

LEGISLATIVE BILL 364

Approved by the Governor May 31, 2005

Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson;
Erdman, 47; D. Pederson, 42; Price, 26; Synowiecki, 7

AN ACT relating to retirement; to amend sections 79-974, 79-978, 79-990, 79-991, 79-992, and 79-9,101, Reissue Revised Statutes of Nebraska, sections 23-2308, 23-2308.01, 23-2310.04, 23-2319.01, 24-702, 24-703, 81-2018, 84-1309.02, 84-1314, 84-1321.01, 84-1501, and 84-1503.03, Revised Statutes Supplement, 2004, sections 79-902 and 79-906, Reissue Revised Statutes of Nebraska, as amended by sections 8 and 9, respectively, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, and section 23-2310.05, Revised Statutes Supplement, 2004, as amended by section 2, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005; to change provisions relating to the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Class V School Employees Retirement Act, the Nebraska State Patrol Retirement Act, the State Employees Retirement Act, and the Public Employees Retirement Board; to create and eliminate funds; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 84-1514, Revised Statutes Supplement, 2004; and to declare an emergency.

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

Section 1. Section 23-2308, Revised Statutes Supplement, 2004, is amended to read:

23-2308. The county clerk shall pay to the board or an entity designated by the board an amount equal to two hundred fifty percent of the amounts deducted from the compensation of employees in accordance with the provisions of section 23-2307, which two hundred fifty percent equals the employees' contributions plus the county's contributions of one hundred fifty percent of the employees' contributions.

The board may charge the county an administrative processing fee of twenty-five dollars if the reports of necessary information or payments made pursuant to this section are received later than the date on which the board requires that such information or money should be received. In addition, the board may charge the county a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received or in an amount equal to the amount of any costs incurred by the member due to the late receipt of contributions, whichever is greater. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions.

Sec. 2. Section 23-2308.01, Revised Statutes Supplement, 2004, is amended to read:

23-2308.01. (1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for county employees, a cash balance benefit shall be added to the County Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003. If no election is made prior to January 1, 2003, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 23-2309; plus

(ii) Employee contribution credits deposited in accordance with section 23-2307; plus

(iii) Interest credits credited in accordance with subdivision (20)

of section 23-2301; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 23-2310; plus

(ii) Employer contribution credits deposited in accordance with section 23-2308; plus

(iii) Interest credits credited in accordance with subdivision (20) of section 23-2301.

(3) 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 counties and their participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may 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~~ subsection.

Sec. 3. Section 23-2310.04, Revised Statutes Supplement, 2004, is amended to read:

23-2310.04. 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 23-2308.01, 23-2309.01, 23-2310, and 23-2310.05. Any money in the 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, 2004, as amended by section 2, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, is amended to read:

23-2310.05. (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 23-2309.01. 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 the balanced account option described in subdivision (1)(d) of section 23-2309.01. 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 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 ~~county~~ 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 23-2319.01, Revised Statutes Supplement, 2004, is amended to read:

23-2319.01. (1) For a member who has terminated employment and is

not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the County Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the County Employees Retirement System Expense Fund, and the remainder, if any, shall then be used to reduce the county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the County Employees Retirement Act.

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

(3) The County Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall consist of any reduction in a county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the county employees retirement system. Expenses incurred as a result of a county depositing amounts into the fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with section 22 of this act. Any money in the 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. 6. Section 24-702, Revised Statutes Supplement, 2004, 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 the Judges Retirement Act.

(2) The employer contribution to the fund shall consist of the amounts remitted pursuant to subsection (3) of section 24-703.

(3) 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. 7. Section 24-703, Revised Statutes Supplement, 2004, 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)(a) Beginning on July 1, 2004, each future member who has not elected to make contributions and receive benefits as provided in section 24-703.03 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. After the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such future member shall make no further contributions to the fund, except that 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.

(b) Beginning on July 1, 2004, a judge who first serves as a judge on or after such date or a future member who elects to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly eight percent of his or her monthly compensation to the fund until the maximum benefit as limited by subsection (2) of section 24-710 has been earned. After the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such judge or future member shall contribute monthly four percent of his or her monthly compensation to the fund for the remainder of his or her active service.

(c) It shall be the duty of the Director of Administrative Services to make a deduction 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 amount 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 five dollars 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 and information submitted 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. The board may charge a late administrative processing fee not to exceed twenty-five dollars if the information is not timely received or the money is delinquent. In addition, the board may charge a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. 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. For the fiscal year beginning July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an

actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Judges Retirement Act.

(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 through a reduction in the compensation of the member. Member contributions picked up shall be treated for all purposes of the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 8. Section 79-902, Reissue Revised Statutes of Nebraska, as amended by section 8, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, 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 daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees shall not be considered school employees;

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

(12) 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;

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

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

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

(16) 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;

(17) School year means one fiscal year which includes not less than one thousand 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;

(18) 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;

(19) 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;

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

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

(22) State school official means the Commissioner of Education and

his or her professional staff;

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

(24) 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;

(25) 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 1994 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 eight 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;

(26) Retirement date means (a) if the member has terminated employment, 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 or (b) if the member has filed an application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than ninety days prior to the effective date of the member's initial benefit;

(27) 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;

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

(29) 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;

(30) (a) Final average compensation means the sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six.

(b) If a member has such compensation for less than thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all months by the total number of months of his or her creditable service therefor.

(c) 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;

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

(32) 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;

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

(34) 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;

(35) (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) 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 does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (vii) beginning on the effective date of Legislative Bill 329, Ninety-ninth Legislature, First Session, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

(c) 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.

(d) (i) In the determination of compensation for members on or after July 1, 2002, through June 30, 2005, 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 (A) the member experienced a substantial change in employment position or (B) 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.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both; and

(B) 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.

(e) (i) In the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in employment position, (B) as verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35) (a) (iv) of this section.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both;

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of seven percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year; and

(C) 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;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer. The employer shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment if the member subsequently provides service on a regular basis in any capacity for any school district other than a Class V school district within one hundred eighty calendar days after ceasing employment or if the board determines that a purported termination was not a bona fide separation from service with the employer;

(37) 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;

(38) Substitute employee means a person hired by a public school as a temporary employee on an intermittent basis to assume the duties of regular employees due to the temporary absence of the regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for fifteen or more hours per week; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee.

Sec. 9. Section 79-906, Reissue Revised Statutes of Nebraska, as amended by section 9, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, is amended to read:

79-906. (1) The director in charge of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the School Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various employers and state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) If a member's compensation for a plan year exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base, then the employer shall, within ~~thirty~~ ninety days of ~~such occurrence~~ the end of a plan year, provide information indicating to the director that the member's compensation has exceeded seven percent of the compensation base. Such information shall be provided in an accurate and verifiable form as specified by the director.

(3) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 10. Section 79-974, Reissue Revised Statutes of Nebraska, is amended to read:

79-974. The Expense Fund is created and is 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. 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.

Sec. 11. Section 79-978, Reissue Revised Statutes of Nebraska, is

amended to read:

79-978. For purposes of the Class V School Employees Retirement Act, unless the context otherwise requires:

(1) Retirement system or system means the School Employees' Retirement System of (corporate name of the school district as described in section 79-405) as provided for by the act;

(2) Board means the board of education of the school district;

(3) Trustee means a trustee provided for in section 79-980;

(4) Employee means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivision (4)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

(5) Member means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(6) Annuitant means any member receiving an allowance;

(7) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school district. An hour of compensated service shall include any hour for which the member is compensated by the school district during periods where no service is performed due to vacation or approved leave. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

(9) Prior service means service rendered prior to September 1, 1951, for which credit is allowed under section 79-999, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

(10) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(11) Compensation means salary or wages payable by the school district before reduction for contributions picked up under section 414(h) of the Internal Revenue Code, ~~or~~ elective contributions made pursuant to ~~sections~~ section 125 or 403(b) of the code, or amounts not currently includible in income by reason of section 132(f)(4) of the code, subject to the applicable limitations of section 401(a)(17) of the code;

(12) Military service means service in the uniformed services as defined in 38 U.S.C. chapter 43, as such provision existed on March 27, 1997;

(13) Accumulated contributions means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(15) Retirement date means the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date means the end of the month during which the member attains age sixty-five and has completed at least five years of membership service;

(17) Early retirement date means that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(19) Annuity means annual payments, for both prior service and membership service, for life as provided in the act;

(20) Actuarial tables means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using twenty-five percent of the male mortality and seventy-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually;

(21) Actuarial equivalent means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(23) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member; and

(24) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries.

Sec. 12. Section 79-990, Reissue Revised Statutes of Nebraska, is amended to read:

79-990. (1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. chapter 43, as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in ~~one-half-year~~ one-tenth-year increments, starting with the most recent ~~year's~~ years' salary.

(2) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the 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 may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) regular interest on these combined payments from the date such deductions would have been made to the date of repayment. Such amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of

absence. Interest on any delayed payment shall be at the rate of regular interest. Creditable service may be purchased only in ~~one-half-year~~ one-tenth-year increments, starting with the most recent years' salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional ~~one-half-year~~ one-tenth-year increment. 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. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits satisfactory proof to the board that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

Sec. 13. Section 79-991, Reissue Revised Statutes of Nebraska, is amended to read:

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

(a) A member who desires to purchase prior service credit shall make written application to the administrator of the retirement system that includes all information and documentation determined by the administrator as necessary to verify the member's prior service and qualification to purchase the prior service credit. Such application shall include the member's written authorization for the administrator to request and receive from any of the member's former employers verification of the member's prior service, salary, and other information for determining the member's eligibility to purchase prior service credit. Before prior service credit may be purchased, the administrator shall have received verification of the member's salary in each year with the other school district or educational service unit and confirmation that the prior service to be purchased by the member is not also

credited in the calculation of a retirement or disability benefit for such member under another defined benefit retirement system or program. The member's application to purchase prior service credit may be made at any time before the fifth anniversary of the member's membership in the retirement system or, if earlier, the member's termination of employment with the school district;

(b) The member shall pay to the retirement system the total amount he or she would have contributed to the retirement system had he or she been a member of the retirement system during the period for which prior service is being purchased, together with regular interest thereon. Such payment shall be based on the most recent years' salary the member earned in another school district or educational service unit if the salary is verified by the other school district or educational service unit or, if not, the payment shall be based on the member's annual salary at the time he or she became a member;

(c) Payments by the member for the purchase of the prior service credit shall be paid as the trustees may direct through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of membership. Interest on delayed payments shall be at the rate of regular interest. In the event the member terminates employment with the school district for any reason before full payment for the prior service has been made, the remaining installments shall be immediately due and payable to the retirement system. Prior service credit may be purchased only in one-tenth-year increments, and if payments are made on an installment basis, the prior service will be credited only as payment has been made to the retirement system. If the prior service to be purchased by the member exceeds the member's membership service at the time of application or any subsequent date, such excess prior service shall be credited to the member only as the member completes and is credited additional membership service, in one-tenth-year increments, notwithstanding the member's payment for such prior service credit. If the member retires or terminates employment before completing sufficient membership service to permit all of the excess prior service that has been purchased by the member to be credited to such member, the retirement system shall refund to the member, or to the member's beneficiary if the member's termination is due to his or her death, the payments that have been made to the retirement system for such uncredited prior service, together with regular interest on such refund; and

(d) The school district shall contribute to the retirement system an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments are made by such member.

(2) Any member having five or more years of creditable service, excluding years of prior service acquired pursuant to sections 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act. Creditable service may be purchased only in ~~one-half-year~~ one-tenth-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the trustees for this purpose. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the trustees may direct through a single payment to the retirement system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the trustees and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional ~~one-half-year~~ one-tenth-year increment. Interest shall be charged on installment payments at the rate of regular interest.

Sec. 14. Section 79-992, Reissue Revised Statutes of Nebraska, is amended to read:

79-992. (1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who severs his or her employment may

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

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

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

Sec. 15. Section 79-9,101, Reissue Revised Statutes of Nebraska, is amended to read:

79-9,101. Any time prior to receiving the first annuity payment, the member may elect to receive in lieu of such annuity, but payable in the same manner, an actuarially equivalent annuity in one of the following forms:

(1) A joint and survivorship annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose attained adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year;

(2) A joint and survivorship annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (a) member's spouse until his or her death or (b) other designated beneficiary whose attained adjusted age in the calendar year in which the payment of the annuity commences is no more than nineteen years less than the attained age of the member in such calendar year until his or her death;

(3) An annuity payable monthly during the remainder of the member's

life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made;

(4) A joint and survivorship annuity which will continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose attained adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-9,100; or

(5) A joint and survivorship annuity which shall continue after the death of the member so that fifty percent of the amount of the member's monthly benefit under this option shall be paid monthly to a designated beneficiary until his or her death.

For purposes of the annuities provided in subdivisions (1), (2), and (4) of this section, a designated beneficiary's adjusted age means the attained age of the designated beneficiary in the calendar year in which payment of the annuity commences plus the number of years, if any, by which the member's attained age in the calendar year in which payment of the annuity commences is younger than seventy years.

Each of these actuarially equivalent annuities, except for the form provided in subdivision (3) of this section, shall continue for a minimum of sixty months.

The amount of each monthly payment shall be the amount specified in the form elected by the member.

Whether the member elects the normal form or one of the optional forms of the formula retirement annuity, if the member and his or her designated beneficiary die before the specified monthly payments have been made, the remaining number of the specified payments shall be paid to the individual or individuals designated in writing, on forms prescribed by the system, by the last surviving of the member or the member's designated beneficiary and, if no such designation is made, to the estate of the last surviving of the member or the member's designated beneficiary. At the election of a beneficiary, a single sum payment which is the actuarial equivalent of the remaining monthly payments to be paid to such beneficiary may be paid in lieu of the annuity benefit otherwise to be provided under the normal form or the optional form described in subdivision (3) of this section.

Sec. 16. Section 81-2018, Revised Statutes Supplement, 2004, is amended to read:

81-2018. (1) Except as provided in subsection (2) of this section, 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 benefits and annuities as provided in 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. 17. Section 84-1309.02, Revised Statutes Supplement, 2004, is amended to read:

84-1309.02. (1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003. If no election is made prior to January 1, 2003, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, elects to convert his or her employee and employer accounts to the cash

balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301; and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (19) of section 84-1301.

(3) 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. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may 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~~ subsection.

Sec. 18. Section 84-1314, Revised Statutes Supplement, 2004, is amended to read:

84-1314. 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 84-1309.02, 84-1310.01, 84-1311, and 84-1311.03. Any money in the 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. 19. Section 84-1321.01, Revised Statutes Supplement, 2004, is amended to read:

84-1321.01. (1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Retirement System Expense Fund, and the remainder, if any, shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

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

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the retirement system. The director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the

State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with section 22 of this act. Any money in the 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. 20. Section 84-1501, Revised Statutes Supplement, 2004, is amended to read:

84-1501. (1) The Public Employees Retirement Board is hereby established.

(2) Prior to January 1, 2005, the board shall consist of seven appointed members and the state investment officer as a nonvoting, ex officio member. Three of the appointed members shall be participants in the retirement systems administered by the board, one of the appointed members shall be a participant in such retirement systems who has retired, and three of the appointed members shall not be employees of the State of Nebraska or any of its political subdivisions. Appointments to such board shall be made by the Governor subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska. The three appointed members who are not employees of the State of Nebraska or any of its political subdivisions shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan. The members serving on March 27, 1997, shall serve for the remainder of their five-year terms which will be extended until the date on which the successor's appointment is effective. For members whose terms begin on January 1, 2000, one shall serve a three-year term and one shall serve a four-year term or until a successor has been appointed and qualified. For members whose terms begin on January 1, 2001, one shall serve a four-year term and two shall serve five-year terms, or until a successor has been appointed and qualified.

(3)(a) Beginning January 1, 2005, the board shall consist of eight appointed members as described in this subsection and the state investment officer as a nonvoting, ex officio member. Six of the appointed members shall be active or retired participants in the retirement systems administered by the board, and two of the appointed members (i) shall not be an employee of the State of Nebraska or any of its political subdivisions and (ii) shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan. On and after January 1, 2005, any person who is appointed to the board and who is not an employee of the State of Nebraska or any of its political subdivisions shall not own any funds which are administered by the board.

(b) On January 1, 2005, the six appointed members who are participants in the systems shall be as follows:

(i) Two of the appointed members shall be participants in the School Retirement System of the State of Nebraska and shall include one ~~active~~ administrator and one ~~active~~ teacher as provided in this subdivision. On January 1, 2005, the member of the board who had been a member of the School Retirement System of the State of Nebraska prior to such date shall continue in such position as the member representing the School Retirement System of the State of Nebraska until such member's term expires. A school administrator shall be appointed as a member of the board when the term of the first member of the board expires who was appointed prior to January 1, 2005, and who was not an employee of the State of Nebraska or any of its political subdivisions;

(ii) One of the appointed members shall be a participant in the Nebraska Judges Retirement System. ~~either as an active or retired member.~~ On January 1, 2005, the member of the board who had been a member of the Nebraska Judges Retirement System prior to such date shall continue in such position as the member representing the Nebraska Judges Retirement System until such member's term expires;

(iii) One of the appointed members shall be a participant in the Nebraska State Patrol Retirement System. ~~either as an active or retired member.~~ Such member's term shall begin on January 1, 2005;

(iv) One of the appointed members shall be ~~an active~~ a participant in the Retirement System for Nebraska Counties. On January 1, 2005, the member of the board who had been a member of the Retirement System for Nebraska Counties prior to such date shall continue in such position as the member representing the Retirement System for Nebraska Counties until such member's term expires; and

(v) One of the appointed members shall be ~~an active~~ a participant in the State Employees Retirement System of the State of Nebraska. On January 1, 2005, the member of the board who had been a member of the State Employees Retirement System prior to such date shall continue in such position as the member representing the State Employees Retirement System until such member's term expires.

(c) Appointments to the board on and after January 1, 2005, shall be made by the Governor and shall be subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska.

(4) All members appointed on and after January 1, 2002, shall serve for terms of five years or until a successor has been appointed and qualified. The members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The appointed members of the board may be removed by the Governor for cause after notice and an opportunity to be heard.

Sec. 21. Section 84-1503.03, Revised Statutes Supplement, 2004, 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 ~~84-1514~~ 84-1513. 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. 22. (1) The County Employer Retirement Expense Fund shall be used to meet expenses of the county employees retirement system whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the County Employees Retirement System Expense Fund make such use reasonably necessary.

(2) The State Employer Retirement Expense Fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Retirement System Expense Fund make such use reasonably necessary.

Sec. 23. Sections 1 to 7, 10, 16 to 22, 24, and 27 of this act become operative three calendar months after the adjournment of this legislative session. Sections 8, 9, and 25 of this act become operative on July 1, 2005. The other sections of this act become operative on their effective date.

Sec. 24. Original section 79-974, Reissue Revised Statutes of Nebraska, sections 23-2308, 23-2308.01, 23-2310.04, 23-2319.01, 24-702, 24-703, 81-2018, 84-1309.02, 84-1314, 84-1321.01, 84-1501, and 84-1503.03, Revised Statutes Supplement, 2004, and section 23-2310.05, Revised Statutes Supplement, 2004, as amended by section 2, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, are repealed.

Sec. 25. Original sections 79-902 and 79-906, Reissue Revised Statutes of Nebraska, as amended by sections 8 and 9, respectively, Legislative Bill 503, Ninety-ninth Legislature, First Session, 2005, are repealed.

Sec. 26. Original sections 79-978, 79-990, 79-991, 79-992, and 79-9,101, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 27. The following section is outright repealed: Section 84-1514, Revised Statutes Supplement, 2004.

Sec. 28. Since an emergency exists, this act takes effect when passed and approved according to law.