6) DROP means the deferred retirement option plan as provided in
29 section 81-2041;

30 (7) DROP account means an individual DROP participant's defined
31 contribution account under section 414(k) of the Internal Revenue Code;

1 (8) DROP period means the amount of time the member elects to
2 participate in DROP which shall be for a period not to exceed five years
3 from and after the date of the member's DROP election;

4 (9) Eligibility and vesting credit means credit for years, or a
5 fraction of a year, of participation in a Nebraska government plan for
6 purposes of determining eligibility for benefits under the Nebraska State
7 Patrol Retirement Act. Such credit shall be used toward the vesting
8 percentage pursuant to subsection (2) of section 81-2031 but shall not be
9 included as years of service in the benefit calculation;

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

12 (11) Officer means an officer provided for in sections 81-2001 to
13 81-2009;

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

16 (13) Regular interest means interest fixed at a rate equal to the
17 daily treasury yield curve for one-year treasury securities, as published
18 by the Secretary of the Treasury of the United States, that applies on
19 July 1 of each year, which may be credited monthly, quarterly,
20 semiannually, or annually as the board may direct;

21 (14) Retirement application means the form approved and provided by
22 the retirement system for acceptance of a member's request for either
23 regular or disability retirement;

24 (15) Retirement date means (a) the first day of the month following
25 the date upon which a member's request for retirement is received on a
26 retirement application if the member is eligible for retirement and has
27 terminated employment or (b) the first day of the month following
28 termination of employment if the member is eligible for retirement and
29 has filed an application but has not yet terminated employment;

30 (16) Retirement system or system means the Nebraska State Patrol
31 Retirement System as provided in the act;

1 (17) Service means employment as a member of the Nebraska State
2 Patrol and shall not be deemed to be interrupted by (a) temporary or
3 seasonal suspension of service that does not terminate the employee's
4 employment, (b) leave of absence authorized by the employer for a period
5 not exceeding twelve months, (c) leave of absence because of disability,
6 or (d) military service, when properly authorized by the board. Service
7 does not include any period of disability for which disability retirement
8 benefits are received under subsection (1) of section 81-2025;

9 (18) Surviving spouse means (a) the spouse married to the member on
10 the date of the member's death if married for at least one year prior to
11 death or if married on the date of the member's retirement or (b) the
12 spouse or former spouse of the member if survivorship rights are provided
13 under a qualified domestic relations order filed with the board pursuant
14 to the Spousal Pension Rights Act. The spouse or former spouse shall
15 supersede the spouse married to the member on the date of the member's
16 death as provided under a qualified domestic relations order. If the
17 benefits payable to the spouse or former spouse under a qualified
18 domestic relations order are less than the value of benefits entitled to
19 the surviving spouse, the spouse married to the member on the date of the
20 member's death shall be the surviving spouse for the balance of the
21 benefits; and

22 (19) Termination of employment occurs on the date on which the
23 Nebraska State Patrol determines that the officer's employer-employee
24 relationship with the patrol is dissolved. The Nebraska State Patrol
25 shall notify the board of the date on which such a termination has
26 occurred. Termination of employment does not include ceasing employment
27 with the Nebraska State Patrol if the officer returns to regular
28 employment with the Nebraska State Patrol or another agency of the State
29 of Nebraska and there are less than one hundred twenty days between the
30 date when the employee's employer-employee relationship ceased and the
31 date when the employer-employee relationship commenced with the Nebraska

1 State Patrol or another state agency. Termination of employment does not
2 occur upon an officer's participation in DROP pursuant to section
3 81-2041. It is the responsibility of the employer that is involved in the
4 termination of employment to notify the board of such change in
5 employment and provide the board with such information as the board deems
6 necessary. If the board determines that termination of employment has not
7 occurred and a retirement benefit has been paid to a member of the
8 retirement system pursuant to section 81-2026, the board shall require
9 the member who has received such benefit to repay the benefit to the
10 retirement system.

11 Sec. 2. Section 81-2014.01, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-2014.01 Sections 81-2014 to 81-2041 and sections 6 and 7 of this
14 act shall be known and may be cited as the Nebraska State Patrol
15 Retirement Act.

16 Sec. 3. Section 81-2017, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 81-2017 (1) Commencing July 1, 2010, and until July 1, 2011, each
19 officer while in the service of the Nebraska State Patrol shall pay or
20 have paid on his or her behalf a sum equal to sixteen percent of his or
21 her monthly compensation. Commencing July 1, 2011, and until July 1,
22 2013, each officer while in the service of the Nebraska State Patrol
23 shall pay or have paid on his or her behalf a sum equal to nineteen
24 percent of his or her monthly compensation. Commencing July 1, 2013, each
25 officer who commenced service prior to July 1, 2016, while in the service
26 of the Nebraska State Patrol shall pay or have paid on his or her behalf
27 a sum equal to sixteen percent of his or her monthly compensation. Each
28 officer who commenced service on or after July 1, 2016, while in the
29 service of the Nebraska State Patrol shall pay or have paid on his or her
30 behalf a sum equal to seventeen percent of his or her monthly
31 compensation. Such amounts shall be deducted monthly by the Director of

1 Administrative Services who shall draw a warrant monthly in the amount of
2 the total deductions from the compensation of members of the Nebraska
3 State Patrol in accordance with subsection (4) of this section, and the
4 State Treasurer shall credit the amount of such warrant to the State
5 Patrol Retirement Fund. The director shall cause a detailed report of all
6 monthly deductions to be made each month to the board.

7 (2) In addition, commencing July 1, 2010, and until July 1, 2011,
8 there shall be assessed against the appropriation of the Nebraska State
9 Patrol a sum equal to the amount of sixteen percent of each officer's
10 monthly compensation which shall be credited to the State Patrol
11 Retirement Fund. Commencing July 1, 2011, and until July 1, 2013, there
12 shall be assessed against the appropriation of the Nebraska State Patrol
13 a sum equal to the amount of nineteen percent of each officer's monthly
14 compensation which shall be credited to the State Patrol Retirement Fund.
15 Commencing July 1, 2013, for each officer who commenced service prior to
16 July 1, 2016, there shall be assessed against the appropriation of the
17 Nebraska State Patrol a sum equal to the amount of sixteen percent of
18 each officer's monthly compensation which shall be credited to the State
19 Patrol Retirement Fund. Commencing July 1, 2016, for each officer who
20 commenced service on or after July 1, 2016, there shall be assessed
21 against the appropriation of the Nebraska State Patrol a sum equal to the
22 amount of seventeen percent of each officer's monthly compensation which
23 shall be credited to the State Patrol Retirement Fund. This assessment
24 constitutes an employer match and shall be contingent upon the officer
25 making his or her contributions to the retirement system.

26 (3) For the fiscal year beginning on July 1, 2002, and each fiscal
27 year thereafter, the actuary for the board shall perform an actuarial
28 valuation of the system using the entry age actuarial cost method. Under
29 this method, the actuarially required funding rate is equal to the normal
30 cost rate, plus the contribution rate necessary to amortize the unfunded
31 actuarial accrued liability on a level percentage of salary basis. The

1 normal cost under this method shall be determined for each individual
2 member on a level percentage of salary basis. The normal cost amount is
3 then summed for all members. Beginning July 1, 2006, any existing
4 unfunded liabilities shall be reinitialized and amortized over a thirty-
5 year period, and during each subsequent actuarial valuation, changes in
6 the funded actuarial accrued liability due to changes in benefits,
7 actuarial assumptions, the asset valuation method, or actuarial gains or
8 losses shall be measured and amortized over a thirty-year period
9 beginning on the valuation date of such change. If the unfunded actuarial
10 accrued liability under the entry age actuarial cost method is zero or
11 less than zero on an actuarial valuation date, then all prior unfunded
12 actuarial accrued liabilities shall be considered fully funded and the
13 unfunded actuarial accrued liability shall be reinitialized and amortized
14 over a thirty-year period as of the actuarial valuation date. If the
15 actuarially required contribution rate exceeds the rate of all
16 contributions required pursuant to the Nebraska State Patrol Retirement
17 Act, there shall be a supplemental appropriation sufficient to pay for
18 the differences between the actuarially required contribution rate and
19 the rate of all contributions required pursuant to the Nebraska State
20 Patrol Retirement Act. Such valuation shall be on the basis of actuarial
21 assumptions recommended by the actuary, approved by the board, and kept
22 on file with the board.

23 (4) The state shall pick up the member contributions required by
24 this section for all compensation paid on or after January 1, 1985, and
25 the contributions so picked up shall be treated as employer contributions
26 pursuant to section 414(h)(2) of the Internal Revenue Code in determining
27 federal tax treatment under the code and shall not be included as gross
28 income of the member until such time as they are distributed or made
29 available. The contributions, although designated as member
30 contributions, shall be paid by the state in lieu of member
31 contributions. The state shall pay these member contributions from the

1 same source of funds which is used in paying earnings to the member. The
2 state shall pick up these contributions by a compensation deduction
3 through a reduction in the cash compensation of the member. Member
4 contributions picked up shall be treated for all purposes of the Nebraska
5 State Patrol Retirement Act in the same manner and to the extent as
6 member contributions made prior to the date picked up.

7 Sec. 4. Section 81-2026, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-2026 (1)(a) Any officer qualified for an annuity as provided in
10 section 81-2025 for reasons other than disability shall be entitled to
11 receive a monthly annuity for the remainder of the officer's life. The
12 annuity payments shall continue until the end of the calendar month in
13 which the officer dies. The amount of the annuity shall be a percentage
14 of the officer's final average monthly compensation. For retirement on or
15 after the fifty-fifth birthday of the member or on or after the fiftieth
16 birthday of a member who has been in the employ of the state for twenty-
17 five years, as calculated in section 81-2033, the percentage shall be
18 three percent multiplied by the number of years of creditable service, as
19 calculated in section 81-2033, except that the percentage shall never be
20 greater than seventy-five percent.

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

1 officer had reached age fifty-five.

2 (c) For purposes of this computation: ~~7~~

3 (i) For an officer who became a member prior to July 1, 2016, final
4 average monthly compensation means shall mean the sum of the officer's
5 total compensation during the three twelve-month periods of service as an
6 officer in which compensation was the greatest divided by thirty-six and:

7 (A) For ~~7~~ and for any officer employed on or before January 4, 1979,
8 the officer's total compensation includes shall include payments received
9 for unused vacation and sick leave accumulated during the final three
10 years of service; or ~~7~~

11 (B) For any officer employed after January 4, 1979, and prior to
12 July 1, 2016, the officer's total compensation includes payments received
13 for unused holiday compensatory time and unused compensatory time; and

14 (ii) For an officer who became a member on or after July 1, 2016,
15 final average monthly compensation means the sum of the officer's total
16 compensation during the five twelve-month periods of service as an
17 officer in which compensation was the greatest divided by sixty and does
18 not include payments received for unused sick leave, unused vacation
19 leave, unused holiday compensatory time, unused compensatory time, or any
20 other type of unused leave, compensatory time, or similar benefits,
21 converted to cash payments. The five twelve-month periods used for
22 calculating an officer's final average monthly compensation ends with the
23 month during which the officer's final compensation is paid. In the
24 determination of compensation, that part of an officer's compensation for
25 the plan year which exceeds the officer's compensation for the preceding
26 plan year by more than eight percent during the capping period shall be
27 excluded. Such officer's compensation for the first plan year of the
28 capping period shall be compared to the officer's compensation received
29 for the plan year immediately preceding the capping period. For purposes
30 of this subdivision, capping period means the five plan years preceding
31 the officer's retirement date. The board shall adopt and promulgate rules

1 and regulations for the implementation of this section, including rules
2 and regulations related to prorating, annualizing, or recalculating an
3 officer's final average monthly compensation for each plan year in the
4 capping period.

5 (2) Any officer qualified for an annuity as provided in section
6 81-2025 for reasons of disability shall be entitled to receive a monthly
7 annuity for the remainder of the period of disablement as provided in
8 sections 81-2028 to 81-2030. The amount of the annuity shall be fifty
9 percent of the officer's monthly compensation at the date of disablement
10 if the officer has completed seventeen or fewer years of creditable
11 service. If the officer has completed more than seventeen years of
12 creditable service, the amount of the annuity shall be three percent of
13 the final monthly compensation at the date of disablement multiplied by
14 the total years of creditable service but not to exceed seventy-five
15 percent of the final average monthly compensation as defined in
16 subsection (1) of this section. The date of disablement shall be the date
17 on which the benefits as provided in section 81-2028 have been exhausted.

18 (3) Upon the death of an officer after retirement for reasons other
19 than disability, benefits shall be provided as a percentage of the amount
20 of the officer's annuity, calculated as follows:

21 (a) If there is a surviving spouse but no dependent child or
22 children of the officer under nineteen years of age, the surviving spouse
23 shall receive a benefit equal to seventy-five percent of the amount of
24 the officer's annuity for the remainder of the surviving spouse's life;

25 (b) If there is a surviving spouse and the surviving spouse has in
26 his or her care a dependent child or children of the officer under
27 nineteen years of age and there is no other dependent child or children
28 of the officer not in the care of the surviving spouse under nineteen
29 years of age, the benefit shall be equal to one hundred percent of the
30 officer's annuity. When there is no remaining dependent child of the
31 officer under nineteen years of age, the benefit shall be seventy-five

1 percent of the amount of the officer's annuity to the surviving spouse
2 for the remainder of the surviving spouse's life;

3 (c) If there is a surviving spouse and the surviving spouse has in
4 his or her care a dependent child or children of the officer under
5 nineteen years of age or there is another dependent child or children of
6 the officer under nineteen years of age not in the care of the surviving
7 spouse, the benefit shall be twenty-five percent of the amount of the
8 officer's annuity to the surviving spouse and seventy-five percent of the
9 amount of the officer's annuity to the dependent children of the officer
10 under nineteen years of age to be divided equally among such dependent
11 children but in no case shall the benefit received by a surviving spouse
12 and dependent children residing with such spouse be less than fifty
13 percent of the amount of the officer's annuity. At such time as any
14 dependent child of the officer attains nineteen years of age, the benefit
15 shall be divided equally among the remaining dependent children of the
16 officer who have not yet attained nineteen years of age. When there is no
17 remaining dependent child of the officer under nineteen years of age, the
18 benefit shall be seventy-five percent of the amount of the officer's
19 annuity to the surviving spouse for the remainder of the surviving
20 spouse's life;

21 (d) If there is no surviving spouse and a dependent child or
22 children of the officer under nineteen years of age, the benefit shall be
23 equal to seventy-five percent of the officer's annuity to the dependent
24 children of the officer under nineteen years of age to be divided equally
25 among such dependent children. At such time as any dependent child of the
26 officer attains nineteen years of age, the benefit shall be divided
27 equally among the remaining dependent children of the officer who have
28 not yet attained nineteen years of age; and

29 (e) If there is no surviving spouse or no dependent child or
30 children of the officer under nineteen years of age, the amount of
31 benefit such officer has received under the Nebraska State Patrol

1 Retirement Act shall be computed. If such amount is less than the
2 contributions to the State Patrol Retirement Fund made by such officer,
3 plus regular interest, the difference shall be paid to the officer's
4 designated beneficiary or estate.

5 (4) Upon the death of an officer after retirement for reasons of
6 disability, benefits shall be provided as if the officer had retired for
7 reasons other than disability.

8 (5) Upon the death of an officer before retirement, benefits shall
9 be provided as if the officer had retired for reasons of disability on
10 the date of such officer's death, calculated as follows:

11 (a) If there is a surviving spouse but no dependent child or
12 children of the officer under nineteen years of age, the surviving spouse
13 shall receive a benefit equal to seventy-five percent of the amount of
14 the officer's annuity for the remainder of the surviving spouse's life;

15 (b) If there is a surviving spouse and the surviving spouse has in
16 his or her care a dependent child or children of the officer under
17 nineteen years of age and there is no other dependent child or children
18 of the officer not in the care of the surviving spouse under nineteen
19 years of age, the benefit shall be equal to one hundred percent of the
20 officer's annuity. When there is no remaining dependent child of the
21 officer under nineteen years of age, the benefit shall be seventy-five
22 percent of the amount of the officer's annuity to the surviving spouse
23 for the remainder of the surviving spouse's life;

24 (c) If there is a surviving spouse and the surviving spouse has in
25 his or her care a dependent child or children of the officer under
26 nineteen years of age or there is another dependent child or children of
27 the officer under nineteen years of age not in the care of the surviving
28 spouse, the benefit shall be twenty-five percent of the amount of the
29 officer's annuity to the surviving spouse and seventy-five percent of the
30 amount of the officer's annuity to the dependent children of the officer
31 under nineteen years of age to be divided equally among such dependent

1 children but in no case shall the benefit received by a surviving spouse
2 and dependent children residing with such spouse be less than fifty
3 percent of the amount of the officer's annuity. At such time as any
4 dependent child of the officer attains nineteen years of age, the benefit
5 shall be divided equally among the remaining dependent children of the
6 officer who have not yet attained nineteen years of age. When there is no
7 remaining dependent child of the officer under nineteen years of age, the
8 benefit shall be seventy-five percent of the amount of the officer's
9 annuity to the surviving spouse for the remainder of the surviving
10 spouse's life;

11 (d) If there is no surviving spouse and a dependent child or
12 children of the officer under nineteen years of age, the benefit shall be
13 equal to seventy-five percent of the officer's annuity to the dependent
14 children of the officer under nineteen years of age to be divided equally
15 among such dependent children. At such time as any dependent child of the
16 officer attains nineteen years of age, the benefit shall be divided
17 equally among the remaining dependent children of the officer who have
18 not yet attained nineteen years of age; and

19 (e) If no benefits are paid to a surviving spouse or dependent child
20 or children of the officer, benefits will be paid as described in
21 subsection (1) of section 81-2031.

22 (6) A lump-sum death benefit paid to the member's beneficiary, other
23 than the member's estate, that is an eligible distribution may be
24 distributed in the form of a direct transfer to a retirement plan
25 eligible to receive such transfer under the provisions of the Internal
26 Revenue Code.

27 (7) For any member whose death occurs on or after January 1, 2007,
28 while performing qualified military service as defined in section 414(u)
29 of the Internal Revenue Code, the member's beneficiary shall be entitled
30 to any additional death benefit that would have been provided, other than
31 the accrual of any benefit relating to the period of qualified military

1 service. The additional death benefit shall be determined as if the
2 member had returned to employment with the Nebraska State Patrol and such
3 employment had terminated on the date of the member's death.

4 (8) Any changes made to this section by Laws 2004, LB 1097, shall
5 apply only to retirements, disabilities, and deaths occurring on or after
6 July 16, 2004.

7 Sec. 5. Section 81-2027.08, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-2027.08 (1) Beginning July 1, 2011, and each July 1 thereafter,
10 the board shall determine the number of retired members or beneficiaries
11 described in subdivision (4)(b) of this section in the retirement system
12 and an annual benefit adjustment shall be made by the board for each
13 retired member or beneficiary under one of the cost-of-living adjustment
14 calculation methods found in subsection (2), (3), or (4) of this section.
15 Each retired member or beneficiary, if eligible, shall receive an annual
16 benefit adjustment under the cost-of-living adjustment calculation method
17 that provides the retired member or beneficiary the greatest annual
18 benefit adjustment increase. No retired member or beneficiary shall
19 receive an annual benefit adjustment under more than one of the cost-of-
20 living adjustment calculation methods provided in this section.

21 (2) The current benefit paid to a retired member or beneficiary
22 under this subsection shall be adjusted so that the purchasing power of
23 the benefit being paid is not less than sixty percent of the purchasing
24 power of the initial benefit. The purchasing power of the initial benefit
25 in any year following the year in which the initial benefit commenced
26 shall be calculated by dividing the United States Department of Labor,
27 Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners
28 and Clerical Workers factor on June 30 of the current year by the
29 Consumer Price Index for Urban Wage Earners and Clerical Workers factor
30 on June 30 of the year in which the benefit commenced. The result shall
31 be multiplied by the product that results when the amount of the initial

1 benefit is multiplied by sixty percent. In any year in which applying the
2 adjustment provided in subsection (3) of this section results in a
3 benefit which would be less than sixty percent of the purchasing power of
4 the initial benefit as calculated in this subsection, the adjustment
5 shall instead be equal to the percentage change in the Consumer Price
6 Index for Urban Wage Earners and Clerical Workers factor from the prior
7 year to the current year.

8 (3) The current benefit paid to a retired member or beneficiary
9 under this subsection shall be increased annually by the lesser of (a)
10 the percentage change in the Consumer Price Index for Urban Wage Earners
11 and Clerical Workers for the period between June 30 of the prior year to
12 June 30 of the present year or (b) two and one-half percent.

13 (4)(a) The current benefit paid to a retired member or beneficiary
14 under this subsection shall be calculated by multiplying the retired
15 member's or beneficiary's total monthly benefit by the lesser of (i) the
16 cumulative change in the Consumer Price Index for Urban Wage Earners and
17 Clerical Workers from the last adjustment of the total monthly benefit of
18 each retired member or beneficiary through June 30 of the year for which
19 the annual benefit adjustment is being calculated or (ii) an amount equal
20 to three percent per annum compounded for the period from the last
21 adjustment of the total monthly benefit of each retired member or
22 beneficiary through June 30 of the year for which the annual benefit
23 adjustment is being calculated.

24 (b) In order for a retired member or beneficiary to receive the
25 cost-of-living adjustment calculation method in this subsection, the
26 retired member or beneficiary shall be (i) a retired member or
27 beneficiary who has been receiving a retirement benefit for at least five
28 years if the member had at least twenty-five years of creditable service,
29 (ii) a member who has been receiving a disability retirement benefit for
30 at least five years pursuant to section 81-2025, or (iii) a beneficiary
31 who has been receiving a death benefit pursuant to section 81-2026 for at

1 least five years, if the member's or beneficiary's monthly accrual rate
2 is less than or equal to the minimum accrual rate as determined by this
3 subsection.

4 (c) The monthly accrual rate under this subsection is the retired
5 member's or beneficiary's total monthly benefit divided by the number of
6 years of creditable service earned by the retired or deceased member.

7 (d) The total monthly benefit under this subsection is the total
8 benefit received by a retired member or beneficiary pursuant to the
9 Nebraska State Patrol Retirement Act and previous adjustments made
10 pursuant to this section or any other provision of the act that grants a
11 benefit or cost-of-living increase, but the total monthly benefit shall
12 not include sums received by an eligible retired member or eligible
13 beneficiary from federal sources.

14 (e) Beginning July 1, 2010, the minimum accrual rate under this
15 subsection was forty dollars and sixteen cents. Beginning July 1, 2011,
16 the minimum accrual rate under this subsection was forty-one dollars and
17 seventy-nine cents. Beginning July 1, 2012, the minimum accrual rate
18 under this subsection was forty-two dollars and forty-five cents.
19 Beginning July 1, 2013, the board shall annually adjust the minimum
20 accrual rate to reflect the cumulative percentage change in the Consumer
21 Price Index for Urban Wage Earners and Clerical Workers from the last
22 adjustment of the minimum accrual rate.

23 (5) Beginning July 1, 2011, and each July 1 thereafter, each retired
24 member or beneficiary shall receive the sum of the annual benefit
25 adjustment and such retiree's total monthly benefit less withholding,
26 which sum shall be the retired member's or beneficiary's adjusted total
27 monthly benefit. Each retired member or beneficiary shall receive the
28 adjusted total monthly benefit until the expiration of the annuity option
29 selected by the member or until the retired member or beneficiary again
30 qualifies for the annual benefit adjustment, whichever occurs first.

31 (6) The annual benefit adjustment pursuant to this section shall not

1 cause a current benefit to be reduced, and a retired member or
2 beneficiary shall never receive less than the adjusted total monthly
3 benefit until the annuity option selected by the member expires.

4 (7) The board shall adjust the annual benefit adjustment provided in
5 this section so that the cost-of-living adjustment provided to the
6 retired member or beneficiary at the time of the annual benefit
7 adjustment does not exceed the change in the Consumer Price Index for
8 Urban Wage Earners and Clerical Workers for the period between June 30 of
9 the prior year to June 30 of the present year. If the consumer price
10 index used in this section is discontinued or replaced, a substitute
11 index published by the United States Department of Labor shall be
12 selected by the board which shall be a reasonable representative
13 measurement of the cost-of-living for retired employees.

14 (8) This section applies to an officer who became a member prior to
15 July 1, 2016 ~~The state shall contribute to the State Patrol Retirement~~
16 ~~Fund an annual level dollar payment certified by the board. For the~~
17 ~~2011-12 fiscal year through the 2012-13 fiscal year, the annual level~~
18 ~~dollar payment certified by the board shall equal 3.04888 percent of six~~
19 ~~million eight hundred ninety-five thousand dollars.~~

20 Sec. 6. On July 1 of each year, for officers who became members on
21 or after July 1, 2016:

22 (1) The board shall determine the number of retired members or
23 beneficiaries of members in the retirement system who became members on
24 or after July 1, 2016, and an annual benefit adjustment shall be made by
25 the board for each such retired member or beneficiary. The benefit paid
26 to a retired member or beneficiary under this section shall be increased
27 annually by the lesser of (a) the percentage change in the Consumer Price
28 Index for Urban Wage Earners and Clerical Workers for the period between
29 June 30 of the prior year to June 30 of the present year or (b) one
30 percent. If the consumer price index used in this section is discontinued
31 or replaced, a substitute index published by the United States Department

1 of Labor shall be selected by the board which shall be a reasonable
2 representative measurement of the cost-of-living for retired employees;

3 (2) Each retired member or beneficiary shall receive the sum of the
4 annual benefit adjustment and such retired member's or beneficiary's
5 total monthly benefit less withholding, which sum shall be the retired
6 member's or beneficiary's adjusted total monthly benefit. Each such
7 retired member or beneficiary shall receive the adjusted total monthly
8 benefit until the expiration of the annuity option selected by the member
9 or until the retired member or beneficiary again qualifies for the annual
10 benefit adjustment, whichever occurs first; and

11 (3) The annual benefit adjustment pursuant to this section shall not
12 cause a current benefit to be reduced, and a retired member or
13 beneficiary shall never receive less than the adjusted total monthly
14 benefit until the annuity option selected by the member expires.

15 Sec. 7. (1) Beginning July 1, 2016, for officers who became members
16 on or after July 1, 2016, if the annual valuation made by the actuary, as
17 approved by the board, indicates that the retirement system is fully
18 funded and has sufficient actuarial surplus to provide for a
19 supplemental, lump-sum cost-of-living payment, the board may, in its
20 discretion, elect to pay up to a maximum one and one-half percent
21 supplemental, lump-sum cost-of-living payment to each retired member or
22 beneficiary based on the retired member's or beneficiary's total monthly
23 benefit through June 30 of the year for which the supplemental, lump-sum
24 cost-of-living payment is being calculated. The supplemental, lump-sum
25 cost-of-living payment shall be paid within sixty days after the board's
26 decision. In no event shall the board declare a supplemental, lump-sum
27 cost-of-living payment if such adjustment would cause the plan to be less
28 than fully funded.

29 (2) For purposes of this section, fully funded means the unfunded
30 actuarial accrued liability, based on the lesser of the actuarial value
31 and the market value, under the entry age actuarial cost method, is less

1 than zero on the most recent actuarial valuation date.

2 (3) Any decision or determination by the board to declare or not
3 declare a cost-of-living payment or as to whether the annual valuation
4 indicates a sufficient actuarial surplus to provide for a cost-of-living
5 payment shall be made in the sole, absolute, and final discretion of the
6 board and shall not be subject to challenge by any member or beneficiary.
7 In no event shall the Legislature be constrained or limited in amending
8 the system notwithstanding the effect of any such change upon the
9 actuarial surplus of the system and the ability of the board to declare
10 future cost-of-living payments.

11 Sec. 8. Section 81-2041, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-2041 (1) Any officer who became a member prior to July 1, 2016,
14 and member who meets the participation requirements of subsection (2) of
15 this section may participate in DROP. DROP provides that subsequent to
16 attaining normal age and service retirement eligibility, a member may
17 voluntarily choose to participate in DROP upon its adoption which, for
18 purposes of this section, shall be the earlier of September 1, 2008, or
19 the first of the month following a favorable letter determination by the
20 Internal Revenue Service. If the member chooses to participate in DROP,
21 the member shall be deemed to have retired but shall not be deemed to be
22 terminated, and the member may continue in active employment for up to a
23 five-year period. During the DROP period, the member's retirement benefit
24 payments shall be deposited into the DROP account for the benefit of the
25 member until the member actually retires from active employment at or
26 before the expiration of the DROP period. Thereafter, future retirement
27 benefit payments shall be made directly to the member, and the member
28 shall have access to all funds in the DROP account designated for the
29 benefit of the member. DROP funds shall be held and invested in a defined
30 contribution account under section 414(k) of the Internal Revenue Code
31 and shall meet the limitations in section 415 of the code.

1 (2) To participate in the DROP program, a member shall meet the
2 following requirements:

3 (a) A member shall be eligible to enter DROP at any time subsequent
4 to the date when the member has (i) attained normal retirement age and
5 (ii) completed twenty-five years of service. Members having attained
6 normal retirement age and completed twenty-five years of service on or
7 before the date of adoption of DROP shall be eligible to enter DROP at
8 any future date;

9 (b) A member who elects to enter DROP shall be entitled to receive
10 regular age and service retirement benefits in accordance with section
11 81-2026. A member is entitled to remain in DROP for a maximum of five
12 years subsequent to the date of the member's DROP election. A member may
13 separate from service and thereby exit DROP at any time during the DROP
14 period. On or before the completion of the DROP period, the member must
15 separate from active employment and exit DROP. During the DROP period, a
16 member's retirement benefit shall be payable to the DROP account vendor
17 designated in the member's name. Amounts transferred or paid to a
18 participating member's DROP account shall not constitute annual additions
19 under section 415 of the Internal Revenue Code;

20 (c) A member electing to enter DROP shall choose an annuity payment
21 option. After the option is chosen, the member shall not be entitled to
22 any retirement benefit changes, for reasons including, but not limited
23 to, wage increases, promotions, and demotions, except that the
24 restriction on retirement benefit changes shall not apply in the event of
25 duty-related death or duty-related disability. The benefit amount shall
26 be fixed as of the date of election and shall be payable as if the
27 employee retired on that date and separated from active employment. Upon
28 the death of a member during the DROP period, monthly benefits shall be
29 provided as a percentage of the amount of the member's annuity as set
30 forth in subsection (3) of section 81-2026 based upon the annuity benefit
31 calculation made at commencement of the DROP period. In addition, the

1 balance of the DROP account, if any, shall be provided to the beneficiary
2 or beneficiaries of the member in accordance with subsection (6) of
3 section 81-2026 or, if no beneficiary is provided, to the estate of the
4 member. Upon the disability of a member during the DROP period, the
5 member shall be deemed to have completed the DROP period, shall begin
6 receiving the annuity benefit as calculated at the commencement of the
7 DROP period, and shall be paid the balance of the DROP account, if any;

8 (d) No member shall be allowed to continue making the required
9 contributions while the member is enrolled in DROP;

10 (e) During the DROP period, the Nebraska State Patrol shall not be
11 assessed the amount required under subsection (2) of section 81-2017 nor
12 shall such amount be credited to the State Patrol Retirement Fund;

13 (f) The member shall be paid the balance of the DROP account upon
14 the member's separation from active employment or at the expiration of
15 the DROP period thereby ending the member's participation in DROP. If a
16 member has not voluntarily separated from active employment on or before
17 the completion of the DROP period, the member's retirement benefit shall
18 be paid directly to the member thereby ending the member's active
19 employment. The member's DROP account shall consist of accrued retirement
20 benefits and interest on such benefits;

21 (g) Any member that is enrolled in DROP shall be responsible for
22 directing the DROP account designated for the benefit of the member by
23 investing the account in any DROP investment options. There shall be no
24 guaranteed rate of investment return on DROP account assets. Any losses,
25 charges, or expenses incurred by the participating DROP member in such
26 member's DROP account by virtue of the investment options selected by the
27 participating DROP member shall not be made up by the retirement system
28 but all of the same shall be borne by the participating DROP member. The
29 retirement system, the state, the board, and the state investment officer
30 shall not be responsible for any investment results under the DROP
31 agreement. Transfers between investment options shall be in accordance

1 with the rules and regulations of DROP. A DROP account shall be
2 established for each participating DROP member. Such DROP account shall
3 be adjusted no less frequently than annually for the member's retirement
4 benefit distributions and net investment earnings and losses;

5 (h) If the DROP account is subject to administrative or other fees
6 or charges, such fees or charges shall be charged to the participating
7 DROP member's DROP account;~~and~~

8 (i) Cost-of-living adjustments or payments as provided for in
9 section 81-2027.08 or sections 6 and 7 of this act shall not be applied
10 to retirement benefits during the DROP period; and -

11 (j) Any officer who became a member on or after July 1, 2016, is
12 specifically prohibited from participating in DROP.

13 Sec. 9. If any section in this act or any part of any section is
14 declared invalid or unconstitutional, the declaration shall not affect
15 the validity or constitutionality of the remaining portions.

16 Sec. 10. Original sections 81-2014, 81-2014.01, 81-2017, 81-2026,
17 81-2027.08, and 81-2041, Reissue Revised Statutes of Nebraska, are
18 repealed.

19 Sec. 11. Since an emergency exists, this act takes effect when
20 passed and approved according to law.