

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 526**

Introduced by Bourne, 8

Read first time January 11, 2001

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the Class V School Employees Retirement Act;  
2 to amend sections 79-982, 79-990, 79-9,101, 79-9,106, and  
3 79-1075, Reissue Revised Statutes of Nebraska, and  
4 sections 79-980, 79-981, 79-984, 79-987, 79-992, 79-998,  
5 79-9,103, 79-9,105, and 79-1082, Revised Statutes  
6 Supplement, 2000; to change provisions relating to  
7 creditable service, retirement annuities, death benefits,  
8 cost-of-living adjustments, and investment reports; to  
9 authorize medical cost-of-living adjustments and purchase  
10 of service credit for leaves of absence for maternity  
11 purposes as prescribed; to eliminate a tax relating to  
12 prior service annuities; to provide and change powers and  
13 duties; to harmonize provisions; to repeal the original  
14 sections; to outright repeal section 79-9,112, Reissue  
15 Revised Statutes of Nebraska; and to declare an  
16 emergency.

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

1           Section 1. Section 79-980, Revised Statutes Supplement,  
2 2000, is amended to read:

3           79-980. The general administration of the retirement  
4 system is hereby vested in the board of education. The board shall  
5 appoint, by a majority of all its members, ~~nine~~ ten trustees to  
6 serve as executive officers to administer the Class V School  
7 Employees Retirement Act. Such trustees shall consist of (1) the  
8 superintendent of schools, as ex officio trustee, (2) ~~three~~ four  
9 members of the retirement system, two from the certificated staff,  
10 ~~and one from the classified staff, and one from the annuitants,~~ (3)  
11 three members of the board of education, and (4) two trustees who  
12 are business persons qualified in financial affairs and who are not  
13 members of the retirement system. ~~The first trustees will take~~  
14 ~~office as of the effective date of the retirement system, and the~~  
15 ~~terms of office shall begin as of that date.~~ The trustees shall  
16 serve without compensation, but they shall be reimbursed from the  
17 funds of the retirement system for expenses that they may incur  
18 through service on the board of trustees as provided in sections  
19 81-1174 to 81-1177. A trustee shall serve until a successor  
20 qualifies, except that trustees who are members of the retirement  
21 system or members of the board of education shall be disqualified  
22 as trustees immediately upon ceasing to be a member of the  
23 retirement system or of the board of education. Each trustee shall  
24 be entitled to one vote on the board of trustees, and ~~five~~ six  
25 trustees shall constitute a quorum for the transaction of any  
26 business. The trustees who are appointed from the board of  
27 education and the membership shall be appointed for each fiscal  
28 year. The two trustees who are not members of the board of

1 education or of the retirement system shall be appointed for three  
2 fiscal years each. The trustees and the administrator of the  
3 retirement system shall administer the retirement system in  
4 compliance with the tax-qualification requirements applicable to  
5 government retirement plans under section 401(a) of the Internal  
6 Revenue Code.

7           Sec. 2. Section 79-981, Revised Statutes Supplement,  
8 2000, is amended to read:

9           79-981. The board of education shall from time to time  
10 establish rules and regulations for the administration of the  
11 retirement system and for the transaction of its business and shall  
12 appoint an administrator of the retirement system. The board may  
13 contract for such medical and other services as shall be required  
14 to transact the business of the retirement system. Compensation  
15 for all persons employed by the board and all other expenses of the  
16 board necessary for the proper and efficient operation of the  
17 retirement system shall be paid in such amounts as the board  
18 determines and approves.

19           In addition to such duties and other duties arising out  
20 of the Class V School Employees Retirement Act not specifically  
21 reserved or assigned to others, the board shall maintain a separate  
22 account of each member's contribution, the record of which shall be  
23 available to the member upon request, compile such data as may be  
24 necessary for the required actuarial valuation, consider and pass  
25 on all applications for annuities or other benefits and have  
26 examinations made when advisable of persons receiving disability  
27 benefits, ~~certify the amount of the tax levy required under section~~  
28 ~~79-9,112 to the county board of equalization,~~ and direct and

1 determine all policies necessary in the administration of the act.

2           Sec. 3.     Section 79-982, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           79-982.    The trustees shall (1) hold regular meetings  
5 annually and such special meetings at such times as may be deemed  
6 necessary, and all meetings of the trustees shall be open to the  
7 public, (2) keep a record of all the proceedings of such meetings,  
8 (3) subject to the approval of the board of education, invest all  
9 cash income not required for current payments in securities of the  
10 type provided in section 79-9,107 and so reinvest the proceeds from  
11 the sale or redemption of investments, and (4) supervise the  
12 financial affairs of the retirement system and recommend to the  
13 board of education any changes in the administration of the  
14 retirement system essential to the actuarial requirements of the  
15 fund. ~~7 and (5) ascertain each year the estimated amount of money~~  
16 ~~to be raised by taxation to cover payments during the ensuing~~  
17 ~~fiscal year on account of prior service and recommend to the board~~  
18 ~~of education the rate of tax to be levied.~~

19           Sec. 4.     Section 79-984, Revised Statutes Supplement,  
20 2000, is amended to read:

21           79-984.    The board of education shall contract for the  
22 services of an actuary who shall be the technical advisor of the  
23 board and the trustees on matters regarding the operation of the  
24 retirement system.     The actuary shall (1) make a general  
25 investigation of the operation of the retirement system at least  
26 once in every three years, which investigation shall cover  
27 mortality, retirement, disability, employment, turnover, interest,  
28 and earnable compensation, and (2) recommend tables to be used for

1 all required actuarial calculations. The actuary may be employed  
2 to make an annual valuation of the liabilities of the retirement  
3 system on the basis of which the board of education may make an  
4 annual determination of the amount of the tax levy authorized by  
5 the Class V School Employees Retirement Act. The actuary shall  
6 perform such other duties as may be assigned by the board.

7 Sec. 5. Section 79-987, Revised Statutes Supplement,  
8 2000, is amended to read:

9 79-987. (1) An annual audit of the affairs of the  
10 retirement system shall be conducted. At the option of the  
11 governing board of the retirement system, such audit may be  
12 conducted by a certified public accountant or the Auditor of Public  
13 Accounts. The costs of such audit shall be paid from funds of the  
14 retirement system. A copy of such audit shall be filed with the  
15 Auditor of Public Accounts.

16 (2) Beginning December 31, 1998, and each December 31  
17 thereafter, the administrator of the retirement system established  
18 pursuant to section 79-979 and section 401(a) of the Internal  
19 Revenue Code shall file with the Public Employees Retirement Board  
20 an annual report on such system and shall submit copies of such  
21 report to the members of the Nebraska Retirement Systems Committee  
22 of the Legislature. The annual report shall be in a form  
23 prescribed by the Public Employees Retirement Board and shall  
24 contain the following information for each such retirement plan:

25 (a) The number of persons participating in the retirement  
26 plan;

27 (b) The contribution rates of participants in the plan;

28 (c) Plan assets and liabilities;

1           (d) The names and positions of persons administering the  
2 plan;

3           (e) The names and positions of persons investing plan  
4 assets;

5           (f) The form and nature of investments;

6           (g) For each defined contribution plan, a full  
7 description of investment policies and options available to plan  
8 participants; and

9           (h) For each defined benefit plan, the levels of benefits  
10 of participants in the plan, the number of members who are eligible  
11 for a benefit, and the total present value of such members'  
12 benefits, as well as the funding sources which will pay for such  
13 benefits.

14           If a plan contains no current active participants, the  
15 administrator may file in place of such report a statement with the  
16 Public Employees Retirement Board indicating the number of retirees  
17 still drawing benefits, and the sources and amount of funding for  
18 such benefits.

19           (3) Beginning December 31, 1998, and every four years  
20 thereafter, if such retirement plan is a defined benefit plan, the  
21 trustees of a retirement system established pursuant to section  
22 79-979 shall cause to be prepared a quadrennial report and the  
23 administrator shall file the same with the Public Employees  
24 Retirement Board and submit to the members of the Nebraska  
25 Retirement Systems Committee of the Legislature a copy of such  
26 report. The report shall consist of a full actuarial analysis of  
27 each such retirement plan established pursuant to section 79-979.  
28 The analysis shall be prepared by an independent private

1 organization or public entity employing actuaries who are members  
2 in good standing of the American Academy of Actuaries, and which  
3 organization or entity has demonstrated expertise to perform this  
4 type of analysis and is unrelated to any organization offering  
5 investment advice or which provides investment management services  
6 to the retirement plan.

7           Sec. 6.     Section 79-990, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           79-990. (1) Any member who is eligible for reemployment  
10 on or after December 12, 1994, pursuant to 38 U.S.C. chapter 43, as  
11 amended, or is eligible for reemployment under sections 55-160 to  
12 55-163 may pay to the retirement system after the date of his or  
13 her return from active military service, and within the period  
14 required by law, not to exceed five years, an amount equal to the  
15 sum of all deductions which would have been made from the salary  
16 which he or she would have received during the period of military  
17 service for which creditable service is desired. If such payment  
18 is made, the member shall be entitled to credit for membership  
19 service in determining his or her annuity for the period for which  
20 contributions have been made and the board shall be responsible for  
21 any funding necessary to provide for the benefit which is  
22 attributable to this increase in the member's creditable service.  
23 The member's payments shall be paid as the trustees may direct,  
24 through direct payments to the retirement system or on an  
25 installment basis pursuant to a binding irrevocable payroll  
26 deduction authorization between the member and the school district.  
27 Creditable service may be purchased only in one-half-year  
28 increments, starting with the most recent year's salary.

1           (2) Under such rules and regulations as the board may  
2 prescribe, any member who was away from his or her position while  
3 on a leave of absence from such position authorized by the board of  
4 education of the school district by which he or she was employed at  
5 the time of such leave of absence or pursuant to any contractual  
6 agreement entered into by such school district may receive credit  
7 for any or all time he or she was on leave of absence. Such time  
8 shall be included in creditable service when determining  
9 eligibility for death, disability, termination, and retirement  
10 benefits. The member who receives the credit shall earn benefits  
11 during the leave based on salary at the level received immediately  
12 prior to the leave of absence. Such credit shall be received if  
13 such member pays into the retirement system (a) an amount equal to  
14 the sum of the deductions from his or her salary for the portion of  
15 the leave for which creditable service is desired, (b) any  
16 contribution which the school district would have been required to  
17 make for the portion of the leave for which creditable service is  
18 desired had he or she continued to receive salary at the level  
19 received immediately prior to the leave of absence, and (c) regular  
20 interest on these combined payments from the date such deductions  
21 would have been made to the date of repayment. Such amounts shall  
22 be paid as the trustees may direct, through direct payments to the  
23 retirement system or on an installment basis pursuant to a binding  
24 irrevocable payroll deduction authorization between the member and  
25 the school district over a period not to exceed five years from the  
26 date of the termination of his or her leave of absence. Interest  
27 on any delayed payment shall be at the rate of regular interest.  
28 Creditable service may be purchased only in one-half-year

1 increments, starting with the most recent ~~year's~~ years' salary, and  
2 if payments are made on an installment basis, creditable service  
3 will be credited only as payment has been made to the retirement  
4 system to purchase each additional one-half-year increment. Leave  
5 of absence shall be construed to include, but not be limited to,  
6 sabbaticals, maternity leave, exchange teaching programs, full-time  
7 leave as an elected official of a professional association or  
8 collective-bargaining unit, or leave of absence to pursue further  
9 education or study. A leave of absence granted pursuant to this  
10 section shall not exceed four years in length, and in order to  
11 receive credit for the leave of absence, the member must ~~return~~  
12 have returned to employment with the ~~Class V~~ school district within  
13 one year after termination of the leave of absence.

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

1           Sec. 7.     Section 79-992, Revised Statutes Supplement,  
2 2000, is amended to read:

3           79-992.   (1) A member who has five years or more of  
4 creditable service, excluding years of prior service acquired  
5 pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and  
6 who severs his or her employment may elect to leave his or her  
7 contributions in the retirement system, in which event he or she  
8 shall receive a retirement allowance at normal retirement age based  
9 on the annuity earned to the date of such severance. Such member  
10 may elect to receive a retirement allowance at early retirement age  
11 if such member retires at an early retirement date. Such annuity  
12 shall be adjusted in accordance with section 79-9,100. Upon the  
13 severance of employment, except on account of retirement, a member  
14 shall be entitled to receive refunds as follows: (a) An amount  
15 equal to the accumulated contributions to the retirement system by  
16 the member; and (b) any contributions made to a previously existing  
17 system which were refundable under the terms of that system. Any  
18 member receiving a refund of contributions shall thereby forfeit  
19 and relinquish all accrued rights in the retirement system  
20 including all accumulated creditable service, except that if any  
21 member who has withdrawn his or her contributions as provided in  
22 this section reenters the service of the district and again becomes  
23 a member of the retirement system, he or she may restore any or all  
24 money previously received by him or her as a refund, including the  
25 regular interest for the period of his or her absence from the  
26 district's service, and he or she shall then again receive credit  
27 for that portion of service which the restored money represents.  
28 Such restoration may be made as the trustees may direct through

1 direct payments to the system or on an installment basis pursuant  
2 to a binding irrevocable payroll deduction authorized between the  
3 member and the school district over a period of not to exceed five  
4 years from the date of reemployment. Interest on delayed payments  
5 shall be at the rate of regular interest. Creditable service may  
6 be purchased only in one-half-year increments, starting with the  
7 most recent ~~year's~~ years' salary.

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

20 (3) Upon termination of the reemployed member, the member  
21 shall receive in addition to the retirement annuity which commenced  
22 at the time of the previous retirement (a) if the member has  
23 accrued five years or more of creditable service after his or her  
24 return to employment, excluding years of prior service acquired  
25 pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a  
26 retirement annuity as provided in section 79-999 or 79-9,100, as  
27 applicable, calculated solely on the basis of creditable service  
28 and final average compensation accrued and earned after the

1 member's return to employment after his or her original retirement,  
2 and as adjusted to reflect any payment in other than the normal  
3 form or (b) if the member has not accrued five years or more of  
4 creditable service after his or her return to employment, a refund  
5 equal to the member's accumulated contributions which were credited  
6 to the member after the member's return to employment. In no event  
7 shall the member's creditable service which accrued prior to a  
8 previous retirement be considered as part of the member's  
9 creditable service after his or her return to employment for any  
10 purpose of the Class V School Employees Retirement Act.

11           Sec. 8.     Section 79-998, Revised Statutes Supplement,  
12 2000, is amended to read:

13           79-998. The retirement system may accept cash rollover  
14 contributions from a member who is making payments for additional  
15 service credits pursuant to sections 79-990 to 79-992 if the  
16 contributions do not exceed the amount of payment required for the  
17 service credits purchased by the member pursuant to such sections  
18 and:

19           (1) The contributions represent all or any portion of the  
20 member's interest in a plan of a former employer which is qualified  
21 under section 401(a) of the Internal Revenue Code and such interest  
22 may be transferred to the system as a qualifying rollover  
23 contribution under the Internal Revenue Code; or

24           (2) The contributions represent the interest of a member  
25 from an individual retirement account or individual retirement  
26 annuity, the entire amount of which is attributable to a qualified  
27 total distribution as defined in the Internal Revenue Code from a  
28 source described in subdivision (1) of this section and thus

1 qualified as a tax-free rollover amount, and the interest is  
2 transferred to the system within sixty days from the date of  
3 distribution of the individual retirement account or individual  
4 retirement annuity.

5 Cash transferred to the system as a rollover contribution  
6 shall be deposited as a commingled asset of the system and shall  
7 not be separately accounted for or invested for the member's  
8 benefit. Rollover contributions made by any member shall be  
9 treated as qualifying ~~to~~ payments under sections 79-990 to 79-992  
10 and as employee contributions for all other purposes of the Class V  
11 School Employees Retirement Act except in determining federal and  
12 state tax treatment of distributions from the system.

13 The system, the board, the trustees, and their respective  
14 members, officers, and employees shall have no responsibility or  
15 liability with respect to the federal and state income tax  
16 consequences of any transfer made to the system pursuant to this  
17 section, and the trustees may require as a condition to the  
18 system's acceptance of any rollover contribution satisfactory  
19 evidence that the proposed transfer is a qualifying rollover  
20 contribution under the Internal Revenue Code and reasonable  
21 releases or indemnifications from the member against any and all  
22 liabilities which may in any way be connected with such transfer.

23 Effective January 1, 1993, any member who is to receive  
24 an eligible rollover distribution, as defined in the Internal  
25 Revenue Code, from the system may, in accordance with such rules,  
26 regulations, and limitations as may be established by the trustees,  
27 elect to have such distribution made in the form of a direct  
28 transfer to a retirement plan eligible to receive such transfer

1 under the provisions of the Internal Revenue Code. Any such  
2 election shall be made in the form and within the time periods  
3 established by the trustees.

4 All distributions from the system shall be subject to all  
5 withholdings required by federal or state tax laws.

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

8 79-9,101. Any time prior to receiving the first annuity  
9 payment, the member may elect to receive in lieu of such annuity,  
10 but payable in the same manner, an actuarially equivalent annuity  
11 in one of the following forms:

12 (1) A joint and survivorship annuity which shall continue  
13 after the death of the member to the death of the (a) member's  
14 spouse or (b) other designated beneficiary whose attained age ~~at~~  
15 the time of such election is fifty-five years or more in the  
16 calendar year in which the payment of the annuity commences is no  
17 more than ten years less than the attained age of the member in  
18 such calendar year;

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

28 (3) An annuity payable monthly during the remainder of

1 the member's life with the provision that in the event of his or  
2 her death before one hundred twenty monthly payments have been made  
3 the monthly payments will be continued as provided in this section  
4 until a total of one hundred twenty monthly payments have been  
5 made; ~~or~~

6 (4) A joint and survivorship annuity which will continue  
7 after the death of the member to the death of the (a) member's  
8 spouse or (b) other designated beneficiary whose attained age ~~at~~  
9 the time of such election is fifty-five years or more in the  
10 calendar year in which the payment of the annuity commences is no  
11 more than ten years less than the attained age of the member in  
12 such calendar year but which annuity shall, upon the spouse's or  
13 designated beneficiary's death before the death of the member, be  
14 increased after such death for the remaining life of the member so  
15 that the monthly benefit equals the monthly benefit which would  
16 have been payable to the member had the member selected the normal  
17 form of the formula retirement annuity specified in section  
18 79-9,100; or

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

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

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

28 Whether the member elects the normal form or one of the

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

14           Sec. 10. Section 79-9,103, Revised Statutes Supplement,  
15 2000, is amended to read:

16           79-9,103. (1) Any annuity paid on or after September 1,  
17 1983, to a member who retired prior to February 21, 1982, pursuant  
18 to the Class V School Employees Retirement Act, or to such member's  
19 beneficiary, or to a person who retired under the provisions of the  
20 retirement system established by statute for employees of Class V  
21 school districts in effect prior to September 1, 1951, or to such  
22 person's beneficiary, shall be adjusted by the increase in the cost  
23 of living or wage levels between the effective date of retirement  
24 and June 30, 1983, except that such increase shall not exceed the  
25 sum of one dollar and fifty cents per month for each year of  
26 creditable service and one dollar per month for each completed year  
27 of retirement as measured from the effective date of retirement to  
28 June 30, 1983. No separate adjustment in such annuity shall be

1 made as a result of the changes made in section 79-9,113 pursuant  
2 to Laws 1983, LB 488. If a joint and survivor annuity was elected,  
3 the increase shall be actuarially adjusted so that the joint and  
4 survivor annuity remains the actuarial equivalent of the life  
5 annuity otherwise payable.

6 (2) In addition to the cost-of-living adjustment provided  
7 in subsection (1) of this section, any annuity paid on or after  
8 September 1, 1986, pursuant to the act or pursuant to the  
9 provisions of the retirement system established by statute for  
10 employees of Class V school districts in effect prior to September  
11 1, 1951, and on which the first payment was dated on or before  
12 September 1, 1985, shall be adjusted by the increase in the cost of  
13 living or wage levels between the effective date of retirement and  
14 June 30, 1986, except that such increase shall not exceed (a) three  
15 and one-half percent for annuities first paid on or after September  
16 1, 1984, (b) seven percent for annuities first paid on or after  
17 September 1, 1983, but before September 1, 1984, or (c) ten and  
18 one-half percent for all other annuities.

19 (3) In addition to the cost-of-living adjustment provided  
20 in subsections (1) and (2) of this section, any annuity paid on or  
21 after September 1, 1989, pursuant to the act or pursuant to the  
22 provisions of the retirement system established by statute for  
23 employees of Class V school districts in effect prior to September  
24 1, 1951, and on which the first payment was dated on or before  
25 September 1, 1988, shall be adjusted by the increase in the cost of  
26 living or wage levels between the effective date of retirement and  
27 June 30, 1989, except that such increase shall not exceed (a) three  
28 percent for annuities first paid on or after September 1, 1987, (b)

1 six percent for annuities first paid on or after September 1, 1986,  
2 but before September 1, 1987, or (c) nine percent for all other  
3 annuities.

4 (4) In addition to the cost-of-living adjustment provided  
5 in subsections (1), (2), and (3) of this section, any annuity paid  
6 on or after September 1, 1992, pursuant to the act or pursuant to  
7 the provisions of the retirement system established by statute for  
8 employees of Class V school districts in effect prior to September  
9 1, 1951, and on which the first payment was dated on or before  
10 October 1, 1991, shall be adjusted by the increase in the cost of  
11 living or wage levels between the effective date of retirement and  
12 June 30, 1992, except that such increase shall not exceed (a) three  
13 percent for annuities first paid after October 1, 1990, (b) six  
14 percent for annuities first paid after October 1, 1989, but on or  
15 before October 1, 1990, or (c) nine percent for all other  
16 annuities.

17 (5) In addition to the cost-of-living adjustment provided  
18 in subsections (1), (2), (3), and (4) of this section, any annuity  
19 paid on or after September 1, 1995, pursuant to the act or pursuant  
20 to the provisions of the retirement system established by statute  
21 for employees of Class V school districts in effect prior to  
22 September 1, 1951, and on which the first payment was dated on or  
23 before October 1, 1994, shall be adjusted by the increase in the  
24 cost of living or wage levels between the effective date of  
25 retirement and June 30, 1995, except that such increase shall not  
26 exceed (a) three percent for annuities first paid after October 1,  
27 1993, (b) six percent for annuities first paid after October 1,  
28 1992, but on or before October 1, 1993, or (c) nine percent for all

1 other annuities.

2           (6) In addition to the cost-of-living adjustment provided  
3 in subsections (1), (2), (3), (4), and (5) of this section, any  
4 annuity paid pursuant to the act or pursuant to the provisions of  
5 the retirement system established by statute for employees of Class  
6 V school districts in effect prior to September 1, 1951, and on  
7 which the first payment was dated on or before October 1, 1994,  
8 shall be subject to adjustment to equal the greater of (a) the  
9 annuity payable to the member or beneficiary as adjusted, if  
10 applicable, under the provisions of subsection (1), (2), (3), (4),  
11 or (5) of this section or (b) ninety percent of the annuity which  
12 results when the original annuity that was paid to the member or  
13 beneficiary (before any cost-of-living adjustments under this  
14 section), is adjusted by the increase in the cost of living or wage  
15 levels between the commencement date of the annuity and June 30,  
16 1995.

17           (7) In addition to the cost-of-living adjustment provided  
18 in subsections (1), (2), (3), (4), (5), and (6) of this section,  
19 any annuity paid on or after September 1, 1998, pursuant to the act  
20 or pursuant to the provisions of the retirement system established  
21 by statute for employees of Class V school districts in effect  
22 prior to September 1, 1951, and on which the first payment was  
23 dated on or before October 3, 1997, shall be adjusted by the  
24 increase in the cost of living or wage levels between the effective  
25 date of retirement and June 30, 1998, except that such increase  
26 shall not exceed (a) three percent for annuities first paid after  
27 October 1, 1996, (b) six percent for annuities first paid after  
28 October 1, 1995, but on or before October 1, 1996, or (c) nine

1 percent for all other annuities.

2           (8) Beginning January 1, 2000, and on January 1 of every  
3 year thereafter, a cost-of-living adjustment shall be made for any  
4 annuity being paid pursuant to the act, or pursuant to the  
5 provisions of the retirement system established by statute for  
6 employees of Class V school districts in effect prior to September  
7 1, 1951, and on which the first payment was dated on or before  
8 October 3 preceding such January 1 adjustment date. The  
9 cost-of-living adjustment for any such annuity shall be the lesser  
10 of (a) one and one-half percent or (b) the increase in the consumer  
11 price index from the date such annuity first became payable through  
12 the August 31 preceding the January 1 adjustment date as reduced by  
13 the aggregate cost-of-living adjustments previously made to the  
14 annuity pursuant to section 79-9,103 and pursuant to subsections  
15 (8) and (9) of this section.

16           (9) Beginning September 1, 1999, the actuary shall make  
17 an annual valuation of the assets and liabilities of the system.  
18 If the annual valuation made by the actuary, as approved by the  
19 trustees, indicates that the system has sufficient actuarial  
20 surplus to provide for a cost-of-living adjustment in addition to  
21 the adjustment made pursuant to subsection (8) of this section, the  
22 board may, in its discretion, declare by resolution that each  
23 annuity being paid pursuant to the act, or pursuant to the  
24 provisions of the retirement system established by statute for  
25 employees of Class V school districts in effect prior to September  
26 1, 1951, and on which the first payment was dated on or before  
27 October 3 of the year such resolution is adopted, shall be  
28 increased beginning as of the January 1 following the date of the

1 board's resolution by such percentage as may be declared by the  
2 board, except that such increase for any such annuity shall not  
3 exceed the increase in the consumer price index from the date such  
4 annuity first became payable through the applicable valuation date  
5 as reduced by the aggregate cost-of-living adjustments previously  
6 made to the annuity pursuant to section 79-9,103 and pursuant to  
7 subsections (8) and (9) of this section.

8 (10) ~~The~~ Except for the adjustments pursuant to  
9 subsection (12) of this section, the consumer price index to be  
10 used for determining any cost-of-living adjustment under this  
11 section shall be the Consumer Price ~~Index for All~~ Index - All Urban  
12 Consumers, as published by the Bureau of Labor Statistics of the  
13 United States Department of Labor. If this consumer price index is  
14 discontinued or replaced, a substitute index published by the  
15 United States Department of Labor shall be selected by the board,  
16 upon recommendation of the trustees, which shall be a reasonable  
17 representative measurement of the cost of living for retired  
18 employees. An annuity as increased by any cost-of-living  
19 adjustment made under this section shall be considered the base  
20 annuity amount for the purpose of future adjustments pursuant to  
21 this section. In no event shall any cost-of-living adjustment be  
22 deemed to affect or increase the amount of the base retirement  
23 annuity of a member as determined under section 79-999 or 79-9,100.

24 (11) Any decision or determination by the board (a) to  
25 declare or not declare a cost-of-living adjustment, (b) as to  
26 whether the annual valuation indicates a sufficient actuarial  
27 surplus to provide for a cost-of-living adjustment, or (c) pursuant  
28 to the selection of a substitute index shall be made in the sole,

1 absolute, and final discretion of the board and shall not be  
2 subject to challenge by any member or beneficiary. In no event  
3 shall the Legislature be constrained or limited in amending the  
4 system or increasing the benefits of members under the system, nor  
5 shall the board or trustees be constrained from supporting any such  
6 change to the system, notwithstanding the effect of any such change  
7 upon the actuarial surplus of the system and the ability of the  
8 board to declare future cost-of-living adjustments.

9 (12) The Legislature finds and declares that there exists  
10 in this state a pressing need to attract and retain qualified and  
11 dedicated public school employees and that one of the factors  
12 prospective public school employees consider when seeking or  
13 continuing public school employment is the retirement system and  
14 benefits the employment provides. The Legislature further finds  
15 that over the past decades, as reflected by the Medical Price Index  
16 published by the United States Department of Labor, the cost of  
17 medical care, including the cost of medications and insurance  
18 coverages, has increased at a rate in excess of that by which the  
19 Consumers Price Index - All Urban Consumers has increased. The  
20 Legislature further finds and declares that there accordingly  
21 exists a need to adjust the amount of retirement benefits paid to  
22 retired public school employees in order to assist them in meeting  
23 the increased cost of medical care. Therefor, in addition to the  
24 cost-of-living adjustments provided in subsections (1) through (11)  
25 of this section, commencing on October 3, 2001, and on October 3 of  
26 every year thereafter, a medical cost-of-living adjustment shall be  
27 paid to any annuitant who has been paid an annuity from the  
28 retirement system for at least ten years through the October 3

1 adjustment date. The cost-of-living adjustment shall be paid in  
2 the form of a supplemental annuity providing monthly payments equal  
3 to the amount which results when (a) the fraction, not to exceed  
4 one, that results when the annuitant's years of creditable service  
5 at his or her retirement date is divided by twenty, is multiplied  
6 by (b) the product of ten dollars times the number of years,  
7 including attained half-years, that such annuitant has received  
8 annuity payments from the retirement system through the October 3  
9 adjustment date. The supplemental annuity being paid to an  
10 annuitant shall increase by ten dollars on October 3 of each  
11 subsequent year to reflect the additional year of annuity payments  
12 to the annuitant until the total amount of the supplemental annuity  
13 is two hundred fifty dollars. In no event shall the medical  
14 cost-of-living adjustment for any annuitant pursuant to this  
15 subsection result in the payment of a supplemental annuity  
16 exceeding two hundred fifty dollars per month. The supplemental  
17 annuity paid to an annuitant pursuant to this subsection shall  
18 cease at the death of the annuitant regardless of the form of  
19 retirement annuity being paid to the annuitant at the time of his  
20 or her death.

21           Sec. 11. Section 79-9,105, Revised Statutes Supplement,  
22 2000, is amended to read:

23           79-9,105. (1) Any member with five or more years of  
24 creditable service, excluding years of prior service acquired  
25 pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who  
26 becomes totally disabled for further performance of duty on or  
27 after March 22, 2000, may be approved for deferred disability  
28 retirement by the board. In the case of such deferred disability

1 retirement, the member, during the period specified in subsection  
2 (3) of this section, shall be credited with creditable service for  
3 each year or portion thereof, to be determined in accordance with  
4 board policies governing creditable service, that the member defers  
5 retirement, up to a maximum of thirty-five years of total  
6 creditable service, including creditable service accrued before the  
7 member became totally disabled. The member approved for deferred  
8 disability retirement may at any time of the member's choosing  
9 request the deferral to end and retirement annuity payments to  
10 begin. The retirement annuity of such member shall be based on the  
11 total number of years of the member's creditable service, including  
12 the years credited to the member during his or her total disability  
13 under this section, and the member's final average salary as of the  
14 date that the member became totally disabled and as adjusted from  
15 such date by a percentage equal to the cumulative percentage  
16 cost-of-living adjustments that were made or declared for annuities  
17 in pay status pursuant to subsections (8) and (9) of section  
18 79-9,103 after the date of the board's approval for deferred  
19 disability retirement and before the cessation of the accrual of  
20 additional creditable service pursuant to subsection (3) of this  
21 section. Except as provided in subsection (4) of this section, the  
22 retirement annuity so determined for the member shall be payable to  
23 the member without reduction due to any early commencement of  
24 benefits, except that the retirement annuity shall be reduced by  
25 the amount of any periodic payments to such employee as workers'  
26 compensation benefits. Additional creditable service acquired  
27 through deferred disability retirement shall apply to the service  
28 requirements specified in section 79-9,106. The board shall

1 consider a member to be totally disabled when it has received an  
2 application by the member and a statement by at least two licensed  
3 and practicing physicians designated by the board certifying that  
4 the member is totally and presumably permanently disabled and  
5 unable to perform his or her duties as a consequence thereof.

6 (2) Notwithstanding the provisions of subsection (1) of  
7 this section, the payment of the retirement annuity of a member may  
8 not be deferred later than the member's required beginning date as  
9 defined in section 401(a)(9) of the Internal Revenue Code. If the  
10 payment of a disabled member's retirement annuity is required to  
11 commence before the member has elected to end his or her deferred  
12 disability retirement, the amount of benefit that would have  
13 accrued pursuant to subsection (1) of this section in the fiscal  
14 year of the member's required beginning date, and in each  
15 subsequent fiscal year through the year of the member's election to  
16 end the deferred disability retirement period, shall be reduced,  
17 but not below zero, by the actuarial equivalent of the payments  
18 which were paid to the member during each such fiscal year and  
19 after the member's required beginning date. The retirement annuity  
20 of any member that commences before the end of the member's  
21 deferred disability retirement shall be adjusted as of each  
22 September 1 pursuant to the requirements of this subsection.

23 (3) The accrual of creditable service and any adjustment  
24 of final average salary provided in subsection (1) of this section  
25 shall begin from the first day of the month following the date of  
26 the first of the two examinations by which the member is determined  
27 by the board to be totally disabled, shall continue only so long as  
28 the member does not receive any wages or compensation for services,

1 and shall end at the earlier of (a) the time total disability  
 2 ceases as determined by the board or (b) the date the member elects  
 3 to end the deferred disability retirement and begin to receive his  
 4 or her retirement annuity. The board may require periodic proof of  
 5 disability but not more frequently than semiannually.

6 (4) The payment of any retirement annuity to a disabled  
 7 member, which begins to be paid under this section (a) before the  
 8 member's sixty-second birthday or (b) at a time before the sum of  
 9 the member's attained age and creditable service is eighty-five or  
 10 more, shall be suspended if the board determines at any time before  
 11 the member's sixty-second birthday that the member's total  
 12 disability has ceased. Payment of the retirement annuity of such  
 13 member as determined under this section shall recommence at the  
 14 member's early retirement date or normal retirement date but shall  
 15 be subject to reduction at such time as specified in section  
 16 79-9,100.

17 Sec. 12. Section 79-9,106, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:

19 79-9,106. (1) Upon the death of a member who has not yet  
 20 retired and who has twenty years or more of creditable service, the  
 21 member's primary beneficiary shall receive a survivorship annuity  
 22 in accordance with subdivision (1) of section 79-9,101 if the  
 23 primary beneficiary is (a) the member's spouse or (b) one other  
 24 designated ~~person~~ beneficiary whose attained age ~~at the time of the~~  
 25 ~~member's death is fifty-five years or more in the calendar year of~~  
 26 the member's death is no more than ten years less than the attained  
 27 age of the member in such calendar year. The amount of such  
 28 actuarially equivalent annuity shall be calculated using the

1 attained ages of the member and the beneficiary and be based on the  
2 annuity earned to the date of the member's death without reduction  
3 due to any early commencement of benefits. Within sixty days from  
4 the date of the member's death, if the member has not previously  
5 filed with the administrator of the retirement system a form  
6 requiring that only the survivorship annuity be paid, the  
7 beneficiary may request to receive in a lump sum an amount equal to  
8 the member's accumulated contributions. If prior to the member's  
9 death, the member files with the administrator of the retirement  
10 system a form requiring that the beneficiary receive a lump-sum  
11 settlement in lieu of the survivorship annuity, the beneficiary  
12 shall receive, in lieu of the survivorship annuity, a lump-sum  
13 settlement in an amount equal to the member's accumulated  
14 contributions notwithstanding any other provision of this section.

15 (2) Upon the death of a member who has not yet retired  
16 and who has less than twenty years of creditable service or upon  
17 the death of a member who has not yet retired and who has twenty  
18 years or more of creditable service but whose beneficiary does not  
19 meet the criteria in subsection (1) of this section, the member's  
20 beneficiary or, if no beneficiary has been named, the member's  
21 estate shall receive in a lump sum an amount equal to the member's  
22 accumulated contributions.

23 Sec. 13. Section 79-1075, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 79-1075. (1) The county board of the county in which is  
26 located the schoolhouse or the administrative office of any joint  
27 school district shall make a levy for the school district, as may  
28 be necessary, and the county clerk of that headquarters county

1 shall certify the levy, on or before the date prescribed in section  
2 77-1601, to the county clerk of each county in which is situated  
3 any portion of the joint school district. This section shall apply  
4 to all taxes levied on behalf of school districts, including, but  
5 not limited to, taxes authorized by sections 10-304, 10-711,  
6 10-716.01, 77-1601, 79-747, ~~79-9,112,7~~ 79-1077, 79-1084, 79-1085,  
7 79-1086, 79-10,100, 79-10,110, 79-10,118, 79-10,120, 79-10,122, and  
8 79-10,126.

9 (2) The county board of the county in which is located  
10 the schoolhouse or the administrative office of the high school  
11 district of a joint affiliated school system shall make a levy for  
12 the joint affiliated school system, as may be necessary, and the  
13 county clerk of that headquarters county shall certify the levy, on  
14 or before the date prescribed in section 77-1601, to the county  
15 clerk of each county in which is situated any portion of the joint  
16 affiliated school system. This section shall apply to all taxes  
17 levied on behalf of affiliated school systems, including, but not  
18 limited to, taxes authorized by sections 10-716.01, 79-1077, and  
19 79-10,110.

20 Sec. 14. Section 79-1082, Revised Statutes Supplement,  
21 2000, is amended to read:

22 79-1082. The aggregate school tax for a Class V school  
23 district exclusive of the special levy to pay accrued liabilities  
24 of the retirement fund authorized by section ~~79-9,112,7~~ and  
25 ~~exclusive~~ of the levy for the site and building fund as authorized  
26 by section 79-10,126, shall be subject to the limits provided in  
27 section 77-3442.

28 Sec. 15. Original sections 79-982, 79-990, 79-9,101,

1 79-9,106, and 79-1075, Reissue Revised Statutes of Nebraska, and  
2 sections 79-980, 79-981, 79-984, 79-987, 79-992, 79-998, 79-9,103,  
3 79-9,105, and 79-1082, Revised Statutes Supplement, 2000, are  
4 repealed.

5           Sec. 16.     The following section is outright repealed:  
6 Section 79-9,112, Reissue Revised Statutes of Nebraska.

7           Sec. 17.     Since an emergency exists, this act takes  
8 effect when passed and approved according to law.