

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 76

Introduced by Bostar, 29.

Read first time January 09, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska State Patrol Retirement Act;
2 to amend sections 81-2026, 81-2027.08, and 81-2027.09, Reissue
3 Revised Statutes of Nebraska; to change provisions of the Nebraska
4 State Patrol Retirement System relating to benefits provided upon
5 the death of an officer and annual benefit adjustment calculations
6 as prescribed; to repeal the original sections; and to declare an
7 emergency.
8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 81-2026, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-2026 (1)(a) Any officer qualified for an annuity as provided in
4 section 81-2025 for reasons other than disability shall be entitled to
5 receive a monthly annuity for the remainder of the officer's life. The
6 annuity payments shall continue until the end of the calendar month in
7 which the officer dies. The amount of the annuity shall be a percentage
8 of the officer's final average monthly compensation. For retirement on or
9 after the fifty-fifth birthday of the member or on or after the fiftieth
10 birthday of a member who has been in the employ of the state for twenty-
11 five years, as calculated in section 81-2033, the percentage shall be
12 three percent multiplied by the number of years of creditable service, as
13 calculated in section 81-2033, except that the percentage shall never be
14 greater than seventy-five percent.

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

27 (c) For purposes of this computation:

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

1 (A) For any officer employed on or before January 4, 1979, the
2 officer's total compensation includes payments received for unused
3 vacation and sick leave accumulated during the final three years of
4 service; or

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

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

30 (2) Any officer qualified for an annuity as provided in section
31 81-2025 for reasons of disability shall be entitled to receive a monthly

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

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

15 (a) If there is a surviving spouse but no dependent child or
16 children of the officer under nineteen years of age, the surviving spouse
17 shall receive a benefit equal to one hundred ~~seventy-five~~ percent of the
18 amount of the officer's annuity for the remainder of the surviving
19 spouse's life;

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

29 (c) If there is a surviving spouse and the surviving spouse has in
30 his or her care a dependent child or children of the officer under
31 nineteen years of age or there is another dependent child or children of

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

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

24 (e) If there is no surviving spouse or no dependent child or
25 children of the officer under nineteen years of age, the amount of
26 benefit such officer has received under the Nebraska State Patrol
27 Retirement Act shall be computed. If such amount is less than the
28 contributions to the State Patrol Retirement Fund made by such officer,
29 plus regular interest, the difference shall be paid to the officer's
30 designated beneficiary or estate.

31 (4) Upon the death of an officer after retirement for reasons of

1 disability, benefits shall be provided as if the officer had retired for
2 reasons other than disability.

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

6 (a) If there is a surviving spouse but no dependent child or
7 children of the officer under nineteen years of age, the surviving spouse
8 shall receive a benefit equal to one hundred ~~seventy-five~~ percent of the
9 amount of the officer's annuity for the remainder of the surviving
10 spouse's life;

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

20 (c) If there is a surviving spouse and the surviving spouse has in
21 his or her care a dependent child or children of the officer under
22 nineteen years of age or there is another dependent child or children of
23 the officer under nineteen years of age not in the care of the surviving
24 spouse, the benefit shall be twenty-five percent of the amount of the
25 officer's annuity to the surviving spouse and seventy-five percent of the
26 amount of the officer's annuity to the dependent children of the officer
27 under nineteen years of age to be divided equally among such dependent
28 children but in no case shall the benefit received by a surviving spouse
29 and dependent children residing with such spouse be less than fifty
30 percent of the amount of the officer's annuity. At such time as any
31 dependent child of the officer attains nineteen years of age, the benefit

1 shall be divided equally among the remaining dependent children of the
2 officer who have not yet attained nineteen years of age. When there is no
3 remaining dependent child of the officer under nineteen years of age, the
4 benefit shall be one hundred ~~seventy-five~~ percent of the amount of the
5 officer's annuity to the surviving spouse for the remainder of the
6 surviving spouse's life;

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

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

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

23 (7) For any member whose death occurs on or after January 1, 2007,
24 while performing qualified military service as defined in section 414(u)
25 of the Internal Revenue Code, the member's beneficiary shall be entitled
26 to any additional death benefit that would have been provided, other than
27 the accrual of any benefit relating to the period of qualified military
28 service. The additional death benefit shall be determined as if the
29 member had returned to employment with the Nebraska State Patrol and such
30 employment had terminated on the date of the member's death.

31 (8) Any changes made to this section by Laws 2004, LB 1097, shall

1 apply only to retirements, disabilities, and deaths occurring on or after
2 July 16, 2004.

3 **Sec. 2.** Section 81-2027.08, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-2027.08 (1) Beginning July 1, 2011, and each July 1 thereafter,
6 the board shall determine the number of retired members or beneficiaries
7 described in subdivision (4)(b) of this section in the retirement system
8 and an annual benefit adjustment shall be made by the board for each
9 retired member or beneficiary under one of the cost-of-living adjustment
10 calculation methods found in subsection (2), (3), or (4) of this section.
11 Each retired member or beneficiary, if eligible, shall receive an annual
12 benefit adjustment under the cost-of-living adjustment calculation method
13 that provides the retired member or beneficiary the greatest annual
14 benefit adjustment increase. No retired member or beneficiary shall
15 receive an annual benefit adjustment under more than one of the cost-of-
16 living adjustment calculation methods provided in this section.

17 (2) The current benefit paid to a retired member or beneficiary
18 under this subsection shall be adjusted so that the purchasing power of
19 the benefit being paid is not less than sixty percent of the purchasing
20 power of the initial benefit. The purchasing power of the initial benefit
21 in any year following the year in which the initial benefit commenced
22 shall be calculated by dividing the United States Department of Labor,
23 Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners
24 and Clerical Workers factor on June 30 of the current year by the
25 Consumer Price Index for Urban Wage Earners and Clerical Workers factor
26 on June 30 of the year in which the benefit commenced. The result shall
27 be multiplied by the product that results when the amount of the initial
28 benefit is multiplied by sixty percent. In any year in which applying the
29 adjustment provided in subsection (3) of this section results in a
30 benefit which would be less than sixty percent of the purchasing power of
31 the initial benefit as calculated in this subsection, the adjustment

1 shall instead be equal to the percentage change in the Consumer Price
2 Index for Urban Wage Earners and Clerical Workers factor from the prior
3 year to the current year.

4 (3) The current benefit paid to a retired member or beneficiary
5 under this subsection shall be increased annually by the lesser of:

6 (a) The ~~the~~ percentage change in the Consumer Price Index for Urban
7 Wage Earners and Clerical Workers for the period between June 30 of the
8 prior year to June 30 of the present year; or

9 (b)(i) Prior to July 1, 2025, ~~(b)~~ two and one-half percent; and -
10 (ii) Beginning July 1, 2025, four percent.

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

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

1 subsection.

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

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

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

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

29 (6) The annual benefit adjustment pursuant to this section shall not
30 cause a current benefit to be reduced, and a retired member or
31 beneficiary shall never receive less than the adjusted total monthly

1 benefit until the annuity option selected by the member expires.

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

12 (8) This section applies to an officer who became a member prior to
13 July 1, 2016.

14 **Sec. 3.** Section 81-2027.09, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-2027.09 On July 1 of each year, for officers who became members
17 on or after July 1, 2016:

18 (1) The board shall determine the number of retired members or
19 beneficiaries of members in the retirement system who became members on
20 or after July 1, 2016, and an annual benefit adjustment shall be made by
21 the board for each such retired member or beneficiary. The benefit paid
22 to a retired member or beneficiary under this section shall be increased
23 annually by the lesser of:

24 (a) The ~~the~~ percentage change in the Consumer Price Index for Urban
25 Wage Earners and Clerical Workers for the period between June 30 of the
26 prior year to June 30 of the present year; or

27 (b)(i) Prior to July 1, 2025, (b) one percent; and -

28 (ii) Beginning July 1, 2025, four percent.

29 (2) If the consumer price index used in this section is discontinued
30 or replaced, a substitute index published by the United States Department
31 of Labor shall be selected by the board which shall be a reasonable

1 representative measurement of the cost-of-living for retired employees;

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

10 (4) (3) The annual benefit adjustment pursuant to this section shall
11 not cause a current benefit to be reduced, and a retired member or
12 beneficiary shall never receive less than the adjusted total monthly
13 benefit until the annuity option selected by the member expires.

14 **Sec. 4.** Original sections 81-2026, 81-2027.08, and 81-2027.09,
15 Reissue Revised Statutes of Nebraska, are repealed.

16 **Sec. 5.** Since an emergency exists, this act takes effect when
17 passed and approved according to law.