

LEGISLATIVE BILL 408

Approved by the Governor April 17, 2001

Introduced by Nebraska Retirement Systems Committee: Bruning, 3, Chairperson; Bourne, 8; Erdman, 47; Stuhr, 24; Wehrbein, 2; Wickersham, 49

AN ACT relating to retirement; to amend sections 23-2307, 23-2315.01, 24-702, 24-703, 79-974, 81-2014.01, 81-2017, 81-2018, 81-2031, 84-1308, 84-1323.01, and 84-1503.03, Reissue Revised Statutes of Nebraska, and sections 23-2309.01, 23-2310.04, 23-2310.05, 24-701, 24-701.01, 24-706, 30-3209, 79-902, 79-921, 79-933.05, 79-933.06, 79-958, 81-2014, 84-1310.01, 84-1311.03, and 84-1314, Revised Statutes Supplement, 2000; to change provisions relating to expense funds, purchase of service, investment allocations, disability, termination of employment, investments by certain counties, and employee contributions; to create funds; to redefine terms; to provide powers and duties; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 23-2307, Reissue Revised Statutes of Nebraska, is amended to read:

23-2307. Each employee who is a member of the retirement system shall pay to the county or have picked up by the county a sum equal to four percent of his or her compensation for each pay period. The county shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the ~~Internal Revenue Code~~ code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The county shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The county shall pick up these contributions by a compensation deduction ~~either~~ through a reduction in the cash compensation of the employee. ~~or a combination of a reduction in compensation and offset against a future compensation increase.~~ Employee contributions picked up shall be treated for all purposes of the County Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 2. Section 23-2309.01, Revised Statutes Supplement, 2000, is amended to read:

23-2309.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. The investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description

of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments of ten percent as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 3. Section 23-2310.04, Revised Statutes Supplement, 2000, is amended to read:

23-2310.04. ~~Except as provided in sections 23-2309.01 and 23-2310,~~ The County Employees Retirement System Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 23-2319.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the County Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 23-2309.01, 23-2310, and 23-2310.05. shall be paid from the County Employees Retirement System Expense Fund which is hereby created. The fund shall be credited with money forfeited pursuant to section 23-2319.01 for the proportionate share of administration expenses from the retirement system assets and income as directed by the board for the proper administration of the County Employees Retirement Act. Any money in the fund County Employees Retirement System Expense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 4. Section 23-2310.05, Revised Statutes Supplement, 2000, is amended to read:

23-2310.05. (1) On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employer account after such date to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent domestic equities and seventy-five percent domestic fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent domestic equities and fifty percent domestic fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent domestic equities and twenty-five percent domestic fixed income instruments.

If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments of ten percent as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from

one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 5. Section 23-2315.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-2315.01. (1) Any member, disregarding the length of service, may be retired as a result of disability either upon his or her own application or upon the application of his or her employer or any person acting in his or her behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member should be retired because he or she suffers from 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. ~~is physically or mentally incapable of further performing his or her duties as a county employee and should be retired.~~ The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of sixty-five to undergo a medical examination at the expense of the board once each year. Should any disability beneficiary refuse to undergo such an examination, his or her disability retirement benefit may be discontinued by the board.

Sec. 6. Section 24-701, Revised Statutes Supplement, 2000, 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 (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, (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 (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, (iii) any county judge serves in such capacity from and after January 5, 1961, (iv) any judge of a separate juvenile court serves in such capacity, (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967,

and prior to July 1, 1985, (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, (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 (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) 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 as defined in section 49-801.01 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 as defined in section 49-801.01 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 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 interest fixed at a rate equal to the ~~bond equivalent yield daily treasury yield curve for one-year treasury securities~~, 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 that applies on July 1 of each 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 (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 24-710.08 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the Judges Retirement Act;

(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 the Judges Retirement Act;

(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 within two weeks after the date such a termination is deemed to have occurred.

Sec. 7. Section 24-701.01, Revised Statutes Supplement, 2000, is amended to read:

24-701.01. Sections 24-701 to 24-714 and section 11 of this act shall be known and may be cited as the Judges Retirement Act.

Sec. 8. Section 24-702, Reissue Revised Statutes of Nebraska, is amended to read:

24-702. (1) There is hereby created in the state treasury a fund to be known as the Nebraska Retirement Fund for Judges which shall be administered by the board and to which shall be credited all money appropriated or transferred by law thereto. The fund is hereby appropriated and made available to the board for the uses and purposes prescribed by the

provisions of ~~sections 24-701 to 24-714~~ the Judges Retirement Act.

(2) The Nebraska Judges Retirement Act Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the Judges Retirement Act and necessary in connection with the administration and operation of the retirement system.

Sec. 9. Section 24-703, Reissue Revised Statutes of Nebraska, is amended to read:

24-703. (1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (10) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2) Each future member shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. Any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and as limited in subsection (2) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services to make a deduction of six percent on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the six percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) A Nebraska Retirement Fund for Judges fee of one dollar shall be taxed as costs in each civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts and the county courts. In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06. No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06. When collected by the clerk of the district or county court, such fees shall be paid to the director in charge of the judges retirement system on forms prescribed by the board by the clerk within ten days after the close of each calendar quarter. Such director shall promptly thereafter remit the same to the State Treasurer for credit to the fund. No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits and for the expenses of administration.

(5) The fund shall consist of the total fund as of December 25, 1969, the contributions of members as provided in this section, all supplementary court fees as provided in subsection (3) of this section, and any required contributions of the state.

(6) Not later than January 1 of each year, the State Treasurer shall transfer to the fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30 in excess of member contributions for that fiscal year and

court fees as provided in subsection (3) of this section, if any, for that fiscal year plus any required contributions of the state as provided in subsection (9) of this section.

(7) Benefits under the retirement system to members or to their beneficiaries shall be paid from the fund.

(8) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board.

(9) Not later than January 1 of each year, the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the retirement system as of June 30, 1988, by level payments up to January 1, 2000. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. Any change in the unfunded accrued liabilities due to benefit or assumption changes shall be fully funded over the average expected future service of the active members of the retirement system or by the first day of the twenty-sixth calendar year after the date of the actuarial valuation which first recognized these changes, whichever occurs first. The change in the unfunded accrued liabilities shall be funded by level annual payments which shall be made over the lesser of twenty-five years or the average expected future service of the active members of the retirement system. If the unfunded accrued liability for the retirement system, determined under the entry age actuarial cost method, is zero or less than zero on any actuarial valuation date, then all prior unfunded accrued liability amounts shall be considered fully funded. Effective July 1, 1988, actuarial gains and losses shall be amortized over the expected future service of the active members as part of the annual normal cost.

(10) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state or county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction ~~either~~ through a reduction in the compensation of the member, ~~or a combination of a reduction in compensation and offset against a future compensation increase.~~ Member contributions picked up shall be treated for all purposes of ~~sections 24-701 to 24-714~~ the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 10. Section 24-706, Revised Statutes Supplement, 2000, is amended to read:

24-706. (1) 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 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 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 termination of employment, whichever is first,~~ part or all of the amount withdrawn plus interest which would have accrued on such amount under the retirement system his or her withdrawals pursuant to section 11 of this act. 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. 11. A member who terminates employment prior to becoming eligible to retire and again serves as a judge may elect to repay part or all of the amount he or she had withdrawn as a refund pursuant to section 24-706 plus the interest that would have accrued on such amount. Payment shall

commence prior to termination of employment, shall not be extended more than five years after the date the member elects to repay his or her refund, and shall be completed prior to termination of employment. Prior service and rights shall be restored in proportion to the amounts repaid, and the prior service and rights of the member shall be fully restored only if he or she repays all accumulated withdrawals plus interest which would have accrued on that amount.

Sec. 12. Section 30-3209, Revised Statutes Supplement, 2000, is amended to read:

30-3209. (1) Corporate trustees authorized by Nebraska law to exercise fiduciary powers and holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, public power districts, or other governmental or political subdivisions may invest and reinvest such funds in such securities and investments as are authorized for trustees, guardians, conservators, personal representatives, or administrators under the laws of Nebraska. Retirement or pension funds of such cities, villages, districts, or subdivisions may be invested in annuities issued by life insurance companies authorized to do business in Nebraska. Except as provided in subsection (2) of this section, any other retirement or pension funds of cities, including cities operating under home rule charters, villages, school districts except as provided in section 79-9,107, public power districts, and all other governmental or political subdivisions may be invested and reinvested, as the governing body of such city, village, school district, public power district, or other governmental or political subdivision may determine, in the following classes of securities and investments: (a) Bonds, notes, or other obligations of the United States or those guaranteed by or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof; (b) bonds or other evidences of indebtedness of the State of Nebraska and full faith and credit obligations of or obligations unconditionally guaranteed as to principal and interest by any other state of the United States; (c) bonds, notes, or obligations of any municipal or political subdivision of the State of Nebraska which are general obligations of the issuer thereof and revenue bonds or debentures of any city, county, or utility district of this state when the earnings available for debt service have, for a five-year period immediately preceding the date of purchase, averaged not less than one and one-half times such debt service requirements; (d) bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; (e) certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation or capital stock financial institutions, and if the amount deposited exceeds the amount of insurance available thereon, then the excess shall be secured in the same manner as for the deposit of public funds; (f) accounts with building and loan associations or federal savings and loan associations in the State of Nebraska to the extent that such accounts are insured by the Federal Deposit Insurance Corporation; (g) bonds or other interest-bearing obligations of any corporation organized under the laws of the United States or any state thereof if (i) at the time the purchase is made, they are given, by at least one statistical organization whose publication is in general use, one of the three highest ratings given by such organization and (ii) not more than five percent of the fund shall be invested in the obligations of any one issuer; (h) direct short-term obligations, generally classified as commercial paper, of any corporation organized or existing under the laws of the United States or any state thereof with a net worth of ten million dollars or more; and (i) preferred or common stock of any corporation organized under the laws of the United States or of any state thereof with a net worth of ten million dollars or more if (i) not more than fifty percent of the total investments at the time such investment is made is in this class and not more than five percent is invested in each of the first five years and (ii) not more than five percent thereof is invested in the securities of any one corporation. Notwithstanding the percentage limits stated in this subsection, the cash proceeds of the sale of such preferred or common stock may be reinvested in any securities authorized under this subdivision. No city, village, school district, public power district, or other governmental subdivision or the governing body thereof shall be authorized to sell any securities short, buy on margin, or buy, sell, or engage in puts and calls. The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

(2) Notwithstanding the limitations prescribed in subsection (1) of this section, trustees holding retirement or pension funds for the benefit of employees or former employees of any city of the metropolitan class, ~~or~~

metropolitan utilities district, or county in which a city of the metropolitan class is located shall invest such funds 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, buy call options, or buy put options. 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 subsection, all proxies may be voted by the trustees. The asset allocation restrictions set forth in subsection (1) of this section shall not be applicable to the funds of pension or retirement systems administered by or on behalf of a city of the metropolitan class, ~~or~~ metropolitan utilities district, or county in which a city of the metropolitan class is located.

Sec. 13. Section 79-902, Revised Statutes Supplement, 2000, 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 (a) until July 1, 2000, 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 and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

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

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

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

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

(9) Regular interest means interest fixed at a rate equal to the ~~bond equivalent yield daily treasury yield curve for one-year treasury securities~~, 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 that applies on July 1 of each year, which may be credited~~ monthly, quarterly, semiannually, or annually as the board may direct;

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

(11) School employee means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees hired upon a full-time basis which contemplates a workweek

of not less than thirty hours; (b) regular part-time employees hired for not less than sixty hours per month; and (c) school employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity. Substitute school employees shall not be considered school employees;

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

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

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

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

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

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

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

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

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

(21) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

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

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

(24) State school official means the Commissioner of Education and his or her professional staff;

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

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

The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

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

(28) 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 terminated employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member terminates employment in the school system;

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

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

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

(32)(a) Final average compensation means (i) 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 (ii) 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.

(b) In the determination of final average compensation for members who retire on or after May 26, 1999, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless (i) the member experienced a substantial change in employment position or (ii) the excess compensation occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee.

(c) For purposes of this subdivision, (i) category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both and (ii) recognized collective bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(d) 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.

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

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

(34) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

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

(36) 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;

(37)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include amounts which the retirement board determines were fraudulently obtained, compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 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 as defined in section 49-801.01 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;

(38) 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 within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not include ceasing employment at the end of the school year if the member subsequently provides compensated service on a regular basis in any capacity for any school district other than a Class V school district ~~within the same plan year or~~ within one hundred eighty calendar days after ceasing employment; ~~7 whichever period is longer;~~

(39) 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; and

(40) Substitute school employee means a person hired by a public school on an intermittent basis to assume the duties of regular school employees due to the temporary absence of the regular school employees.

Sec. 14. Section 79-921, Revised Statutes Supplement, 2000, is amended to read:

79-921. (1) The membership of any person in the retirement system shall cease only if he or she ~~(1)~~ (a) withdraws his or her accumulated contributions under section 79-955, ~~(2)~~ (b) retires on a school or formula or disability retirement allowance, or ~~(3)~~ (c) dies.

(2) 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 under the following conditions:

(a) ~~If~~ if he or she again becomes an employee and if such employee chooses within three years after rejoining the system to repay, within five years after the date on which he or she rejoins the retirement system or prior to termination of employment, 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; or

(b)(i) If, more than three years after again becoming an employee and rejoining the system but prior to termination of employment, he or she chooses to repay part or all of the amount he or she has withdrawn, plus an amount as determined in subdivision (2)(b)(ii) of this section. Payment must be completed within five years after electing to repay or prior to termination, whichever is earlier.

(ii) The additional amount required pursuant to subdivision (2)(b)(i) of this section shall be equal to the total actual annual return that was earned on assets of the system from the time the amounts were withdrawn until the fiscal year in which the employee makes the election to repay. The actual annual return shall be reported by the Nebraska Investment Council to the board on June 30 of each year.

(3) Prior creditable service shall be restored in proportion to the

amounts repaid. A member's prior creditable service shall be fully restored only if the member has repaid all accumulated withdrawals in accordance with either subdivision (2)(a) or (2)(b) of this section, as applicable. 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. 15. Section 79-933.05, Revised Statutes Supplement, 2000, is amended to read:

79-933.05. (1) A contributing member ~~hired or rehired after July 19, 1996,~~ may purchase service credit for not to exceed ten years of creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-979. ~~The election to purchase service credit shall be made within three years of membership or reinstatement.~~ The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years ~~of membership or reinstatement~~ after making the election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to this section to the extent that the member does not receive credit for such service.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

Sec. 16. Section 79-933.06, Revised Statutes Supplement, 2000, is amended to read:

79-933.06. (1) Any contributing member ~~hired or rehired after July 19, 1996,~~ may purchase service credit for time he or she was on a leave of absence authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. ~~The election to purchase service credit shall be made within three years of such member's return to membership in the retirement system.~~ The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years ~~of~~ after such member's return to membership in the retirement system election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. Such leave shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

Sec. 17. Section 79-958, Revised Statutes Supplement, 2000, is amended to read:

79-958. (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account for formula annuities, every employee shall be required to make deposits in the School Retirement

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

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account for formula annuities, every employer shall be required to make deposits in the School Retirement Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. For the fiscal year beginning on July 1, 1996, three-tenths of one percent of compensation shall be transferred from the School Employers Deposit Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-975.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction ~~either~~ through a reduction in the cash compensation of the member, ~~or a combination of a reduction in compensation and offset against a future compensation increase.~~ Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

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

Sec. 18. Section 79-974, Reissue Revised Statutes of Nebraska, is amended to read:

79-974. The Expense Fund is created and is shall be the fund to which shall be credited the proportionate share of administration expense transferred from the Contingent Account at the direction of the retirement board. All the expenses necessary in connection with the administration and operation of the retirement system shall be paid from the Expense Fund. The Expense Fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the School Employees Retirement Act and necessary in connection with the administration and operation of the retirement system. Annually, as soon after July 1 as is practicable, the retirement board shall estimate the amount of money which is deemed necessary to be paid into the Expense Fund for that fiscal year. ~~to provide for the expense of operation and administration of the retirement system.~~

Sec. 19. Section 81-2014, Revised Statutes Supplement, 2000, 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 as defined in section 49-801.01 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 as defined in section 49-801.01 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 (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 81-2027.04 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(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 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;

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

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

(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~~ daily treasury yield curve for one-year treasury securities, 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 that applies on July 1 of each year~~, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(11) Retirement system or system means the Nebraska State Patrol Retirement System as provided in 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;

(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 within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol ~~within the same plan year or~~ within one hundred twenty days. ~~7 whichever period is longer.~~

Sec. 20. Section 81-2014.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2014.01. Sections 81-2014 to 81-2040 and section 24 of this act shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Sec. 21. Section 81-2017, Reissue Revised Statutes of Nebraska, is amended to read:

81-2017. (1) Prior to July 1, 1995, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eight percent of his or her monthly compensation. Commencing July 1, 1995, and through June 30, 1996, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to ten percent of his or her monthly compensation. Commencing July 1, 1996, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eleven percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (2) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board. In addition there shall be transferred from the General Fund monthly by the State Treasurer a sum equal to the amount of such compensation deductions each month which shall be credited to the State Patrol Retirement Fund. The fund shall further be supplemented annually by an appropriation in such amount, if any, as may be determined on the basis of an actuarial valuation prepared by a member of the American Academy of Actuaries to be sufficient to fully fund (a) the unfunded accrued liability of the system as of June 30, 1988, by January 1, 2005, (b) any change in the unfunded accrued liabilities due to benefit or assumption changes during the average expected future service of the active members of the system or by the first day of the twenty-sixth calendar year after the date of the actuarial valuation which first recognized these changes, whichever occurs first. The change in the unfunded accrued liabilities shall be funded by level annual payments which shall be made over the lesser of twenty-five years or the average expected future service of the active members of the system, and (c) any other increase or decrease in the unfunded accrued liability occurring after June 30, 1988, that is not attributable to changes in benefits or assumptions over the expected future service of the active member group as part of the normal cost. If the unfunded accrued liability determined under the entry age actuarial cost method is zero or less than zero on any actuarial valuation date, then all prior unfunded accrued liabilities shall be considered fully funded. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(2) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction ~~either~~ through a reduction in the cash compensation of the member, ~~or a combination of a reduction in compensation and offset against a future compensation increase.~~ Member contributions picked up shall

be treated for all purposes of ~~sections 81-2014 to 81-2036~~ the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 22. Section 81-2018, Reissue Revised Statutes of Nebraska, is amended to read:

81-2018. (1) Except as provided in subsection (2) of this section, all All money received by the Nebraska State Patrol Retirement System shall be remitted to the State Treasurer for credit to the State Patrol Retirement Fund which is hereby created. Out of the fund shall be paid the expenses of the system and the benefits and annuities as provided in sections 81-2014 to 81-2036 the Nebraska State Patrol Retirement Act.

(2) The State Patrol Retirement Act Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the Nebraska State Patrol Retirement Act and necessary in connection with the administration and operation of the retirement system.

Sec. 23. Section 81-2031, Reissue Revised Statutes of Nebraska, is amended to read:

81-2031. (1) Upon termination of employment prior to becoming eligible to retire, as provided in section 81-2025, and for reasons other than death or disability, an officer shall be entitled to receive all payments which have been made by compensation deductions into the State Patrol Retirement Fund plus regular interest. The return of such contributions and interest to such officer shall preclude such officer from any benefits under the Nebraska State Patrol Retirement Act unless and until such officer is reemployed in such capacity and repays, ~~commencing within three years after rejoining the system and prior to five years after rejoining the retirement system or prior to termination of employment, whichever is first, part or all of the amount withdrawn plus interest which would have accrued on that amount under the system~~ such withdrawals pursuant to section 24 of this act. 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 percent for the first five years of (i) creditable service plus (ii) eligibility and vesting credit;

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

(c) One hundred percent after ten completed years of (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. 24. An officer who terminates employment prior to becoming eligible to retire and again serves as an officer in the Nebraska State Patrol may elect to repay part or all of the amount he or she had withdrawn as a refund pursuant to section 81-2031 plus the interest that would have accrued on such amount. Payment shall commence prior to termination of employment, shall not be extended more than five years after the date the officer elects to repay his or her refund, and shall be completed prior to termination of employment. Prior service and rights shall be restored in proportion to the amounts repaid, and the prior service and rights of the officer shall be fully restored only if he or she repays all accumulated withdrawals plus interest which would have accrued on that amount.

Sec. 25. Section 84-1308, Reissue Revised Statutes of Nebraska, is amended to read:

84-1308. (1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to four and thirty-three hundredths percent of his or her monthly compensation until such time as he or she has paid during any calendar year a total of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths percent of his or her monthly compensation for the remainder of such calendar year. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to

the State Employees Retirement Fund.

(2) The employer shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction ~~either~~ through a reduction in the cash compensation of the employee. ~~or a combination of a reduction in compensation and offset against a future compensation increase.~~ Employee contributions picked up shall be treated for all purposes of the State Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 26. Section 84-1310.01, Revised Statutes Supplement, 2000, is amended to read:

84-1310.01. (1) On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments ~~of ten percent~~ as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 27. Section 84-1311.03, Revised Statutes Supplement, 2000, is amended to read:

84-1311.03. (1) On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employer account after such date to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent domestic equities and seventy-five percent domestic fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent domestic equities and fifty percent domestic fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent domestic equities and twenty-five percent domestic fixed income instruments.

If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments of ten percent as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 28. Section 84-1314, Revised Statutes Supplement, 2000, is amended to read:

84-1314. ~~Except as provided in sections 84-1310.01 and 84-1311, all expenses~~ The State Employees Retirement System Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 84-1321.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred through the Nebraska Public Employees Retirement Systems Expense Fund, as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1310.01, 84-1311, and 84-1311.03. shall be paid from the State Employees Retirement System Expense Fund which is hereby created. ~~The fund shall be credited with money forfeited pursuant to section 84-1321.01 for the proportionate share of administration expenses from the retirement system assets and income as directed by the board for the proper administration of the State Employees Retirement Act.~~ Any money in the fund State Employees Retirement System Expense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 29. Section 84-1323.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1323.01. (1) Any member who is an employee, disregarding the length of service, may be retired as a result of disability either upon the member's own application or upon the application of the member's employer or any person acting in the member's behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member ~~is physically or~~

mentally incapable of further performing his or her duties as a state employee suffers from 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 and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of fifty-five to undergo a medical examination at the expense of the board once each year. If any disability beneficiary refuses to undergo such an examination, the disability retirement benefit may be discontinued by the board.

Sec. 30. Section 84-1503.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-1503.03. The director of the Nebraska Public Employees Retirement Systems shall employ qualified personnel as may be required to carry out the duties and responsibilities required under sections 84-1501 to 84-1513 and section 31 of this act. Such employees shall be deemed state employees and covered by the State Personnel System pursuant to sections 81-1301 to 81-1368 and other personnel rules or regulations. The director shall be exempt from the State Personnel System. All employees shall comply with state accounting regulations and applicable state and federal laws in the discharge of their duties.

Sec. 31. (1) The Nebraska Public Employees Retirement Systems Expense Fund is created. All expenses necessary in connection with the administration and operation of the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act and the administration and operation of the deferred compensation program authorized by section 84-1504 shall be paid from the fund. The expenses incurred pursuant to sections 23-2309.01, 23-2310, 23-2310.05, 84-1310.01, 84-1311, and 84-1311.03 shall be exempt from this section.

(2) A pro rata share of the expenses of the Nebraska Public Employees Retirement Systems each fiscal year shall be charged to the retirement systems and deferred compensation program administered by the Public Employees Retirement Board and money sufficient to pay for such share shall be transferred from time to time to the Nebraska Public Employees Retirement Systems Expense Fund from the expense funds created pursuant to sections 23-2310.04, 24-702, 79-974, 81-2018, 84-1314, and 84-1506.01. The board shall determine a reasonable allocation of expenses among the systems, using as guidance the proportionate number of members in each system on the last day of June one year preceding the beginning of the fiscal year. Nothing in this section shall abrogate the trust provisions established pursuant to sections 23-2330.02, 24-713.02, 79-977.02, 81-2039, 84-1329.04, and 84-1504.

(3) Any money in the Nebraska Public Employees Retirement Systems Expense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 32. This act becomes operative on July 1, 2001.

Sec. 33. Original sections 23-2307, 23-2315.01, 24-702, 24-703, 79-974, 81-2014.01, 81-2017, 81-2018, 81-2031, 84-1308, 84-1323.01, and 84-1503.03, Reissue Revised Statutes of Nebraska, and sections 23-2309.01, 23-2310.04, 23-2310.05, 24-701, 24-701.01, 24-706, 30-3209, 79-902, 79-921, 79-933.05, 79-933.06, 79-958, 81-2014, 84-1310.01, 84-1311.03, and 84-1314, Revised Statutes Supplement, 2000, are repealed.

Sec. 34. Since an emergency exists, this act takes effect when passed and approved according to law.