

LEGISLATIVE BILL 505

Approved by the Governor June 6, 1995

Introduced by Will, 8; Brashear, 4; Brown, 6; Hall, 7; Lindsay, 9;
Pedersen, 39; Pirsch, 10; Preister, 5; Withem, 14

AN ACT relating to retirement; to amend sections 79-1032, 79-1034, 79-1040, 79-1043, 79-1044.01, 79-1045, 79-1046, 79-1056, and 79-1056.06, Reissue Revised Statutes of Nebraska; to change provisions relating to school employee retirement systems for Class V school districts; to redefine terms; to change benefit, contribution, and cost-of-living adjustment 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. Section 79-1032, Reissue Revised Statutes of Nebraska, is amended to read:

79-1032. For purposes of sections 79-1032 to 79-1060, unless the context otherwise requires:

(1) Retirement system or system shall mean the School Employees Retirement System of (corporate name of the school district as described in section 79-401) as provided for in sections 79-1032 to 79-1060;

(2) Board shall mean the board of education of the school district;

(3) Trustee shall mean a trustee provided for in section 79-1034;

(4) Employee shall mean 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 shall mean 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 shall mean any member receiving an allowance;

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

(8) Membership service shall mean 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;

(9) Prior service shall mean service rendered prior to September 1, 1951, for which credit is allowed under section 79-1044, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-1043, 79-1045, 79-1049.02, 79-1049.03, and 79-1049.05;

(10) Creditable service shall mean the sum of the membership service and the prior service;

(11) Compensation shall mean 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 125 or 403(b) of the code, subject to the applicable limitations of section 401(a)(17) of the code;

(12) Military service shall mean service in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or any auxiliary thereof;

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

(14) Regular interest shall mean 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 shall mean the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date shall mean the end of the month during which the member attains age sixty-five;

(17) Early retirement date shall mean 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 shall mean the total annual retirement benefit payable to a member for service or disability;

(19) Annuity shall mean annual payments, for both prior service and membership service, for life as provided in sections 79-1032 to 79-1060;

(20) Actuarial tables shall mean:

(a) For retirement allowances at an early retirement date determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using thirty percent of the male mortality and seventy percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths 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 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths 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 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually;

(21) Actuarial equivalent shall mean 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) Withdrawal from service shall mean complete severance of employment of a member as an employee of the school district by resignation, discharge, or dismissal;

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

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

(25) Secondary beneficiary shall mean 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. 2. Section 79-1034, Reissue Revised Statutes of Nebraska, is amended to read:

79-1034. The general administration of the retirement system is hereby vested in the board of education. The board shall appoint, by a majority of all its members, nine trustees to serve as executive officers to administer sections 79-1032 to 79-1060. Such board of trustees shall consist of (1) the superintendent of schools, as ex officio trustee, (2) three members of the system, two of whom shall be from the certificated staff, and one of whom shall be from the classified staff, (3) three members of the board, and (4) two trustees who shall be business persons qualified in financial affairs, not members of the system. The first trustees will take office as of the effective date of the system and the terms of office shall begin as of that date. The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that trustees who are members of the retirement system or members of the school board shall be disqualified as trustees immediately upon ceasing to be a member of the system or of the school board. Each trustee shall be entitled to one vote on the board of trustees and five trustees shall constitute a quorum for the transaction of any business. The trustees who are appointed from the board and the membership shall be appointed for each fiscal year. The two trustees who are not members of the board or of the system shall be appointed for three fiscal years each. The board of trustees and the administrator of the system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code.

Sec. 3. Section 79-1040, Reissue Revised Statutes of Nebraska, is amended to read:

79-1040. The treasurer of the county in which the school district is located shall be ex officio treasurer of the system. Such The treasurer shall act as official custodian of the cash and securities belonging to the system, shall provide adequate safe deposit facilities for the preservation of

such securities, and shall hold such cash and securities subject to the order of the board of education. ~~Such~~ The treasurer shall receive all items of taxes or cash belonging to the system, shall deposit in banks approved by the board of education all such amounts in a trust account secured by collateral in accordance with the depository law, and shall submit a monthly report to the board of all such transactions. Notwithstanding any limitations elsewhere imposed by statute on the location of the system's depository bank, such limitations shall not apply to the use of a depository bank for the custody of international investments or other investments which require the use of a designated depository institution. The ~~Such~~ treasurer shall make payments for purposes specified in sections 79-1032 to 79-1060 upon warrants issued according to law by the board of education designated Retirement Fund, (corporate name of the school district as described in section 79-401), and signed by the president and secretary of the board of education. All banks and custodians which receive and hold securities and investments for the system may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate, indenture, or governing instrument for such security. The treasurer shall furnish a corporate surety bond payable to the school district and acceptable to the board, in such amount as the board shall designate. ~~Such~~ The bond shall be in addition to his or her bond as treasurer ex officio of the school district, and the cost of ~~such~~ the bond shall be paid by the school district.

Sec. 4. Section 79-1043, Reissue Revised Statutes of Nebraska, is amended to read:

79-1043. (1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 2021 to 2026 30 U.S.C. Chapter 43, as amended, or is eligible for reemployment under sections 55-160 to 55-163 may pay to the system, as the trustees may direct within three years from 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, plus regular interest thereon from the date such regular deductions would have been made to the date of repayment. If such payment is made, the board shall pay simultaneously to the system a like amount and 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 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 increments, starting with the most recent year's 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 school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district 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 system 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, 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 regular interest on these combined payments from the date such deductions would have been made to the date of repayment, with such deposits amounts to be paid as the trustees may direct within three years through direct payments to the 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 increments, starting with the most recent year's salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the system to purchase each additional one-half-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 return to employment with the Class V school district within one year after termination of the leave of absence.

Sec. 5. Section 79-1044.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1044.01. In lieu of the retirement annuity provided by section 79-1044 or 79-1056, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under sections 79-1032 to 79-1060 shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-1044 or 79-1056, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-1044 or 79-1056 accrued to the date of retirement or August 31, 1983, whichever first occurs.

The monthly retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-1044 or 79-1056 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before the effective date of this act, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after the effective date of this act, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation.

Final average compensation shall be determined by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six.

If for retirements before the effective date of this act, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after the effective date of this act, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(1) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(2) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(3) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(4) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

The normal form of the formula retirement annuity based on final average compensation shall be 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 sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-1046.

Any member receiving a formula retirement annuity based on final average compensation shall also receive in addition thereto the service annuity to be paid by the State of Nebraska as provided in sections 79-1522 to 79-1523.

Sec. 6. Section 79-1045, Reissue Revised Statutes of Nebraska, is

amended to read:

79-1045. In the event that 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 system had he or she been a member of the system during such period, together with regular interest thereon, such contribution to 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 may shall be paid as the trustees may direct, through direct payments to the 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, over a period of not to exceed two 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 system to purchase each additional one-half-year increment.

Sec. 7. Section 79-1046, Reissue Revised Statutes of Nebraska, is amended to read:

79-1046. 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 age at the time of such election is fifty-five years or more;

(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 age at the time of such election is fifty-five years or more 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; or

(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 age at the time of such election is fifty-five years or more 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 79-1044.01.

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. 8. Section 79-1056, Reissue Revised Statutes of Nebraska, is amended to read:

79-1056. (1) If, at any future time, a majority of the eligible members of the system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-1044, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. The contributions by the school district shall be such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under sections 79-1032 to 79-1060. After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-1041 not to become members of the system shall not be less than they would have been had they remained under any preexisting system

to date of retirement. Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-1515, shall receive the state service annuity provided by sections 79-1522 to 79-1523.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the school district 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 employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-1043 and 79-1045 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of sections 79-1032 to 79-1060 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 9. Section 79-1056.06, Reissue Revised Statutes of Nebraska, is amended to read:

79-1056.06. (1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to sections 79-1032 to 79-1060, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-1056 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustment provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustment provided in subsections (1), (2), and (3) of this section, any annuity paid on or after

September 1, 1992, pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost-of-living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to sections 79-1032 to 79-1060 or pursuant to the provisions of the retirement system established in Chapter 79, article 10, in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), (3), (4), or (5) of this section, or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost-of-living or wage levels between the commencement date of the annuity and June 30, 1995.

Sec. 10. Original sections 79-1032, 79-1034, 79-1040, 79-1043, 79-1044.01, 79-1045, 79-1046, 79-1056, and 79-1056.06, Reissue Revised Statutes of Nebraska, are repealed.

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