

## LEGISLATIVE BILL 674

Approved by the Governor April 28, 1999

Introduced by Wickersham, 49; Bruning, 3

AN ACT relating to retirement; to amend sections 79-947.01 and 79-975, Reissue Revised Statutes of Nebraska, and sections 24-701, 24-710.07, 79-902, 79-934, 81-2014, and 81-2027.03, Revised Statutes Supplement, 1998; to change provisions relating to supplemental cost-of-living adjustments; to eliminate and transfer funds; to change a monthly formula annuity; to eliminate an obsolete reference; to redefine terms; to provide duties; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 24-710.08, 79-947.02, and 81-2027.04, Revised Statutes Supplement, 1998; and to declare an emergency.

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

Section 1. Section 24-701, Revised Statutes Supplement, 1998, is amended to read:

24-701. For purposes of the Judges Retirement Act, unless the context otherwise requires:

(1) Fund means the Nebraska Retirement Fund for Judges;

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

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

(4)(a) Current service means the period of service (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, (ii)(A) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, (iii) any county judge serves in such capacity from and after January 5, 1961, (iv) any judge of a separate juvenile court serves in such capacity, (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, serves in such capacity from and after July 1, 1986, and (viii) any judge of the Court of Appeals serves in such capacity on or after September 6, 1991.

(b) Current service shall not be deemed to be interrupted by (i) temporary or seasonal suspension of service that does not terminate the employee's employment, (ii) leave of absence authorized by the employer for a period not exceeding twelve months, (iii) leave of absence because of disability, or (iv) military service, when properly authorized by the board. Current service does not include any period of disability for which disability retirement benefits are received under section 24-709;

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

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

(6) Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

(7)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(8) Beneficiary means a person so designated by a judge in the last 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 means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710, except as provided in section 42-1107. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(10) Board means the Public Employees Retirement Board;

(11) Member means a judge eligible to participate in the retirement system established under the Judges Retirement Act;

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

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

(14) Final average compensation means the average monthly compensation for the three twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than

three twelve-month periods, the average monthly compensation for such judge's period of service;

(15) Regular interest means interest fixed at a rate equal to the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills in effect on the last day of the preceding plan year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

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

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

(18) Current benefit means the initial benefit increased by all adjustments made pursuant to ~~section 24-710.08~~ the act;

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

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

(21) Retirement system or system means the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(22) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under the qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(23) Termination of employment occurs on the date on which the State Court Administrator's office determines that the judge's employer-employee relationship with the State of Nebraska is dissolved. The State Court Administrator's office shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred.

Sec. 2. Section 24-710.07, Revised Statutes Supplement, 1998, is amended to read:

24-710.07. (1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted to equal seventy-five percent of the annuity which results when the initial benefit that was paid to the member or beneficiary (before any cost-of-living adjustments or supplemental retirement benefit adjustments pursuant to the Judges Retirement Act) is adjusted by the increase in the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers between the commencement date of the annuity and July 1 of each year the adjustment is made. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Beginning July 1, 2000, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (a) the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (b) two percent.

(3) 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 24-710.08 shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year through the 1999-00 fiscal year, the state shall contribute to the ~~fund~~ Judges Purchasing Power Stabilization Fund an annual level dollar payment certified by the board. After the 1999-00 fiscal year, the state shall contribute to the Nebraska Retirement Fund for Judges 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. Until July 1, 2000, any ~~any~~ money in the ~~fund~~ Judges Purchasing

Power Stabilization 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. On July 1, 2000, the Judges Purchasing Power Stabilization Fund shall terminate and all money in the fund shall be transferred to the Nebraska Retirement Fund for Judges.

(4) The board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 3. Section 79-902, Revised Statutes Supplement, 1998, 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 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 means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

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

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

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

(9) Regular interest means interest fixed at a rate equal to the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills in effect on the last day of the preceding plan year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

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

(11) School employee means a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees hired upon a full-time basis which contemplates a workweek of not less than thirty hours and (b) part-time employees hired for not less than sixty hours per month;

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

(13) Public school means any and all schools offering instruction in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(27) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male

table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(28) Retirement date means the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member terminates employment in the school system;

(29) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

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

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

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

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

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

(34) Current benefit means the initial benefit increased by all adjustments made pursuant to ~~section 79-947.02~~ the act;

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

(36) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

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

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code 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; and

(38) Termination of employment occurs on the date on which the members' employer determines that the member's employer-employee relationship with the employer is dissolved. The employer shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not include ceasing active work at the end of the school year if the member will return to active work during the following school year with any school district under the retirement system.

Sec. 4. Section 79-934, Revised Statutes Supplement, 1998, is amended to read:

79-934. (1) In lieu of the school retirement allowance provided by section 79-933, 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 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(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 79-933 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, (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, (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, (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 April 10, 1996, or (f) one and nine-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, 1998, and was employed as a public school employee under the retirement system or under contract with an employer on or after the operative date of this section. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to the operative date of this section.

(3) If the annuity begins on or after the sixty-fifth birthday of a member, the annuity shall not be reduced. 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 prior to the sixtieth birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five. If the annuity begins on or after the sixtieth birthday of the member and the member has completed at least a total of five years of (a) creditable service plus (b) eligibility and vesting credit 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 creditable 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.

(4) For retirements on or after March 4, 1998, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subsection shall only apply to 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, 1997, and who was a school employee on or after March 4, 1998. This subsection shall not apply to a member who is retired prior to March 4, 1998.

(5) Except as provided in section 42-1107, 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. Except as provided in section 42-1107, 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 79-938.

(6) 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.

Sec. 5. Section 79-947.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-947.01. (1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted to equal seventy-five percent of the annuity which results when the initial benefit that was paid to the member or beneficiary (before any cost-of-living adjustments or supplemental retirement benefit adjustments pursuant to the School Employees Retirement Act) is adjusted by the increase in the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers between the commencement date of the annuity and July 1 of each year the adjustment is made. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Beginning July 1, 2000, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (a) the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (b) two percent.

(3) 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 79-947.02 shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year through the 1999-00 fiscal year, the state shall contribute to the ~~fund~~ School Employees Purchasing Power Stabilization Fund an annual level dollar payment certified by the board. After the 1999-00 fiscal year, the state shall contribute to the Annuity Reserve 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~~ Until July 1, 2000, any money in the ~~fund~~ School Employees Purchasing Power Stabilization 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. On July 1, 2000, the School Employees Purchasing Power Stabilization Fund shall terminate and all money in the fund shall be transferred to the Annuity Reserve Fund.

(4) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 6. Section 79-975, Reissue Revised Statutes of Nebraska, is amended to read:

79-975. (1) The School Employees Retirement System Reserve Fund is created. 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 member who ceased employment prior to April 10, 1996, 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 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 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~~ Annuitant Reserve 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) 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 April 10, 1996, 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.

(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.

Sec. 7. Section 81-2014, Revised Statutes Supplement, 1998, is amended to read:

81-2014. For purposes of the Nebraska State Patrol Retirement Act:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age. The determinations shall be based on the 1983 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature;

(2) Board means the Public Employees Retirement Board;

(3)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and

grievance settlements. For any officer employed after January 4, 1979, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to ~~section 81-2027.04~~ the act;

(6) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

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

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

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

(10) Regular interest means interest fixed at a rate equal to the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills in effect on the last day of the preceding plan year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

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

(12) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(13) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(14) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board in writing within two weeks after the date such a termination is deemed to have occurred.

Sec. 8. Section 81-2027.03, Revised Statutes Supplement, 1998, is amended to read:

81-2027.03. (1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted to equal sixty percent of the annuity which results when the initial benefit that was paid to the member or beneficiary (before any cost-of-living adjustments or supplemental retirement benefit adjustments pursuant to the Nebraska State

Patrol Retirement Act) is adjusted by the increase in the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers between the commencement date of the annuity and July 1 of each year the adjustment is made. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Beginning July 1, 2000, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (a) the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (b) two percent.

(3) 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 81-2027.04 shall be completed by the actuary using the aggregate actuarial cost method. Commencing with the 1996-97 fiscal year through the 1999-00 fiscal year, the state shall contribute to the ~~fund~~ State Patrol Purchasing Power Stabilization Fund an annual level dollar payment certified by the board. After the 1999-00 fiscal year, the state shall contribute to the State Patrol Retirement 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. Until July 1, 2000, any ~~any~~ money in the ~~fund~~ State Patrol Purchasing Power Stabilization 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. On July 1, 2000, the State Patrol Purchasing Power Stabilization Fund shall terminate and all money in the fund shall be transferred to the State Patrol Retirement Fund.

(4) The board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Sec. 9. Sections 1 to 3, 5 to 8, 11, and 12 of this act become operative on July 1, 2000. The other sections of this act become operative on their effective date.

Sec. 10. Original section 79-934, Revised Statutes Supplement, 1998, is repealed.

Sec. 11. Original sections 79-947.01 and 79-975, Reissue Revised Statutes of Nebraska, and sections 24-701, 24-710.07, 79-902, 81-2014, and 81-2027.03, Revised Statutes Supplement, 1998, are repealed.

Sec. 12. The following sections are outright repealed: Sections 24-710.08, 79-947.02, and 81-2027.04, Revised Statutes Supplement, 1998.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.