

LEGISLATIVE BILL 506

Approved by the Governor April 20, 1989

Introduced by Haberman, 44

AN ACT relating to retirement; to amend sections 23-2322, 79-1520, 79-1565, 81-2014, 81-2017, 81-2025, 81-2026, 81-2031, 81-2032, 84-1301, and 84-1324, Reissue Revised Statutes of Nebraska, 1943, and sections 24-701, 24-703, 24-706, 24-707, 24-708, 24-710, 24-710.02, 79-1501, and 79-1552, Revised Statutes Supplement, 1988; to change provisions relating to annuities and benefits as prescribed; to define and redefine terms; to provide duties; to change provisions relating to former members of retirement systems; to authorize certain individuals to elect retirement system membership as prescribed; to delete obsolete language; to change funding provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 23-2322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2322. All annuities or benefits which any person shall be entitled to receive under the County Employees Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable; except that a judgment, decree, or order, including approval of a property settlement agreement, made pursuant to law that relates to child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent shall be complied with to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 2. That section 24-701, Revised Statutes Supplement, 1988, be amended to read as follows:

24-701. As used in For purposes of sections 24-701 to 24-714, unless the context otherwise requires:

(1) Fund shall mean the Nebraska Retirement

Fund for Judges;

(2) Judge shall mean and include (a) all duly elected or appointed Chief Justices or Judges of the Supreme Court and judges of the district courts of Nebraska who shall 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 shall 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 shall 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, and (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;

(3) Prior service shall mean 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) Current service shall mean the period of service (a) any Judge of the Supreme Court or judge of the district court shall serve in such capacity from and after January 3, 1957, (b)(i) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (ii) any judge of the Nebraska Workers' Compensation Court shall serve in such capacity on and after July 17, 1986, (c) any county judge shall serve in such capacity from and after January 5, 1961, (d) any judge of a separate juvenile court shall have served in such capacity, (e) any judge of the municipal court shall serve in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (f) any judge of the county court or associate county judge shall serve in such capacity subsequent to January 4, 1973, and (g) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, shall serve in such capacity from and after July 1, 1986;

(5) Military service shall mean 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, and (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. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Total years of service shall mean the total number of years served as a judge, including prior service, military service, and current service, as defined in this section computed to the nearest one-twelfth year;

(7) Salary shall mean the statutory salary of a judge or the salary being received by such judge pursuant to law;

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

(9) Single life Normal form annuity shall mean 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. The first payment shall be made as of the end of the calendar

month in which such annuity was awarded and the last payment shall be at the end of the calendar month in which such judge shall die. The first payment shall include all amounts accrued since the effective date of the award of annuities, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began 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 shall mean the Public Employees Retirement Board;

(11) Member shall mean a judge, as defined in subdivision (2) of this section, eligible to participate in the retirement system established under the provisions of sections 24-701 to 24-714;

(12) Original member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, and who does not elect to become a future member pursuant to subsection (8) of section 24-703 or section 24-710.01;

(13) Future member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, on or after December 25, 1969, or shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, 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 salary shall mean the average monthly salary for the last four years¹ years of service as a judge or, in the event of a judge serving less than four years, the average monthly salary for such judge's period of service. The final average salary of any judge who has retired or who will retire during or at the end of the presently current judicial term shall mean the average monthly salary for his or her last year of service before retirement;

(15) Regular interest shall mean the rate of interest earned each fiscal year commencing July 1, 1974, as determined by the retirement board in conformity with actual and expected earnings on its investments, which may be credited monthly, quarterly, semiannually, or annually as the retirement board may direct;

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

(17) Actuarial equivalence shall mean 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.

Sec. 3. That section 24-703, Revised Statutes Supplement, 1988, be amended to read as follows:

24-703. (1) Each original member shall contribute monthly four percent of his or her monthly salary 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 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~~ director and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties ~~and cities~~ to the fund and remit the same to the executive officer 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 salary to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. It shall be the duty of the ~~Director of Administrative Services~~ director 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 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 director 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 executive officer 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 and criminal cause of action or proceeding filed in the district courts and the county courts, and in county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126, and 33-126.02, except on the fees provided for in section 33-125 for the dismissal of a cause and for filing a report pursuant to sections 33-126 and 33-126.02. A similar fee shall be charged for prosecutions of any city ordinance regulating nonmoving traffic violations, to be credited to the costs of a violations bureau when established by a local governing body, except when such cause, proceeding, or defendant has been dismissed by the court. When collected by the clerk of the district or county court, such fees shall be paid to the executive officer 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 executive officer shall promptly thereafter remit the same to the state treasury. Upon the receipt thereof, the State Treasurer shall credit the same to the Nebraska Retirement Fund for Judges fund.

(4) All expenditures from the Nebraska Retirement Fund for Judges 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

described above 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 shall occur 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 liabilities 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 United States Internal Revenue Code, 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 United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The 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 salary deduction either through a reduction in the salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated for all purposes of sections 24-701 to 24-714 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 4. That section 24-706, Revised Statutes Supplement, 1988, be amended to read as follows:

24-706. Any member whose service is terminated prior to age sixty-five for any cause other than death may, upon written request to the board, (1) 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 hereunder under sections 24-701 to 24-714 unless and until such judge again serves in such capacity; and repays, within three years of rejoining the retirement system, part or all of the amount withdrawn plus interest which would have accrued on such amount under the retirement system. If the member chooses not to repay such withdrawals with interest, the member shall enter the retirement system as a new member with no prior rights or (2) leave his or her contributions in the fund and receive a retirement annuity starting at age sixty-five as provided in section sections 24-708 and 24-710. Any member whose service is terminated at or subsequent to age sixty-five but prior to age seventy shall be considered as a beginning normal retirement and annuity payments shall begin as provided in section 24-710.

Sec. 5. That section 24-707, Revised Statutes Supplement, 1988, be amended to read as follows:

24-707. In the event of the death of a judge prior to retirement, if such judge shall have had five or more years of service, the spouse of such judge shall at his or her option be immediately entitled to receive those benefits which the spouse would have been entitled to under subsection {4} (3) of section 24-710 had the judge elected to have the retirement annuity paid as a joint and survivor annuity payable as long as either the

judge or the judge's spouse should survive and had the judge retired (1) on the date of death, if his or her age at death is sixty-five or more; or (2) at age sixty-five; if his or her age at death is less than sixty-five. If such option is not exercised by such spouse within ninety days of the judge's death, if no spouse survives, or if the judge has not served for five years, then the beneficiary, or the estate if the judge has not filed a written statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such judge plus regular interest. In the event of the death of a judge subsequent to retirement, if such a judge has not filed a written statement of intent with the board to elect to receive any other form of annuity which may be provided for by ~~sections 24-707 and section~~ section 24-710, the amount of annuities such judge has received under the provisions of sections 24-701 to 24-714 shall be computed and, if such amount shall be less than the contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate.

Sec. 6. That section 24-708, Revised Statutes Supplement, 1988, be amended to read as follows:

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

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

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

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

Sec. 7. That section 24-710, Revised Statutes Supplement, 1988, be amended to read as follows:

24-710. (1) The retirement annuity of a judge who is an original member, who has not made the election provided for in subsection (8) of section 24-703 or section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average salary as such judge, multiplied by the number of his or her total years of service. ~~Any supplemental salary provided for in section 24-301-01 or 24-513 shall be excluded for purposes of computing such annuity.~~ The amount stated in this section shall be supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by sections 24-701 to 24-714 shall not exceed sixty-five percent of the final average salary such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average salary as such judge, multiplied by the number of his or her total years of service, except that the monthly benefits received under this subsection shall not exceed sixty percent of the final average salary such judge was receiving when he or she last served as such judge. ~~Any supplemental salary provided for in section 24-301-01 or 24-513 shall be excluded for purposes of computing any annuity specified in this subsection.~~

(3) Any member may, by when filing with the

board a written statement of intent before retirement an application as provided by the retirement system, elect to receive, in lieu of the single life normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under sections 24-701 to 24-714, any form of annuity which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board shall promptly after September 2, 1973, (a) adopt and promulgate appropriate rules and regulations establishing joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) Notwithstanding anything to the contrary in Chapter 24, article 7 sections 24-701 to 24-714, the annual benefit payable under such article sections shall not at any time exceed the lesser of (a) ninety thousand dollars, as adjusted for cost-of-living adjustments announced by the Internal Revenue Service for each calendar year in which the adjustment is announced, actuarially reduced to reflect distributions prior to age sixty-two, or (b) one hundred percent of the member's average compensation for the highest three consecutive calendar years of service during which the member was an active member in the retirement system provided by Chapter 24, article 7 sections 24-701 to 24-714. The maximum amount shall be adjusted, when necessary, as follows: (i) When the annual benefit is payable under this the retirement system to a member in a form other than a straight life annuity or a qualified joint and survivor annuity, the maximum amount shall be adjusted to the equivalent of a straight life annuity beginning at the same age on the basis of the actuarial assumptions referred to in subsection (3) of this section; and (ii) when the annual benefit is payable under this the retirement system to a member who has less than ten years of service under the retirement system, the maximum amount shall be multiplied by a fraction, the numerator of which is the member's number of years of service under the retirement system, and the denominator of which is ten. For purposes of this subsection, qualified joint and survivor annuity means

an annuity for the life of the member with not less than fifty percent nor more than one hundred percent of the amount the member was receiving being paid to the member's surviving spouse for the life of the spouse following the death of the member.

Sec. 8. That section 24-710.02, Revised Statutes Supplement, 1988, be amended to read as follows:

24-710.02. All annuities or benefits which any person shall be entitled to receive under Chapter 24, article 7, sections 24-701 to 24-714 shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable, except that a judgment, decree, or order, including approval of a property settlement agreement, made pursuant to law that relates to child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent shall be complied with to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 9. That section 79-1501, Revised Statutes Supplement, 1988, be amended to read as follows:

79-1501. As used in For purposes of sections 79-1501 to 79-1557, unless the context otherwise requires:

(1) Accumulated contributions shall mean 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 shall mean any person in receipt of a school retirement allowance or other benefit provided by sections 79-1501 to 79-1557;

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

(4) County school official shall mean the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service shall mean prior service for which credit is granted under sections 79-1515 to 79-1518 plus all service rendered while a member of the retirement system and shall include 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 shall not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days;

(6) Disability retirement allowance shall mean the annuity paid to a person upon retirement for disability under section 79-1524;

(7) Employer shall mean 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 salaries;

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

(9) Regular interest shall mean interest at such a rate as shall be determined by the retirement board in conformity with actual and expected earnings on its investments;

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

(11) Present senior school employee shall mean a senior school employee who was employed within the State of Nebraska on September 1, 1945;

(12) School employee shall mean 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. As used in For purposes of this subdivision, contributing member shall mean the following persons who receive compensation from a public school: (a) Regular teachers and administrators employed on a written contract basis; (b) regular employees not certified, hired upon a full-time basis, which contemplates a work week of not less than thirty hours; and (c) part-time employees hired on a work week of not less than fifteen hours;

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

(14) Public school shall mean any and all schools supported by public funds and wholly under the control and management of the State of Nebraska or any subdivision thereof, including schools established, maintained, and controlled by the school boards of local school districts and schools under the control and management of the state colleges, or the Board of

Regents of the University of Nebraska, any educational service unit, and any other educational institution wholly supported by public funds;

(15) Retirement shall mean qualifying for and accepting a school or disability retirement allowance granted under sections 79-1501 to 79-1557;

(16) Retirement board or board shall mean the Public Employees Retirement Board which shall administer the retirement system;

(17) Retirement system shall mean the school retirement system of the State of Nebraska provided for in sections 79-1501 to 79-1557;

(18) Required deposit shall mean the deduction from a member's compensation as provided for in section 79-1531 which shall ~~all~~ be deposited in the School Retirement Fund;

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

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

(21) Service shall mean service as a school employee;

(22) School retirement allowance shall mean the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under ~~section sections~~ 79-1520 to 79-1522.03. 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, ~~including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began.~~ The last payment shall be at the end of the calendar month in which such member ~~shall die dies~~;

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

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

(25) State school official shall mean the

Commissioner of Education and his or her professional staff and the assistant commissioner of education in charge of vocational education and his or her professional staff;

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

(27) Emeritus member shall mean a person who has entered retirement under the provisions of sections 79-1501 to 79-1557, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-1512, and who has thereafter been reemployed in any capacity by a public school in Nebraska, or has become a state school official or county school official subsequent to such retirement, and who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

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

(29) Actuarial equivalent shall mean 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;

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

(31) Disability retirement date shall mean the first day of the month following the date upon which a member's request for disability retirement is received on an application form provided by the retirement system if the member has ceased employment in the school system and has complied with sections 79-1523 to 79-1526 as they such sections refer to disability retirement; and

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

Sec. 10. That section 79-1520, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1520. A Upon filing a retirement application with the retirement system, a member who has completed thirty-five years of creditable service may retire at any age upon filing a retirement application with the retirement system or a member who has completed at least five years of creditable service and is at least sixty years of age may retire.

Sec. 11. That section 79-1552, Revised Statutes Supplement, 1988, be amended to read as follows:

79-1552. The right of a person to a school or formula or disability retirement annuity, an allowance, or any optional benefit under sections 79-1501 to 79-1566, any other right accrued or accruing to any person or persons under such sections, 79-1501 to 79-1557, the various funds and accounts created thereby, and all the money, investments, and income thereof shall be exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable, except that a judgment, decree, or order, including approval of a property settlement agreement, made pursuant to law that relates to child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent shall be complied with to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 12. That section 79-1565, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1565. (1) An individual who was prior to July 19, 1980, a state school official as defined in section 79-1501, and did not become a member of the State Employees Retirement System pursuant to Chapter 84, article 13, may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.

(2) An individual who is currently a school employee as defined in section 79-1501 or who was employed in an out-of-state or a Class V school district and who becomes employed by the State Department of Education after July 1, 1989, regardless of position, may file with the retirement board an election to become or remain a member of the School Retirement System, or, within thirty days after employment in the department, the individual may file an election to become a member of the State Employees Retirement System. The individual shall pay the contributions required by the system which he or she elects when all eligibility requirements are met.

~~(2)~~ Any (3) If the employee elects to join the State Employees Retirement System, such employee shall be eligible for immediate participation in the State Employees Retirement System with no minimum period of service if the minimum age and length of service requirements under the State Employees Retirement System or the School Retirement System have been met and the requirements met are equal to the requirements of the State Employees Retirement System.

~~(3)~~ (4) A state school official employed by the State Department of Education after July 19, 1980 July 1, 1989, shall become a member of the State Employees Retirement System may elect to become a member of the School Retirement System or the State Employees Retirement System.

~~(4)~~ (5) An employee electing not to be covered by the School Retirement System under this section shall not be subject to section 79-1529, but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System according to the following:

(a) The years of participation in the School Retirement System before an election is made plus the years of participation in the State Employees Retirement System after the election is made shall both be credited toward compliance with the five-year service requirement provided under section 79-1522; and

(b) The years of participation in the School Retirement System before the election is made plus the years of participation in the State Employees Retirement System after the election is made shall both be credited toward compliance with section 84-1321.

Sec. 13. That section 81-2014, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2014. The word patrolmen when used in sections 81-2014 to 81-2034 shall mean the officers and patrolmen provided for in sections 81-2001 to 81-2009. The word officer when used in sections 81-2014 to 81-2034 shall mean an officer provided for in sections 81-2001 to 81-2009.

Sec. 14. That section 81-2017, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2017. (1) Each patrolman 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 salary. 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 salaries 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 fund created by sections 81-2014 to 81-2034 referred to in section 81-2018. The director shall cause a detailed report of all monthly deductions to be made each month to the Public Employees Retirement Board. In addition thereto, there shall be transferred from the General Fund monthly, by the State Treasurer, a sum equal to the amount of said such salary deductions each month, the same to be credited to the fund created by sections 81-2014 to 81-2034 referred to in section 81-2018. 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 liabilities liability of the system as of June 30, 1988, by level payments up to 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 shall occur 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 United States Internal Revenue Code, 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 United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The 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 salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated for all purposes of sections 81-2014 to 81-2034 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 15. That section 81-2025, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(2) Every ~~patrol~~ officer who ~~shall~~ have ~~has~~ been in the employ of the state as such for twenty years or more and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law.

~~(2)~~ The right to retire at the age of fifty years shall be at the option of the ~~patrol~~ officer but such retirement shall be mandatory upon the ~~patrol~~ officer's officer attaining the age of sixty years.

(3) Any patrol officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for twenty years as such shall be entitled to the annuity as provided for in sections 81-2014 to 81-2034 upon payment by the patrol officer of such sum as will result by multiplying the number of months which he or she would be required to serve so as to complete twenty years of service by the amount of his or her monthly salary deductions at the time when he or she attains the age of sixty years.

(4) Payment of any benefit provided under sections 81-2014 to 81-2034 may not be deferred later than the sixtieth day after the end of the year in which the patrol officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.

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

Sec. 16. That section 81-2026, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2026. (1) Any officer qualified for an annuity, as provided in section 81-2025 for reasons other than disability, shall be entitled to receive a monthly annuity for the remainder of the officer's life. The amount of the annuity shall be a percentage of the officer's final average monthly salary. For retirement on or after the fifty-fifth birthday of the member, the percentage shall be two and one-half percent multiplied by the number of years of service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent. For retirement on or after the fiftieth birthday of the member, but prior to the fifty-fifth birthday of the member, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five. Any officer who has completed thirty years of service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached the age of fifty-five. For purposes of this computation, final

average monthly salary is defined to be the sum of the officer's total salary during the final three years of service as an officer divided by thirty-six.

(2) Any officer qualified for an annuity, as provided in section 81-2025 for reasons of disability, shall be entitled to receive a monthly annuity for the remainder of the period of disablement, as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly salary at the date of disablement. Upon retirement for disability, the amount of the annuity shall be fifty percent of the officer's monthly salary on the date of retirement, which shall be the date on which the benefits, as provided in section 81-2028, have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, the officer's surviving spouse, if married to the officer prior to the last four years of service of such officer prior to retirement, shall continue to receive fifty percent of the amount of such officer's annuity for the remainder of the surviving spouse's life or until the surviving spouse remarries. If the surviving spouse has a dependent child or children under the age of nineteen years in his or her care, the benefit shall be seventy-five percent of the amount of such officer's annuity until such time as the youngest such dependent child attains the age of nineteen years after which time the benefit is shall be reduced to fifty percent of the amount of such ~~an~~ officer's annuity. If there is no surviving spouse living at the date of the officer's death, the officer's child or children, if any, shall continue to receive fifty percent of the amount of such officer's annuity until such time as the youngest such child attains the age of nineteen years. If there ~~should be~~ is more than one such child under the age of nineteen years at such time, the amount thereof shall be divided equally among such children under such age and, as they attain the age of nineteen years, only the other child or children under such age shall participate therein. If there is no surviving spouse or no child under the age of nineteen years at the date of the officer's death, the amount of annuities such officer has received under sections 81-2014 to 81-2034 shall be computed. If such amount is less than the contributions to the fund referred to in section 81-2018 made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate. Upon the death of an officer after retirement for

reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability, except that it shall not be required that the surviving spouse have been married to him or her for the last four years in order to qualify for such benefits. Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death as follows: (a) To the surviving spouse and dependent child or children under the age of nineteen years in such spouse's care, the benefit shall be one hundred percent of the amount of such officer's annuity until such time as the youngest dependent child attains the age of nineteen years after which time the benefit shall be reduced to seventy-five percent of the officer's annuity for the remainder of his or her life or until he or she remarries; (b) if there is no spouse living at the date of the officer's death, his or her child or children, if any, shall continue to receive seventy-five percent of the amount of such officer's annuity until such time as the youngest child attains the age of nineteen years; (c) if there should be more than one child under the age of nineteen years at the date of the officer's death, the benefit shall be divided equally among such children and, as they attain the age of nineteen years, only the child or children under the age of nineteen years shall participate therein; and (d) if there is no child or children under the age of nineteen years living at the date of the officer's death, the surviving spouse shall receive seventy-five percent of the amount of such officer's annuity for the remainder of his or her life or until he or she remarries. If no benefits are paid to a surviving spouse or dependent children, benefits will be paid as described in subsection (1) of section 81-2031.

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

(5) Notwithstanding anything to the contrary in ~~Chapter 81, article 20 sections 81-2014 to 81-2034~~, the annual benefit payable under such ~~article sections~~ shall not at any time exceed the lesser of (a) ninety thousand dollars, as adjusted for cost-of-living adjustments announced by the Internal Revenue Service for each calendar year in which the adjustment is announced, actuarially reduced to reflect distributions

prior to age sixty-two, or (b) one hundred percent of the member's average annual compensation for the three consecutive calendar years of service during which the member received his or her highest compensation and was an active member in the retirement system provided by Chapter 81, article 20 sections 81-2014 to 81-2034. The maximum amount shall be adjusted, when necessary, as follows: (i) When the annual benefit is payable under this system to a member in a form other than a straight life annuity or the joint and survivor annuity described by subsections (1) and (3) of this section, the maximum amount shall be adjusted to the equivalent of a straight life annuity beginning at the same age on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board; and (ii) when the annual benefit is payable under this system to a member who has less than ten years of service under the system, the maximum amount shall be multiplied by a fraction, the numerator of which is the member's number of years of service under the system, and the denominator of which is ten.

Sec. 17. That section 81-2031, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2031. (1) ~~Should~~ If any patrol officer, prior to becoming eligible to retire, as provided in section 81-2025, ~~become separated~~ separates from state service as a patrol ~~an~~ officer for reasons other than death or disability, either voluntarily or involuntarily, such patrol officer shall thereupon be entitled to receive all payments which have been made by salary deductions into the fund ~~created by sections 81-2014 to 81-2034~~ referred to in section 81-2018 plus regular interest earned each fiscal year commencing July 1, 1974, as determined by the ~~retirement board~~ Public Employees Retirement Board in conformity with actual and expected earnings on its investments and credited monthly, quarterly, semiannually, or annually as the ~~retirement~~ board may direct. The return of such contributions and interest to such officer shall preclude such officer from any benefits under sections 81-2014 to 81-2034 unless and until such officer is reemployed in such capacity and repays, within three years of rejoining the system, part or all of the amount withdrawn plus interest which would have accrued on that amount under the system. If the officer chooses not to repay such withdrawals with interest, the officer shall enter the system as a new member with no prior rights.

(2) In lieu of the benefit described in

subsection (1) of this section, the ~~patrol~~ officer may elect to receive a deferred annuity to commence at any age from fifty to fifty-five. If this election is made, the contributions made to the system by the ~~patrol~~ officer may not be withdrawn from the system. The deferred annuity is computed as a percentage of the retirement annuity, as computed in subsection (1) of section 81-2026. The percentage is zero percent for the first five years of service; twenty percent for each completed year of service for the next five years of service; and one hundred percent after ten completed years of service. In the event of the death of any ~~patrol~~ officer during the deferred period, the accumulated value of the ~~patrol~~ officer's contributions at the date of termination plus regular interest to the date of his or her death shall be paid to such ~~patrol~~ officer's beneficiary.

Sec. 18. That section 81-2032, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2032. All annuities or benefits which any person shall be entitled to receive under sections 81-2014 to 81-2034 shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable, except that a judgment, decree, or order, including approval of a property settlement agreement, made pursuant to law that relates to child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent shall be complied with to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 19. That section 84-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1301. As used in For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) Employee shall mean any employee of the State Board of Agriculture who is a member of the state retirement plan on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employees ;

but shall not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of technical community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement plan on July 1, 1982, (i) the Nebraska National Guard air and army technicians, or (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to subsection (1) of section 79-1565 or been made members of the system pursuant to subsection (3) of such section 79-1565; except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System shall continue as members of such system. Any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee who works less than one-half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the State Employees Retirement Act;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees as provided in section 84-1308;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board, but shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind;

(9) Prior service shall mean service before

January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the board in order to provide the benefits described in sections 84-1319, 84-1320, 84-1321, and 84-1323 to 84-1323.02;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission, or other division of state government, not otherwise specifically defined or exempted in the State Employees Retirement Act, whose the employees and officers of which are not already covered by a retirement plan;

(13) Disability shall mean 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;

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board;

(15) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments;

(16) Fund shall mean the State Employees Retirement Fund created by section 84-1309;

(17) Guaranteed investment contract shall mean an investment contract which guarantees that the account maintained for any participant will not decrease in value, but will increase each year by the contribution allocated to the account and by investment earnings and will decrease by the amount of expenses reasonably determined to be allocated to the account; and

(18) Investment manager shall mean one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the fund.

Sec. 20. That section 84-1324, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1324. All annuities or benefits which any person shall be entitled to receive under the State Employees Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of

law whatsoever and shall not be assignable, except that a judgment, decree, or order, including approval of a property settlement agreement, made pursuant to law that relates to child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent shall be complied with to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code.

Sec. 21. That original sections 23-2322, 79-1520, 79-1565, 81-2014, 81-2017, 81-2025, 81-2026, 81-2031, 81-2032, 84-1301, and 84-1324, Reissue Revised Statutes of Nebraska, 1943, and sections 24-701, 24-703, 24-706, 24-707, 24-708, 24-710, 24-710.02, 79-1501, and 79-1552, Revised Statutes Supplement, 1988, are repealed.

Sec. 22. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.