

## LEGISLATIVE BILL 700

Approved by the Governor April 9, 1996

Introduced by Wickersham, 49

AN ACT relating to retirement; to amend sections 24-701, 79-1501, 79-1522.01, 79-1551, and 79-3811, Reissue Revised Statutes of Nebraska, and sections 79-1501.01, 79-1531, and 81-2014, Revised Statutes Supplement, 1995; to define terms; to maintain the purchasing power of retirement benefits as prescribed; to create funds and provide for their uses; to require the transfer of funds; to provide duties for the Public Employees Retirement Board; to eliminate provisions relating to the Help Education Lead to Prosperity Act; to provide a duty for the Revisor of Statutes; to repeal the original sections; to outright repeal sections 79-3501 to 79-3509.01, 79-3509.03, and 79-3510, Reissue Revised Statutes of Nebraska, as amended by sections 505 to 514, 516, and 517, respectively, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and section 79-3509.02, Revised Statutes Supplement, 1995, as amended by section 515, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996; and to declare an emergency.

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

Section 1. Section 24-701, Reissue Revised Statutes of Nebraska, is amended to read:

24-701. For purposes of sections 24-701 to 24-714 and sections 2 and 3 of this act, unless the context otherwise requires:

(1) Fund ~~shall mean~~ means the Nebraska Retirement Fund for Judges;

(2) Judge ~~shall mean and include means and includes~~ (a) all duly elected or appointed Chief Justices or judges of the Supreme Court and judges of the district courts of Nebraska who shall serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who served in such capacity on and after September 20, 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska Workers' Compensation Court who shall serve in such capacity on and after July 17, 1986, (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties who shall serve in such capacity on and after January 5, 1961, except acting judges of the county court appointed pursuant to section 24-507, (e) judges of the county court and clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates, (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985, and (g) judges of the Court of Appeals;

(3) Prior service ~~shall mean means~~ all the periods of time any person has served as a (a) judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(4) Current service ~~shall mean means~~ the period of service (a) any judge of the Supreme Court or judge of the district court shall serve in such capacity from and after January 3, 1957, (b)(i) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (ii) any judge of the Nebraska Workers' Compensation Court shall serve in such capacity on and after July 17, 1986, (c) any county judge shall serve in such capacity from and after January 5, 1961, (d) any judge of a separate juvenile court shall serve in such capacity, (e) any judge of the municipal court shall have served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (f) any judge of the county court or associate county judge shall serve in such capacity subsequent to January 4, 1973, (g) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, shall serve in such capacity from and after July 1, 1986, and (h) any judge of the Court of Appeals shall serve in such capacity on or after September 6, 1991;

(5) Military service ~~shall mean means~~ active service of (a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge

was holding the office of judge, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, (d) any judge of the county court or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge, (e) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate, and (f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

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

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

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

(9) Normal form annuity shall mean means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(10) Board shall mean means the Public Employees Retirement Board;

(11) Member shall mean means a judge eligible to participate in the retirement system established under sections 24-701 to 24-714 and sections 2 and 3 of this act;

(12) Original member shall mean means a judge who first served as a judge prior to December 25, 1969, who does not elect to become a future member pursuant to subsection (8) of section 24-703 or section 24-710.01, and who was retired on or before December 31, 1992;

(13) Future member shall mean means a judge who first served as a judge on or after December 25, 1969, or shall mean means a judge who first served as a judge prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) of section 24-703 or section 24-710.01;

(14) Final average compensation shall mean means the average monthly compensation for the last three years of service as a judge or, in the event of a judge serving less than three years, the average monthly compensation for such judge's period of service;

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

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

(17) Actuarial equivalence shall mean means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations are to be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations;

(18) Current benefit means the initial benefit increased by all adjustments made pursuant to section 3 of this act; and

(19) Initial benefit means the retirement benefit calculated at the time of retirement.

Sec. 2. The Judges Purchasing Power Stabilization Fund is created. The purpose of the fund shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement and that have reduced the purchasing power of retirement benefits provided under the retirement system. A separate annual actuarial valuation of the fund and the benefits provided in section 3 of this act shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year, the state shall contribute to the fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2010-11 fiscal year, the annual level dollar payment certified by the board shall equal 1.04778 percent of six million eight hundred ninety-five thousand dollars. 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. 3. Commencing with the first payment in the sixth year after distribution of the initial benefit, the current benefit of a member who ceased employment on or after the effective date of this act, or the surviving beneficiary of such a member, shall be increased annually by thirty-hundredths of one percent. All payments to increase current benefits shall be paid from the Judges Purchasing Power Stabilization Fund.

Sec. 4. In addition to the transfers pursuant to section 79-1512, the state shall transfer to the funds of each retirement system provided for in sections 79-1032 to 79-1060 an amount equal to 14.11604 percent of six million eight hundred ninety-five thousand dollars.

Sec. 5. Section 79-1501, Reissue Revised Statutes of Nebraska, is amended to read:

79-1501. For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions shall mean 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 shall mean means any person in receipt of a school retirement allowance or other benefit provided by the act;

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

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

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

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

(7) Employer shall mean 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 shall mean means any year beginning July 1 and ending June 30 next following;

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

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

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

(12) School employee shall mean means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this subdivision, contributing member shall mean means the following persons who receive compensation from a public school: (a) Regular teachers and administrators employed on a written contract basis; (b) regular employees, not certified,

hired upon a full-time basis which contemplates a workweek of not less than thirty hours; and (c) part-time employees hired on a workweek of not less than fifteen hours;

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

(14) Public school shall mean means any and all schools supported by public funds and wholly under the control and management of the State of Nebraska or any subdivision thereof, including schools or other entities established, maintained, and controlled by the school boards of local school districts and schools under the control and management of the Board of Trustees of the Nebraska state colleges State Colleges or the Board of Regents of the University of Nebraska, any educational service unit, and any other educational institution wholly supported by public funds;

(15) Retirement shall mean means qualifying for and accepting a school or disability retirement allowance granted under the act;

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

(17) Retirement system shall mean means the School Retirement System of the State of Nebraska;

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

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

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

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

(22) School retirement allowance shall mean means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-1520 to 79-1522.02, 79-1522.04, and 79-1522.05. 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;

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

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

(25) State school official shall mean means the Commissioner of Education and his or her professional staff and the assistant commissioner of education in charge of vocational education and his or her professional staff;

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

(27) Emeritus member shall mean 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 79-1512, (b) who has thereafter been reemployed in any capacity by a public school in Nebraska or has become a state school official or county school official subsequent to such retirement, and (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;

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

(29) Actuarial equivalent shall mean means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations;

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

ninety days in advance of the date on which a member ceases employment in the school system;

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

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

(33) Current benefit means the initial benefit increased by all adjustments made pursuant to section 8 of this act; and

(34) Initial benefit means the retirement benefit calculated at the time of retirement.

Sec. 6. Section 79-1501.01, Revised Statutes Supplement, 1995, is amended to read:

79-1501.01. Sections 79-1501 to 79-1567 and sections 7 and 8 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 7. The School Employees Purchasing Power Stabilization Fund is created. The purpose of the fund shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement and that have reduced the purchasing power of retirement benefits provided under the retirement system. A separate annual actuarial valuation of the fund and the benefits provided in section 8 of this act shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year, the state shall contribute to the fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2010-11 fiscal year, the annual level dollar payment certified by the board shall equal 81.7873 percent of six million eight hundred ninety-five thousand dollars. 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. 8. Commencing with the first payment in the sixth year after distribution of the initial benefit, the current benefit of a member who ceased employment on or after the effective date of this act, or the surviving beneficiary of such a member, shall be increased annually by thirty-hundredths of one percent. All payments to increase current benefits shall be paid from the School Employees Purchasing Power Stabilization Fund.

Sec. 9. Section 79-1522.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1522.01. (1) In lieu of the school retirement allowance provided by section 79-1522, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-1520 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-1522.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-1522 ~~(1)~~ by (a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, ~~(2)~~ by (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, ~~(3)~~ by (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, or ~~(4)~~ by (d) one and seventy-three hundredths percent of his or her final average compensation for a member actively employed as a public school employee under the retirement system or under contract with an employer on or after June 5, 1993, or (e) one and eight-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1995, and was employed as a public school employee under the retirement system or under contract with an employer on or after the effective date of this act. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty or more years of creditable service and is at least sixty years of age, the annuity

shall not be reduced. If the annuity begins on or after the sixtieth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of service would have totaled ninety or three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday, whichever provides the greater annuity. A member shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter percent of his or her final average compensation as one of the factors, shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one-half percent of his or her final average compensation as one of the factors, or shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths percent of his or her final average compensation as one of the factors. A member shall be actively employed as a public school employee under the retirement system or under contract with an employer on June 1, 1993, to be eligible for computation of his or her formula annuity using one and seventy-three hundredths percent of his or her final average compensation as one of the factors.

(3) The normal form of the formula annuity 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 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 79-1530.

(4) Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member has such compensation for less than three such fiscal years, his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year.

(5) All formula annuities shall be paid from the Annuity Reserve Account. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Account: (a) From the Service Annuity Account, the value of the service annuity which would otherwise be payable; (b) from the School Employees Savings Account, the accumulated contributions of the member; and (c) from the School Employers Deposit Account, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Account and the School Employees Savings Account. The amounts transferred from the Service Annuity Account at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis.

(6) A person receiving a retirement benefit may accept employment in a postsecondary 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, the Community College Board of Governors for each community college area established by section 85-1504, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

Sec. 10. Section 79-1531, Revised Statutes Supplement, 1995, is amended to read:

79-1531. (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account for formula annuities, every employee shall be required to make deposits in the School Retirement Fund. Such deposits shall be a percentage of total compensation and shall be transmitted at the same time and in the same manner as required employer contributions. For the fiscal year beginning on July 1, 1996, the employee

percentage shall be seven and twenty-five hundredths percent of compensation, of which three-tenths of one percent of compensation shall be transferred from the School Employees Savings Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-1551. For the fiscal year beginning on July 1, 1997, and each fiscal year thereafter, the retirement board shall set the employee percentage at forty-nine and seventy-five hundredths percent of the funding rate determined by the actuary or at seven and twenty-five hundredths percent of compensation, whichever is greater. The actuary for the retirement board shall determine the funding rate by taking the excess formula annuity liabilities less the actuarial value of both the School Employees Savings Account and the School Employers Deposit Account less the actuarial present value of the state deposit of seven-tenths of one percent of compensation of all members of the retirement system and dividing such result by the actuarial present value of future compensation for current active members. For each fiscal year, such percentage shall be set by the retirement board, taking into consideration the recommendation of the actuary, and shall be equal to forty-nine and seventy-five hundredths percent of the amount determined by deducting from the then actuarial present value of all future liabilities to be funded by transfers from the School Employers Deposit Account and the School Employees Savings Account the amount then credited to such accounts and dividing the remainder by the actuarial present value of one percent of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account for formula annuities, every employer shall be required to make deposits in the School Retirement Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. For the fiscal year beginning on July 1, 1996, three-tenths of one percent of compensation shall be transferred from the School Employers Deposit Account into the School Employees Retirement System Reserve Fund pursuant to subsection (2) of section 79-1551.

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

Sec. 11. Section 79-1551, Reissue Revised Statutes of Nebraska, is amended to read:

79-1551. (1) There is hereby created the School Employees Retirement System Reserve Fund. Required deposits from the compensation of members and employers shall be accumulated in the fund to provide a one-time cost-of-living benefit adjustment for each person who is retired or each member who ceased employment prior to the effective date of this act, or his or her surviving beneficiary, and who is receiving a retirement annuity from the School Retirement System of the State of Nebraska when such adjustment is administered. The purpose of the cost-of-living benefit adjustment shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) Commencing July 1, 1993, member contributions into the fund shall equal three-tenths of one percent of compensation and employer contributions into the fund shall be one hundred one percent of member contributions to the fund. Such member and employer contributions to the fund shall cease on the first month following the month when funds are sufficient to provide a one-time three percent cost-of-living benefit adjustment provided by subsection (3) of this section. A member who receives a refund of his or her account after July 1, 1993, shall be entitled to receive a refund of his or her contributions to the fund. No refund shall be made for an amount less than two dollars.

(3) Upon verification by the actuary, when that amounts accumulated in the fund are sufficient to provide a three percent cost-of-living benefit

adjustment for all qualified persons and a reserve to refund prior contributions as provided in subsections (2) and (4) of this section, the retirement board shall determine the amount of the administer the one-time three percent cost-of-living benefit adjustment as provided by this section for each member and beneficiary when sufficient amounts have accumulated in the fund. Such amounts shall be determined so that all funds available in the School Employees Retirement System Reserve Fund, except for the reserve amount pursuant to subsection (4) of this section, are utilized.

(4) Based upon recommendations by the actuary, the board shall determine the reserve amount to refund prior member contributions pursuant to subsection (2) of this section. When no member entitled to a refund under subsection (2) of this section remains in the retirement system, the board shall transfer the reserve amount to the School Employees Purchasing Power Stabilization Fund.

(5) The retirement board shall make transfers to and from the School Employees Retirement System Reserve Fund and any other fund of the School Retirement System of the State of Nebraska administered by the retirement board in order to comply with this section.

(6)(a) ~~(4)~~ It is the intent of the Legislature that a cost-of-living benefit adjustment of benefits of members who ceased employment on or after June 5, 1993, and prior to the effective date of this act, or of such member's beneficiaries, provided in this section shall be granted automatically in future years whenever funds are sufficient in the School Employees Retirement System Reserve Fund for such a benefit and the increase in the cost of living or wage levels justifies the adjustment as provided by this section. The cost-of-living benefit adjustment shall be the equivalent of three percent of benefits provided pursuant to the School Employees Retirement Act. The cost-of-living benefit adjustment shall be paid to a retired person or surviving beneficiary during his or her life.

(b) Transfers of surplus assets in any fund of the School Retirement System of the State of Nebraska to the School Employees Retirement System Reserve Fund shall be made only as provided by the Legislature.

~~(5)~~ (7) For members who retired prior to June 1, 1993, the cost-of-living benefit adjustment shall be calculated based on the amount of benefit the member is receiving on June 1, 1993. For members who retire on or after June 1, 1993, the cost-of-living benefit adjustment shall be calculated based on the amount of the benefit the member is receiving when the cost-of-living benefit adjustment is granted. ~~receives on the date of retirement.~~ Any subsequent cost-of-living benefit adjustment shall be calculated based on three percent of the amount of benefit the member is receiving on June 1, 1993, or three percent of the amount of benefit the member will receive on the date of retirement if he or she retires subsequent to June 1, 1993.

Sec. 12. Section 79-3811, Reissue Revised Statutes of Nebraska, is amended to read:

79-3811. District formula resources shall include other actual receipts as determined by the department for the most recently available complete data year, except that receipts from the Community Improvements Cash Fund and receipts acquired pursuant to the Low-Level Radioactive Waste Disposal Act shall not be included. Other actual receipts shall include:

- (1) Public power district sales tax revenue;
- (2) Fines and license fees;
- (3) Nonresident high school tuition receipts, except that for the calculation of state aid to be paid in school years 1992-93, 1993-94, and 1994-95, other actual receipts shall include the district's total nonresident high school tuition charge for each such school year as certified by the department pursuant to section 79-4,102;
- (4) Tuition receipts from individuals, other districts, or any other source except those derived from adult education;
- (5) Transportation receipts;
- (6) Interest on investments;
- (7) Other miscellaneous local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;
- (8) Special education receipts;
- (9) Receipts from the state for wards of the court and wards of the state;
- (10) All receipts from the temporary school fund;
- (11) Receipts from the Insurance Tax Fund;
- (12) Pro rata motor vehicle license fee receipts;
- (13) Help Education Lead to Prosperity Act funds;
- ~~(14)~~ Amounts provided by the state on behalf of the district as reimbursement for repayment of personal property taxes by centrally assessed



pipeline companies pursuant to section 77-3617;

(15) (14) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-4,118;

(16) (15) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;

(17) (16) All other noncategorical federal receipts;

(18) (17) All receipts pursuant to Chapter 79, article 34; and

(19) (18) Receipts under the Medicare Catastrophic Coverage Act of 1988 as authorized pursuant to sections 43-2510 and 43-2511 but only to the extent of the amount the district would have otherwise received pursuant to the Special Education Act.

Sec. 13. Section 81-2014, Revised Statutes Supplement, 1995, is amended to read:

81-2014. For purposes of sections 81-2014 to 81-2036 and sections 14 and 15 of this act:

(1) Actuarial equivalent ~~shall mean~~ means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age. The determinations shall be based on the 1983 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table;

(2) Board ~~shall mean~~ means the Public Employees Retirement Board;

and  
(3) Current benefit means the initial benefit increased by all adjustments made pursuant to section 15 of this act;

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

(5) (3) Officer ~~shall mean~~ means an officer provided for in sections 81-2001 to 81-2009.

Sec. 14. The State Patrol Purchasing Power Stabilization Fund is created. The purpose of the fund shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement and that have reduced the purchasing power of retirement benefits provided under the retirement system. A separate annual actuarial valuation of the fund and the benefits provided in section 15 of this act shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year, the state shall contribute to the fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2010-11 fiscal year, the annual level dollar payment certified by the board shall equal 3.04888 percent of six million eight hundred ninety-five thousand dollars. 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. 15. Commencing with the first payment in the sixth year after distribution of the initial benefit, the current benefit of a member who ceased employment on or after the effective date of this act, or the surviving beneficiary of such a member, shall be increased annually by thirty-hundredths of one percent. All payments to increase current benefits shall be paid from the State Patrol Purchasing Power Stabilization Fund.

Sec. 16. The Revisor of Statutes shall assign section 4 of this act within sections 79-1032 to 79-1060 and any reference to sections 79-1032 to 79-1060 shall be construed to include section 4 of this act.

Sec. 17. Original sections 24-701, 79-1501, 79-1522.01, 79-1551, and 79-3811, Reissue Revised Statutes of Nebraska, and sections 79-1501.01, 79-1531, and 81-2014, Revised Statutes Supplement, 1995, are repealed.

Sec. 18. The following sections are outright repealed: Sections 79-3501 to 79-3509.01, 79-3509.03, and 79-3510, Reissue Revised Statutes of Nebraska, as amended by sections 505 to 514, 516, and 517, respectively, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, and section 79-3509.02, Revised Statutes Supplement, 1995, as amended by section 515, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996.

Sec. 19. Since an emergency exists, this act takes effect when passed and approved according to law.