

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 655**

Introduced by Davis, 43.

Read first time January 21, 2015

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 4-108,  
2 16-1020, 84-1501, 84-1503, and 84-1511, Reissue Revised Statutes of  
3 Nebraska; to adopt the Cities of the First Class Firefighters Cash  
4 Balance Retirement Act; to create funds; to change provisions  
5 relating to the Public Employees Retirement Board; to harmonize  
6 provisions; to repeal the original sections; and to declare an  
7 emergency.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 36 of this act shall be known and may be  
2 cited as the Cities of the First Class Firefighters Cash Balance  
3 Retirement Act.

4           Sec. 2. For purposes of the Cities of the First Class Firefighters  
5 Cash Balance Retirement Act, unless the context otherwise requires:

6           (1) Actuarial equivalent means the equality in value of the  
7 aggregate amounts expected to be received under different forms of an  
8 annuity payment. The mortality assumption used for purposes of converting  
9 the member cash balance account shall be the 1994 Group Annuity Mortality  
10 Table using a unisex rate that is fifty percent male and fifty percent  
11 female;

12           (2) Annuity means equal monthly payments provided by the retirement  
13 system to a member or beneficiary under forms determined by the board  
14 beginning the first day of the month after an annuity election is  
15 received in the office of the Nebraska Public Employees Retirement  
16 Systems or the first day of the month after the employee's termination of  
17 employment, whichever is later. The last payment shall be at the end of  
18 the calendar month in which the member dies or in accordance with the  
19 payment option chosen by the member;

20           (3) Annuity start date means the date upon which a member's annuity  
21 is first effective and shall be the first day of the month following the  
22 member's termination or following the date the application is received by  
23 the board, whichever is later;

24           (4) Beneficiary means the person or persons designated by an  
25 employee pursuant to a written instrument filed with the board before the  
26 employee's death, to receive death benefits which may be payable under  
27 the retirement system;

28           (5) Cash balance benefit means a member's retirement benefit that is  
29 equal to an amount based on annual employee contribution credits plus  
30 interest credits and, if vested, employer contribution credits plus  
31 interest credits and dividend amounts credited in accordance with

1 subdivision (3)(c) of section 18 of this act;

2 (6) City means a city of the first class;

3 (7)(a) Compensation means the base rate of pay, excluding overtime,  
4 callback pay, clothing allowances, and other such benefits as reported on  
5 the employee's federal income tax withholding statement including the  
6 employee's contributions picked up by the city as provided in section 8  
7 of this act and any salary reduction contributions which are excludable  
8 from income for federal income tax purposes pursuant to section 125 or  
9 457 of the Internal Revenue Code.

10 (b) Compensation in excess of the limitations set forth in section  
11 401(a)(17) of the Internal Revenue Code shall be disregarded;

12 (8) Date of adoption of the retirement system by each city means the  
13 first day of the month next following the date of approval of the  
14 retirement system by the city council;

15 (9) Date of disability means the date on which a member is  
16 determined by the board to be disabled;

17 (10) Disability means an inability to engage in a substantially  
18 gainful activity by reason of any medically determinable physical or  
19 mental impairment which can be expected to result in death or be of a  
20 long and indefinite duration;

21 (11) Employee means all persons who are first employed as  
22 firefighters on or after XXX, X, XXXX, by a city on a permanent basis and  
23 firefighters who elect to become members of the retirement system;

24 (12) Employee contribution credit means an amount equal to the  
25 member contribution amount required by section 8 of this act;

26 (13) Employer means a city of the first class;

27 (14) Employer contribution credit means an amount equal to the  
28 employer contribution amount required by section 9 of this act;

29 (15) Final account value means the value of a member's account on  
30 the date the account is either distributed to the member or used to  
31 purchase an annuity from the plan, which date shall occur as soon as

1 administratively practicable after receipt of a valid application for  
2 benefits, but no sooner than forty-five days after the member's  
3 termination;

4 (16) Five-year break in service means a period of five consecutive  
5 one-year breaks in service;

6 (17) Full-time employee means an employee who is employed to work  
7 one-half or more of the regularly scheduled hours during each pay period;

8 (18) Future service means service following the date of adoption of  
9 the retirement system;

10 (19) Guaranteed investment contract means an investment contract or  
11 account offering a return of principal invested plus interest at a  
12 specified rate. For investments made after XXXX, X, XXXX, guaranteed  
13 investment contract does not include direct obligations of the United  
14 States or its instrumentalities, bonds, participation certificates or  
15 other obligations of the Federal National Mortgage Association, the  
16 Federal Home Loan Mortgage Corporation, or the Government National  
17 Mortgage Association, or collateralized mortgage obligations and other  
18 derivative securities;

19 (20) Interest credit rate means the greater of (a) five percent or  
20 (b) the applicable federal mid-term rate, as published by the Internal  
21 Revenue Service as of the first day of the calendar quarter for which  
22 interest credits are credited, plus one and one-half percent, such rate  
23 to be compounded annually;

24 (21) Interest credits means the amounts credited to the employee  
25 cash balance account and the employer cash balance account at the end of  
26 each day. Such interest credit for each account shall be determined by  
27 applying the daily portion of the interest credit rate to the account  
28 balance at the end of the previous day. Such interest credits shall  
29 continue to be credited to the employee cash balance account and the  
30 employer cash balance account after a member ceases to be an employee,  
31 except that no such credit shall be made with respect to the employee

1 cash balance account and the employer cash balance account for any day  
2 beginning on or after the member's date of final account value. If  
3 benefits payable to the member's surviving spouse or beneficiary are  
4 delayed after the member's death, interest credits shall continue to be  
5 credited to the employee cash balance account and the employer cash  
6 balance account until such surviving spouse or beneficiary commences  
7 receipt of a distribution from the plan;

8 (22) Member cash balance account means an account equal to the sum  
9 of the employee cash balance account and, if vested, the employer cash  
10 balance account and dividend amounts credited in accordance with  
11 subdivision (3)(c) of section 18 of this act;

12 (23) One-year break in service means a plan year during which the  
13 member has not completed more than five hundred hours of service;

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

16 (25) Part-time employee means an employee who is employed to work  
17 less than one-half of the regularly scheduled hours during each pay  
18 period;

19 (26) Plan year means the twelve-month period beginning on January 1  
20 and ending on December 31;

21 (27) Prior service means service prior to the date of adoption of  
22 the retirement system;

23 (28) Regular interest means the rate of interest earned each  
24 calendar year as determined by the retirement board in conformity with  
25 actual and expected earnings on the investments through December 31,  
26 1985;

27 (29) Required contribution means the deduction to be made from the  
28 compensation of employees as provided in the act;

29 (30) Retirement means qualifying for and accepting the retirement  
30 benefit granted under the act after terminating employment;

31 (31) Retirement board or board means the Public Employees Retirement

1 Board;

2 (32) Retirement system means the Cash Balance Retirement System for  
3 Firefighters in Cities of the First Class;

4 (33) Service means the actual total length of employment as an  
5 employee and is not deemed to be interrupted by (a) temporary or seasonal  
6 suspension of service that does not terminate the employee's employment,  
7 (b) leave of absence authorized by the employer for a period not  
8 exceeding twelve months, (c) leave of absence because of disability, or  
9 (d) military service, when properly authorized by the retirement board.  
10 Service does not include any period of disability for which disability  
11 retirement benefits are received under section 16 of this act;

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

23 (35) Termination of employment occurs on the date on which a city  
24 which is a member of the retirement system determines that its employer-  
25 employee relationship with an employee is dissolved. The city shall  
26 notify the board of the date on which such a termination has occurred.  
27 Termination of employment does not occur if an employee whose employer-  
28 employee relationship with a city is dissolved enters into an employer-  
29 employee relationship as a firefighter with the same or another city  
30 which participates in the retirement system and there are less than one  
31 hundred twenty days between the date when the employee's employer-

1 employee relationship ceased with the city and the date when the  
2 employer-employee relationship commenced with the same or another city  
3 which qualifies the employee for participation in the plan. It is the  
4 responsibility of the employer that is involved in the termination of  
5 employment to notify the board of such change in employment and provide  
6 the board with such information as the board deems necessary. If the  
7 board determines that termination of employment has not occurred and a  
8 retirement benefit has been paid to a member of the retirement system  
9 pursuant to section 19 of this act, the board shall require the member  
10 who has received such benefit to repay the benefit to the retirement  
11 system; and

12 (36) Vesting credit means credit for years, or a fraction of a year,  
13 of participation in another Nebraska governmental plan for purposes of  
14 determining vesting of the employer account.

15 Sec. 3. (1) A retirement system shall be established for the  
16 purpose of providing a retirement annuity or other benefits for employees  
17 as provided by the Cities of the First Class Firefighters Cash Balance  
18 Retirement Act. It shall be known as the Cash Balance Retirement System  
19 for Firefighters in Cities of the First Class, and by such name shall  
20 transact all business and hold all cash and other property as provided in  
21 the Cities of the First Class Firefighters Cash Balance Retirement Act.

22 (2) The retirement system shall not accept as contributions any  
23 money from members or participating counties except the following:

24 (a) Mandatory contributions and fees established by sections 8 and 9  
25 of this act;

26 (b) Payments on behalf of transferred employees made pursuant to  
27 section 7 of this act;

28 (c) Money that is a repayment of refunded contributions made  
29 pursuant to section 21 of this act;

30 (d) Contributions for military service credit made pursuant to  
31 section 24 of this act;

- 1       (e) Actuarially required contributions pursuant to subdivision (3)  
2 (b) of section 18 of this act;  
3       (f) Trustee-to-trustee transfers pursuant to section 27 of this act;  
4 or  
5       (g) Corrections ordered by the board pursuant to section 5 of this  
6 act.

7       Sec. 4. It shall be the duty of the board to administer the Cities  
8 of the First Class Firefighters Cash Balance Retirement Act as provided  
9 in section 84-1503. The board shall adopt and promulgate rules and  
10 regulations to carry out the act.

11       Sec. 5. (1) If the board determines that the retirement system has  
12 previously received contributions or distributed benefits which for any  
13 reason are not in accordance with the statutory provisions of the Cities  
14 of the First Class Firefighters Cash Balance Retirement Act, the board  
15 shall refund contributions, require additional contributions, adjust  
16 benefits, credit dividend amounts, or require repayment of benefits paid.  
17 In the event of an overpayment of a benefit, the board may, in addition  
18 to other remedies, offset future benefit payments by the amount of the  
19 prior overpayment, together with regular interest or interest credits,  
20 whichever is appropriate, thereon. In the event of an underpayment of a  
21 benefit, the board shall immediately make payment equal to the deficit  
22 amount plus regular interest or interest credits, whichever is  
23 appropriate.

24       (2) The board shall adopt and promulgate rules and regulations  
25 implementing this section, which shall include, but not be limited to,  
26 the following: (a) The procedures for refunding contributions, adjusting  
27 future contributions or benefit payments, and requiring additional  
28 contributions or repayment of benefits; (b) the process for a member,  
29 member's beneficiary, employee, or employer to dispute an adjustment of  
30 contributions or benefits; and (c) notice provided to all affected  
31 persons. All notices shall be sent prior to an adjustment and shall



1 describe the process for disputing an adjustment of contributions or  
2 benefits.

3       Sec. 6.   (1) The membership of the retirement system shall be  
4 composed of all employees who maintain an account balance with the  
5 retirement system.

6       (2) An employee who exercises the option to begin participation in  
7 the retirement system shall remain in the system until termination or  
8 retirement, regardless of any change of status as a permanent or  
9 temporary employee.

10       (3) No employee of a member city shall be authorized to participate  
11 in the retirement system provided for in the Cities of the First Class  
12 Firefighters Cash Balance Retirement Act unless the employee (a) is a  
13 United States citizen or (b) is a qualified alien under the federal  
14 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act  
15 existed on January 1, 2013, and is lawfully present in the United States.

16       (4) Within the first one hundred eighty days of employment, a full-  
17 time employee may apply to the board for vesting credit for years of  
18 participation in another Nebraska governmental plan, as defined by  
19 section 414(d) of the Internal Revenue Code. During the years of  
20 participation in the other Nebraska governmental plan, the employee must  
21 have been a full-time employee, as defined in the Nebraska governmental  
22 plan in which the credit was earned. The board may adopt and promulgate  
23 rules and regulations governing the assessment and granting of vesting  
24 credit.

25       (5) Any employee who qualifies for membership in the retirement  
26 system pursuant to this section may not be disqualified from membership  
27 in the retirement system solely because such employee also maintains  
28 separate employment which qualifies the employee for membership in  
29 another public retirement system, nor may membership in this retirement  
30 system disqualify such an employee from membership in another public  
31 retirement system solely by reason of separate employment which qualifies

1 such employee for membership in this retirement system.

2 (6) A full-time or part-time employee of a city of any class,  
3 village, fire protection district, municipal county, or township who  
4 becomes a firefighter of a city pursuant to a merger of services shall  
5 receive vesting credit for his or her years of participation in a  
6 Nebraska governmental plan, as defined by section 414(d) of the Internal  
7 Revenue Code, of the city, village, or township.

8 (7) Cities shall ensure that employees authorized to participate in  
9 the retirement system pursuant to this section shall enroll and make  
10 required contributions to the retirement system immediately upon becoming  
11 an employee. Information necessary to determine membership in the  
12 retirement system shall be provided by the employer.

13 Sec. 7. Under such rules and regulations as the retirement board  
14 adopts and promulgates, a full-time or part-time employee of a city of  
15 any class, village, fire protection district, municipal county, or  
16 township who becomes a firefighter for a city pursuant to a merger of  
17 services may pay to the retirement system an amount equal to the sum of  
18 all deductions which were made from the employee's compensation, plus  
19 earnings, during such period of employment with the city, village, fire  
20 protection district, municipal county, or township. Payment shall be made  
21 within five years after the merger or prior to retirement, whichever  
22 comes first, and may be made through direct payment, installment  
23 payments, or an irrevocable payroll authorization.

24 Sec. 8. Each employee who is a member of the retirement system  
25 shall pay to the city or have picked up by the city a sum equal to six  
26 and one-half percent of his or her compensation for each pay period. The  
27 contributions, although designated as employee contributions, shall be  
28 paid by the city in lieu of employee contributions. The city shall pick  
29 up the employee contributions required by this section, and the  
30 contributions so picked up shall be treated as employer contributions  
31 pursuant to section 414(h)(2) of the Internal Revenue Code in determining

1 federal tax treatment under the code and shall not be included as gross  
2 income of the employee until such time as they are distributed or made  
3 available. The city shall pay these employee contributions from the same  
4 source of funds which is used in paying earnings to the employee. The  
5 city shall pick up these contributions by a compensation deduction  
6 through a reduction in the cash compensation of the employee. Employee  
7 contributions picked up shall be treated for all purposes of the Cities  
8 of the First Class Firefighters Cash Balance Retirement Act in the same  
9 manner and to the extent as employee contributions made prior to the date  
10 picked up.

11 Sec. 9. (1) The Cities of the First Class Firefighters Cash Balance  
12 Retirement Fund is created. The fund shall be administered by the board  
13 and shall consist of contributions and other such sums as provided in  
14 section 3 of this act. Any money in the fund available for investment  
15 shall be invested by the state investment officer pursuant to the  
16 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
17 Act.

18 (2) The city clerk shall pay to the board or an entity designated by  
19 the board an amount equal to three hundred percent of the amounts  
20 deducted from the compensation of employees in accordance with section 8  
21 of this act, which three hundred percent equals the employees'  
22 contributions plus the city's contributions of two hundred percent of the  
23 employees' contributions.

24 (3) The board may charge the city an administrative processing fee  
25 of twenty-five dollars if the reports of necessary information or  
26 payments made pursuant to this section are received later than the date  
27 on which the board requires that such information or money should be  
28 received. In addition, the board may charge the city a late fee of  
29 thirty-eight thousandths of one percent of the amount required to be  
30 submitted pursuant to this section for each day such amount has not been  
31 received or in an amount equal to the amount of any costs incurred by the

1 member due to the late receipt of contributions, whichever is greater.  
2 The late fee may be used to make a member's account whole for any costs  
3 that may have been incurred by the member due to the late receipt of  
4 contributions.

5 (4) The Department of Administrative Services may, for accounting  
6 purposes, create subfunds of the Cities of the First Class Firefighters  
7 Cash Balance Retirement Fund.

8 Sec. 10. (1) It is the intent of the Legislature that, in order to  
9 improve the competitiveness of the retirement for firefighters in cities,  
10 a cash balance benefit shall be offered through the Cities of the First  
11 Class Firefighters Cash Balance Retirement Act on and after XXXX, XX,  
12 XXXX. Each member who is employed and participating in the retirement  
13 system established in sections 16-1020 to 16-1042 prior to XXXX, XX,  
14 XXXX, may either elect to continue participation in the retirement system  
15 established in sections 16-1020 to 16-1042 prior to XXXX, XX, XXXX, or  
16 elect to participate in the cash balance benefit as set forth in this  
17 section. An active member shall make a one-time election beginning XXXX,  
18 XX, XXXX, through XXXX, XX, XXXX, in order to participate in the cash  
19 balance benefit. If no such election is made, the member shall be treated  
20 as though he or she elected to continue participating in the retirement  
21 system established in sections 16-1020 to 16-1042 prior to XXXX, XX,  
22 XXXX. Members who elect to participate in the cash balance benefit  
23 beginning XXXX, XX, XXXX, through XXXX, XX, XXXX, shall commence  
24 participation in the cash balance benefit on XXXX, XX, XXXX.

25 (2) For a member employed and participating in the retirement system  
26 beginning on and after XXXX, XX, XXXX, or a member employed and  
27 participating in the retirement system established in sections 16-1020 to  
28 16-1042 on XXXX, XX, XXXX, who, beginning XXXX, XX, XXXX, through XXXX,  
29 XX, XXXX, elects to convert his or her accounts to the cash balance  
30 benefit:

31 (a) Except as provided in subdivision (2)(b) of section 20 of this

1 act, the employee cash balance account within the Cities of the First  
2 Class Firefighters Cash Balance Retirement Fund shall, at any time, be  
3 equal to the following:

4 (i) The initial employee account balance, if any, transferred from  
5 the retirement system provided in sections 16-1020 to 16-1042; plus

6 (ii) Employee contribution credits deposited in accordance with  
7 section 8 of this act; plus

8 (iii) Interest credits credited in accordance with subdivision (21)  
9 of section 2 of this act; plus

10 (iv) Dividend amounts credited in accordance with subdivision (3)(c)  
11 of section 18 of this act; and

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

14 (i) The initial employer account balance, if any, transferred from  
15 the retirement system provided in sections 16-1020 to 16-1042; plus

16 (ii) Employer contribution credits deposited in accordance with  
17 section 9 of this act; plus

18 (iii) Interest credits credited in accordance with subdivision (21)  
19 of section 2 of this act; plus

20 (iv) Dividend amounts credited in accordance with subdivision (3)(c)  
21 of section 18 of this act.

22 (3) In order to carry out this section, the board may enter into  
23 administrative services agreements for accounting or record-keeping  
24 services. No agreement shall be entered into unless the board determines  
25 that it will result in administrative economy and will be in the best  
26 interests of the cities and their participating employees. The board may  
27 develop a schedule for the allocation of the administrative services  
28 agreements costs for accounting or record-keeping services and may assess  
29 the costs so that each member pays a reasonable fee as determined by the  
30 board.

31 Sec. 11. The State Treasurer shall be the custodian of the funds

1 and securities of the retirement system and may deposit the funds and  
2 securities in any financial institution approved by the Nebraska  
3 Investment Council. All disbursements therefrom shall be paid by him or  
4 her only upon vouchers signed by a person authorized by the retirement  
5 board. The State Treasurer shall transmit monthly to the board a detailed  
6 statement showing all credits to and disbursements from the funds in his  
7 or her custody belonging to the retirement system.

8       Sec. 12. The Cities of the First Class Firefighters Cash Balance  
9 Retirement Expense Fund is created. The fund shall be credited with money  
10 forfeited pursuant to section 20 of this act and with money from the  
11 retirement system assets and income sufficient to pay the pro rata share  
12 of administrative expenses incurred as directed by the board for the  
13 proper administration of the Cities of the First Class Firefighters Cash  
14 Balance Retirement Act and necessary in connection with the  
15 administration and operation of the retirement system, except as provided  
16 in section 10 of this act. Any money in the fund available for investment  
17 shall be invested by the state investment officer pursuant to the  
18 Nebraska Capital Expansion Act and the Nebraska State Funds Investment  
19 Act.

20       Sec. 13. (1) The director of the Nebraska Public Employees  
21 Retirement Systems shall keep a complete record of all members with  
22 respect to names, current addresses, ages, contributions, and any other  
23 facts as may be necessary in the administration of the Cities of the  
24 First Class Firefighters Cash Balance Retirement Act. The information in  
25 the records shall be provided by the employer in an accurate and  
26 verifiable form, as specified by the director. The director shall, from  
27 time to time, carry out testing procedures pursuant to section 84-1512 to  
28 verify the accuracy of such information. For the purpose of obtaining  
29 such facts and information, the director shall have access to the records  
30 of the various cities and state departments and agencies and the holder  
31 of the records shall comply with a request by the director for access by

1 providing such facts and information to the director in a timely manner.  
2 A certified copy of a birth certificate or delayed birth certificate  
3 shall be prima facie evidence of the age of the person named in the  
4 certificate.

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

9 Sec. 14. (1) It shall be the duty of the Auditor of Public Accounts  
10 to make an annual audit of the retirement system and an annual report to  
11 the retirement board and to the Clerk of the Legislature of the condition  
12 of the retirement system. The report submitted to the Clerk of the  
13 Legislature shall be submitted electronically. Each member of the  
14 Legislature shall receive an electronic copy of the report required by  
15 this section by making a request for such report to either the Auditor of  
16 Public Accounts or the retirement board.

17 (2) The retirement system may sue or be sued in the name of the  
18 system, and in all actions brought by or against it, the system shall be  
19 represented by the Attorney General.

20 Sec. 15. (1) Upon filing an application for benefits with the  
21 board, an employee may elect to retire at any time after attaining the  
22 age of fifty-five or an employee may retire as a result of disability at  
23 any age.

24 (2) The member shall specify in the application for benefits the  
25 manner in which he or she wishes to receive the retirement benefit under  
26 the options provided by the Cities of the First Class Firefighters Cash  
27 Balance Retirement Act. Payment under the application for benefits shall  
28 be made (a) for annuities, no sooner than the annuity start date, and (b)  
29 for other distributions, no sooner than the date of final account value.

30 (3) Payment of any benefit provided under the retirement system may  
31 not be deferred later than April 1 of the year following the year in

1 which the employee has both attained at least age seventy and one-half  
2 years and terminated his or her employment with the city.

3 (4) The board shall make reasonable efforts to locate the member or  
4 the member's beneficiary and distribute benefits by the required  
5 beginning date as specified by section 401(a)(9) of the Internal Revenue  
6 Code and the regulations issued thereunder. If the board is unable to  
7 make such a distribution, the benefit shall be distributed pursuant to  
8 the Uniform Disposition of Unclaimed Property Act and no amounts may be  
9 applied to increase the benefits any member would otherwise receive under  
10 the Cities of the First Class Firefighters Cash Balance Retirement Act.

11 Sec. 16. (1) Any member, disregarding the length of service, may be  
12 retired as a result of disability either upon his or her own application  
13 or upon the application of his or her employer or any person acting in  
14 his or her behalf. Before any member may be so retired, a medical  
15 examination shall be made at the expense of the retirement system, which  
16 examination shall be conducted by a disinterested physician legally  
17 authorized to practice medicine under the laws of the state in which he  
18 or she practices, such physician to be selected by the retirement board,  
19 and the physician shall certify to the board that the member should be  
20 retired because he or she suffers from an inability to engage in a  
21 substantially gainful activity by reason of any medically determinable  
22 physical or mental impairment which began while the member was a  
23 participant in the plan and which can be expected to result in death or  
24 to be of long-continued and indefinite duration. The application for  
25 disability retirement shall be made within one year of termination of  
26 employment.

27 (2) The retirement board may require any disability beneficiary who  
28 has not attained the age of fifty-five to undergo a medical examination  
29 at the expense of the board once each year. Should any disability  
30 beneficiary refuse to undergo such an examination, his or her disability  
31 retirement benefit may be discontinued by the board.



1        Sec. 17. The retirement value for any employee who retires under  
2 the provisions of section 15 of this act shall be the benefit provided in  
3 section 10 of this act as of the date of final account value.

4        Sec. 18. (1) The future service retirement benefit shall be an  
5 annuity, payable monthly with the first payment made no earlier than the  
6 annuity start date, which shall be the actuarial equivalent of the  
7 retirement value as specified in section 17 of this act based on factors  
8 determined by the board, except that gender shall not be a factor when  
9 determining the amount of such payments pursuant to subsection (2) of  
10 this section.

11        Except as provided in section 42-1107, at any time before the  
12 annuity start date, the retiring employee may choose to receive his or  
13 her annuity either in the form of an annuity as provided under subsection  
14 (3) of this section or any optional form that is determined by the board.

15        Except as provided in section 42-1107, in lieu of the future service  
16 retirement annuity, a retiring employee may receive a benefit not to  
17 exceed the amount in his or her employer and employee accounts as of the  
18 date of final account value payable in a lump sum and, if the employee  
19 chooses not to receive the entire amount in such accounts, an annuity  
20 equal to the actuarial equivalent of the remainder of the retirement  
21 value, and the employee may choose any form of such annuity as provided  
22 for by the board.

23        In any case, the amount of the monthly payment shall be such that  
24 the annuity chosen shall be the actuarial equivalent of the retirement  
25 value as specified in section 17 of this act except as provided in this  
26 section.

27        The board shall provide to any employee who is eligible for  
28 retirement, prior to his or her selecting any of the retirement options  
29 provided by this section, information on the federal and state income tax  
30 consequences of the various annuity or retirement benefit options.

31        (2) Except as provided in subsection (3) of this section, the

1 monthly income payable to a retiring member shall be the amount which may  
2 be purchased by the accumulated contributions based on annuity rates in  
3 effect on the annuity start date which do not utilize gender as a factor.

4 (3)(a) The normal form of payment shall be a single life annuity  
5 with five-year certain, which is an annuity payable monthly during the  
6 remainder of the member's life with the provision that, in the event of  
7 his or her death before sixty monthly payments have been made, the  
8 monthly payments will be continued to his or her estate or to the  
9 beneficiary he or she has designated until sixty monthly payments have  
10 been made in total. Such annuity shall be equal to the actuarial  
11 equivalent of the member cash balance account or the sum of the employee  
12 and employer accounts, whichever is applicable, as of the date of final  
13 account value. As a part of the annuity, the normal form of payment may  
14 include a two and one-half percent cost-of-living adjustment purchased by  
15 the member, if the member elects such a payment option.

16 Except as provided in section 42-1107, a member may elect a lump-sum  
17 distribution of his or her member cash balance account as of the date of  
18 final account value upon termination of service or retirement.

19 For a member employed and participating in the retirement system  
20 established in sections 16-1020 to 16-1042 prior to XXXX, XX, XXXX, who  
21 has elected to participate in the cash balance benefit pursuant to  
22 section 10 of this act, or for a member employed and participating in the  
23 retirement system beginning on and after XXXX, XX, XXXX, the balance of  
24 his or her member cash balance account as of the date of final account  
25 value shall be converted to an annuity using an interest rate used in the  
26 actuarial valuation as recommended by the actuary and approved by the  
27 board.

28 (b) For the calendar year beginning XXXX, XX, XXXX, and each  
29 calendar year thereafter, the actuary for the board shall perform an  
30 actuarial valuation of the system using the entry age actuarial cost  
31 method. Under this method, the actuarially required funding rate is equal

1 to the normal cost rate plus the contribution rate necessary to amortize  
2 the unfunded actuarial accrued liability on a level-payment basis. The  
3 normal cost under this method shall be determined for each individual  
4 member on a level percentage of salary basis. The normal cost amount is  
5 then summed for all members. The initial unfunded actual accrued  
6 liability as of XXXX, XX, XXXX, if any, shall be amortized over a twenty-  
7 five-year period. During each subsequent actuarial valuation, changes in  
8 the unfunded actuarial accrued liability due to changes in benefits,  
9 actuarial assumptions, the asset valuation method, or actuarial gains or  
10 losses shall be measured and amortized over a twenty-five-year period  
11 beginning on the valuation date of such change. If the unfunded actuarial  
12 accrued liability under the entry age actuarial cost method is zero or  
13 less than zero on an actuarial valuation date, then all prior unfunded  
14 actuarial accrued liabilities shall be considered fully funded and the  
15 unfunded actuarial accrued liability shall be reinitialized and amortized  
16 over a twenty-five-year period as of the actuarial valuation date. If the  
17 actuarially required contribution rate exceeds the rate of all  
18 contributions required pursuant to the Cities of the First Class  
19 Firefighters Cash Balance Retirement Act, there shall be a supplemental  
20 appropriation sufficient to pay for the difference between the  
21 actuarially required contribution rate and the rate of all contributions  
22 required pursuant to the act.

23 (c) If the unfunded accrued actuarial liability under the entry age  
24 actuarial cost method is less than zero on an actuarial valuation date,  
25 and on the basis of all data in the possession of the retirement board,  
26 including such mortality and other tables as are recommended by the  
27 actuary engaged by the retirement board and adopted by the retirement  
28 board, the retirement board may elect to pay a dividend to all members  
29 participating in the cash balance option in an amount that would not  
30 increase the actuarial contribution rate above ninety percent of the  
31 actual contribution rate. Dividends shall be credited to the employee

1 cash balance account and the employer cash balance account based on the  
2 account balances on the actuarial valuation date. In the event a dividend  
3 is granted and paid after the actuarial valuation date, interest for the  
4 period from the actuarial valuation date until the dividend is actually  
5 paid shall be paid on the dividend amount. The interest rate shall be the  
6 interest credit rate earned on regular contributions.

7 (4) At the option of the retiring member, any lump sum or annuity  
8 provided under this section may be deferred to commence at any time,  
9 except that no benefit shall be deferred later than April 1 of the year  
10 following the year in which the employee has both attained at least  
11 seventy and one-half years of age and has terminated his or her  
12 employment with the city.

13 Sec. 19. (1) Except as provided in section 42-1107, upon  
14 termination of employment, except for retirement or disability, and after  
15 filing an application with the board, a member may receive:

16 (a) If not vested, a termination benefit equal to the amount of his  
17 or her employee account or member cash balance account as of the date of  
18 final account value payable in a lump sum or an annuity with the lump-sum  
19 or first annuity payment made at any time after termination but no later  
20 than April 1 of the year following the year in which the member attains  
21 the age of seventy and one-half years; or

22 (b) If vested, a termination benefit equal to (i) the amount of his  
23 or her member cash balance account as of the date of final account value  
24 payable in a lump sum or an annuity with the lump-sum or first annuity  
25 payment made at any time after termination but no later than April 1 of  
26 the year following the year in which the member attains the age of  
27 seventy and one-half years or (ii)(A) the amount of his or her employee  
28 account as of the date of final account value payable in a lump sum or an  
29 annuity with the lump-sum or first annuity payment made at any time after  
30 termination but no later than April 1 of the year following the year in  
31 which the member attains the age of seventy and one-half years plus (B)

1 the amount of his or her employer account as of the date of final account  
2 value payable in a lump sum or an annuity with the lump-sum or first  
3 annuity payment made at any time after termination but no later than  
4 April 1 of the year following the year in which the member attains the  
5 age of seventy and one-half years.

6 The member cash balance account or employer and employee accounts of  
7 a terminating member shall be retained by the board, and the termination  
8 benefit shall be deferred until a valid application for benefits has been  
9 received.

10 (2) At the option of the terminating member, any lump sum of the  
11 employer account or member cash balance account or any annuity payment  
12 provided under subsection (1) of this section shall commence as of the  
13 first of the month at any time after such member has terminated his or  
14 her employment with the city and no later than April 1 of the year  
15 following the year in which the member attains the age of seventy and  
16 one-half years.

17 (3) Members of the retirement system shall be vested after a total  
18 of seven years of participation in the system as a member, including  
19 vesting credit. If the member has less than four years of participation,  
20 the vesting percentage shall be zero. If the member has four years, the  
21 vesting percentage shall be forty percent. The vesting percentage shall  
22 be sixty percent after five years and eighty percent after six years. If  
23 an employee retires pursuant to section 15 of this act, such employee  
24 shall be fully vested in the retirement system.

25 Sec. 20. (1) For a member who has terminated employment and is not  
26 fully vested, the balance of the member's employer account shall be  
27 forfeited. The forfeited account shall be credited to the Cities of the  
28 First Class Firefighters Cash Balance Retirement Fund and shall first be  
29 used to meet the expense charges incurred by the retirement board in  
30 connection with administering the retirement system, which charges shall  
31 be credited to the Cities of the First Class Firefighters Cash Balance

1 Retirement Expense Fund, and the remainder, if any, shall then be used to  
2 restore employer accounts. Except as provided in subdivision (3)(c) of  
3 section 18 of this act, no forfeited amounts shall be applied to increase  
4 the benefits any member would otherwise receive under the Cities of the  
5 First Class Firefighters Cash Balance Retirement Act.

6 (2)(a) If a member ceases to be an employee due to the termination  
7 of his or her employment by the city and a grievance or other appeal of  
8 the termination is filed, transactions involving forfeiture of his or her  
9 employer account and, except as provided in subdivision (b) of this  
10 subsection, transactions for payment of benefits under sections 15 and 19  
11 of this act shall be suspended pending the final outcome of the grievance  
12 or other appeal.

13 (b) If a member elects to receive benefits payable under sections 15  
14 and 19 of this act after a grievance or appeal is filed, the member may  
15 receive an amount up to the balance of his or her employee account or  
16 member cash balance account or twenty-five thousand dollars payable from  
17 the employee account or member cash balance account, whichever is less.

18 Sec. 21. (1) Except as otherwise provided in this section, a member  
19 of the retirement system who has a five-year break in service shall, upon  
20 reemployment, be considered a new employee with respect to the Cities of  
21 the First Class Firefighters Cash Balance Retirement Act and shall not  
22 receive credit for service prior to his or her reemployment date.

23 (2)(a) A member who ceases to be an employee before becoming  
24 eligible for retirement under section 15 of this act and again becomes a  
25 permanent full-time or permanent part-time employee prior to having a  
26 five-year break in service shall immediately be reenrolled in the  
27 retirement system and resume making contributions. For purposes of  
28 vesting employer contributions made prior to and after the reentry into  
29 the retirement system under subsection (3) of section 19 of this act,  
30 years of participation include years of participation prior to such  
31 employee's original termination. For a member who is not vested and has

1 received a termination benefit pursuant to section 19 of this act, the  
2 years of participation prior to such employee's original termination  
3 shall be limited in a ratio equal to the amount that the member repays  
4 divided by the termination benefit withdrawn pursuant to section 19 of  
5 this act.

6 (b) The reemployed member may repay the value of, or a portion of  
7 the value of, the termination benefit withdrawn pursuant to section 19 of  
8 this act. A reemployed member who elects to repay all or a portion of the  
9 value of the termination benefit withdrawn pursuant to section 19 of this  
10 act shall repay the actual earnings on such value. Repayment of the  
11 termination benefit shall commence within three years of reemployment and  
12 shall be completed within five years of reemployment or prior to  
13 termination of employment, whichever occurs first, through (i) direct  
14 payments to the retirement system, (ii) installment payments made  
15 pursuant to a binding irrevocable payroll deduction authorization made by  
16 the member, (iii) an eligible rollover distribution as provided under the  
17 Internal Revenue Code, or (iv) a direct rollover distribution made in  
18 accordance with section 401(a)(31) of the Internal Revenue Code.

19 (c) The value of the member's forfeited employer account or employer  
20 cash balance account, as of the date of forfeiture, shall be restored in  
21 a ratio equal to the amount of the benefit that the member has repaid  
22 divided by the termination benefit received. The employer account or  
23 employer cash balance account shall be restored first out of the current  
24 forfeiture amounts and then by additional employer contributions.

25 (3) For a member who retired pursuant to section 15 of this act and  
26 becomes a permanent full-time employee or permanent part-time employee  
27 with a city under the Cities of the First Class Firefighters Cash Balance  
28 Retirement Act more than one hundred twenty days after his or her  
29 retirement date, the member shall continue receiving retirement benefits.  
30 Such a retired member or a retired member who received a lump-sum  
31 distribution of his or her benefit shall be considered a new employee as

1 of the date of reemployment and shall not receive credit for any service  
2 prior to the member's retirement for purposes of the act.

3 (4) A member who is reinstated as an employee pursuant to a  
4 grievance or appeal of his or her termination by the city shall be a  
5 member upon reemployment and shall not be considered to have a break in  
6 service for such period of time that the grievance or appeal was pending.  
7 Following reinstatement, the member shall repay the value of the amount  
8 received from his or her employee account or member cash balance account  
9 under subdivision (2)(b) of section 20 of this act.

10 Sec. 22. (1) In the event of the death before his or her retirement  
11 date of any employee who is a member of the system, the death benefit  
12 shall be equal to the benefit provided in section 10 of this act. The  
13 death benefit shall be paid to the member's beneficiary, to an alternate  
14 payee pursuant to a qualified domestic relations order as provided in  
15 section 42-1107, or to the member's estate if there are no designated  
16 beneficiaries. If the beneficiary is not the member's surviving spouse,  
17 the death benefit shall be paid as a lump-sum payment or payments, except  
18 that the entire account must be distributed by the fifth anniversary of  
19 the member's death. If the sole primary beneficiary is the member's  
20 surviving spouse, the surviving spouse may elect to receive an annuity  
21 calculated as if the member retired and selected a one-hundred-percent  
22 joint and survivor annuity effective on the annuity purchase date. If the  
23 surviving spouse does not elect the annuity option within one hundred  
24 eighty days after the death of the member, the surviving spouse shall  
25 receive a lump-sum payment or payments, except that the entire account  
26 must be distributed by the fifth anniversary of the member's death.

27 (2) A lump-sum death benefit paid to the member's beneficiary, other  
28 than the member's estate, that is an eligible distribution may be  
29 distributed in the form of a direct transfer to a retirement plan  
30 eligible to receive such transfer under the provisions of the Internal  
31 Revenue Code.



1       (3) For any member whose death occurs while performing qualified  
2 military service as defined in section 414(u) of the Internal Revenue  
3 Code, the member's beneficiary shall be entitled to any additional death  
4 benefit that would have been provided, other than the accrual of any  
5 benefit relating to the period of qualified military service. The  
6 additional death benefit shall be determined as if the member had  
7 returned to employment with a participating city and such employment had  
8 terminated on the date of the member's death.

9       Sec. 23. Annuities or benefits which any person shall be entitled  
10 to receive under the Cities of the First Class Firefighters Cash Balance  
11 Retirement Act shall not be subject to garnishment, attachment, levy, the  
12 operation of bankruptcy or insolvency laws, or any other process of law  
13 whatsoever and shall not be assignable except to the extent that such  
14 annuities or benefits are subject to a qualified domestic relations order  
15 under the Spousal Pension Rights Act.

16       Sec. 24. (1) Any employee who, while an employee, entered into and  
17 served in the armed forces of the United States and who within ninety  
18 days after honorable discharge or honorable separation from active duty  
19 again became an employee shall be credited, for the purposes of section  
20 15 of this act, with all the time actually served in the armed forces as  
21 if such person had been an employee throughout such service in the armed  
22 forces pursuant to the terms and conditions of subsection (2) of this  
23 section.

24       (2) Under such rules and regulations as the retirement board adopts  
25 and promulgates, an employee who is reemployed pursuant to 38 U.S.C. 4301  
26 et seq., may pay to the retirement system an amount equal to the sum of  
27 all deductions which would have been made from the employee's  
28 compensation during such period of military service. Payment shall be  
29 made within the period required by law, not to exceed five years. To the  
30 extent that payment is made, (a) the employee shall be treated as not  
31 having incurred a break in service by reason of his or her period of

1 military service, (b) the period of military service shall be credited  
2 for the purposes of determining the nonforfeitability of the member's  
3 accrued benefits and the accrual of benefits under the plan, and (c) the  
4 employer shall allocate the amount of employer contributions to the  
5 member's employer account in the same manner and to the same extent the  
6 allocation occurs for other employees during the period of service. For  
7 purposes of member and employer contributions under this section, the  
8 member's compensation during the period of military service shall be the  
9 rate the member would have received but for the military service or, if  
10 not reasonably determinable, the average rate the member received during  
11 the twelve-month period immediately preceding military service.

12 (3) The employer shall pick up the member contributions made through  
13 irrevocable payroll deduction authorizations pursuant to this section,  
14 and the contributions so picked up shall be treated as employer  
15 contributions in the same manner as contributions picked up under section  
16 8 of this act.

17 Sec. 25. (1) For purposes of this section and section 26 of this  
18 act:

19 (a) Distributee means the member, the member's surviving spouse, or  
20 the member's former spouse who is an alternate payee under a qualified  
21 domestic relations order as defined in section 414(p) of the Internal  
22 Revenue Code;

23 (b) Direct rollover means a payment by the retirement system to the  
24 eligible retirement plan or plans specified by the distributee;

25 (c) Eligible retirement plan means (i) an individual retirement  
26 account described in section 408(a) of the Internal Revenue Code, (ii) an  
27 individual retirement annuity described in section 408(b) of the code,  
28 except for an endowment contract, (iii) a qualified plan described in  
29 section 401(a) of the code, (iv) an annuity plan described in section  
30 403(a) or 403(b) of the code, (v) except for purposes of section 26 of  
31 this act, an individual retirement plan described in section 408A of the

1 code, and (vi) a plan described in section 457(b) of the code and  
2 maintained by a governmental employer. For eligible rollover  
3 distributions to a surviving spouse, an eligible retirement plan means  
4 subdivisions (1)(c)(i) through (vi) of this section; and

5 (d) Eligible rollover distribution means any distribution to a  
6 distributee of all or any portion of the balance to the credit of the  
7 distributee in the plan, except such term shall not include any  
8 distribution which is one of a series of substantially equal periodic  
9 payments, not less frequently than annually, made for the life of the  
10 distributee or joint lives of the distributee and the distributee's  
11 beneficiary or for the specified period of ten years or more and shall  
12 not include any distribution to the extent such distribution is required  
13 under section 401(a)(9) of the Internal Revenue Code.

14 (2) A distributee may elect to have any portion of an eligible  
15 rollover distribution paid directly to an eligible retirement plan  
16 specified by the distributee.

17 (3) A member's surviving spouse or former spouse who is an alternate  
18 payee under a qualified domestic relations order and any designated  
19 beneficiary of a member who is not a surviving spouse or former spouse  
20 who is entitled to receive an eligible rollover distribution from the  
21 retirement system may, in accordance with such rules, regulations, and  
22 limitations as may be established by the board, elect to have such  
23 distribution made in the form of a direct transfer to a retirement plan  
24 eligible to receive such transfer under the provisions of the Internal  
25 Revenue Code.

26 (4) An eligible rollover distribution on behalf of a designated  
27 beneficiary of a member who is not a surviving spouse or former spouse of  
28 the member may be transferred to an individual retirement account or  
29 annuity described in section 408(a) or section 408(b) of the Internal  
30 Revenue Code that is established for the purpose of receiving the  
31 distribution on behalf of the designated beneficiary and that will be

1 treated as an inherited individual retirement account or individual  
2 retirement annuity described in section 408(d)(3)(C) of the Internal  
3 Revenue Code.

4 (5) The board shall adopt and promulgate rules and regulations for  
5 direct rollover procedures which are consistent with section 401(a)(31)  
6 of the Internal Revenue Code and which include, but are not limited to,  
7 the form and time of direct rollover distributions.

8 Sec. 26. (1) The retirement system may accept cash rollover  
9 contributions from a member who is making payment pursuant to section 21  
10 or 24 of this act if the contributions do not exceed the amount  
11 authorized to be paid by the member pursuant to such sections, and the  
12 contributions represent (a) all or any portion of the balance of the  
13 member's interest in a qualified plan under section 401(a) of the  
14 Internal Revenue Code or (b) the interest of the member from an  
15 individual retirement account or an individual retirement annuity, the  
16 entire amount of which is attributable to a qualified total distribution,  
17 as defined in the Internal Revenue Code, from a qualified plan under  
18 section 401(a) of the code and qualified as a tax-free rollover amount.  
19 The member's interest under subdivision (a) or (b) of this subsection  
20 must be transferred to the retirement system within sixty days from the  
21 date of the distribution from the qualified plan, individual retirement  
22 account, or individual retirement annuity.

23 (2) Cash transferred to the retirement system as a rollover  
24 contribution shall be deposited as other payments made under section 21  
25 or 24 of this act.

26 (3) Under the same conditions as provided in subsection (1) of this  
27 section, the retirement system may accept eligible rollover distributions  
28 from (a) an annuity contract described in section 403(b) of the Internal  
29 Revenue Code, (b) a plan described in section 457(b) of the code which is  
30 maintained by a state, a political subdivision of a state, or any agency  
31 or instrumentality of a state or political subdivision of a state, or (c)

1 the portion of a distribution from an individual retirement account or  
2 annuity described in section 408(a) or 408(b) of the code that is  
3 eligible to be rolled over and would otherwise be includible in gross  
4 income. Amounts accepted pursuant to this subsection shall be deposited  
5 as all other payments under this section.

6 (4) The retirement system may accept direct rollover distributions  
7 made from a qualified plan pursuant to section 401(a)(31) of the Internal  
8 Revenue Code. The direct rollover distribution shall be deposited as all  
9 other payments under this section.

10 (5) The board shall adopt and promulgate rules and regulations  
11 defining procedures for acceptance of rollovers which are consistent with  
12 sections 401(a)(31) and 402 of the Internal Revenue Code.

13 Sec. 27. The retirement system may accept as payment for withdrawn  
14 amounts made pursuant to the Cities of the First Class Firefighters Cash  
15 Balance Retirement Act a direct trustee-to-trustee transfer from (1) an  
16 eligible tax-sheltered annuity plan as described in section 403(b) of the  
17 Internal Revenue Code or (2) an eligible deferred compensation plan as  
18 described in section 457(b) of the code on behalf of a member who is  
19 making payments for such amounts. The amount transferred shall not exceed  
20 the amount withdrawn and such transferred amount shall qualify as a  
21 purchase of permissive service credit by the member as defined in section  
22 415 of the code.

23 Sec. 28. Persons who have become members of the retirement system  
24 shall not thereafter lose their status as members while they remain  
25 employees.

26 Sec. 29. Any person who, knowing it to be false or fraudulent,  
27 presents or causes to be presented a false or fraudulent claim or benefit  
28 application, any false or fraudulent proof in support of such a claim or  
29 benefit, or false or fraudulent information which would affect a future  
30 claim or benefit application to be paid under the retirement system for  
31 the purpose of defrauding or attempting to defraud the retirement system

1 shall be guilty of a Class II misdemeanor. The retirement board shall  
2 deny any benefits that it determines are based on false or fraudulent  
3 information and shall have a cause of action against the member to  
4 recover any benefits already paid on the basis of such information.

5       Sec. 30. The retirement allowances and benefits provided for by the  
6 Cities of the First Class Firefighters Cash Balance Retirement Act shall  
7 be in addition to benefits and allowances payable under the provisions of  
8 the federal Social Security Act.

9       Sec. 31. The provisions of the Cities of the First Class  
10 Firefighters Cash Balance Retirement Act pertaining to elected officials  
11 or other employees having a regular term of office shall be so  
12 interpreted as to effectuate its general purpose and to take effect as  
13 soon as the same may become operative under the Constitution of the State  
14 of Nebraska.

15       Sec. 32. The Cities of the First Class Firefighters Cash Balance  
16 Retirement Act shall become effective for each city upon its adoption by  
17 the city council or on XXXX, XX, XXXX, whichever is earlier.

18       Sec. 33. Upon the adoption of the retirement system by the city  
19 council, the city clerk shall certify such action to the retirement  
20 board. Upon certification or XXXX, XX, XXXX, the city clerk shall submit  
21 to the board a list of all employees then eligible for participation in  
22 the plan, which list shall state the name and address of the employee and  
23 his or her gross monthly wage.

24       Sec. 34. Every claim and demand under the Cities of the First Class  
25 Firefighters Cash Balance Retirement Act and against the retirement  
26 system or the retirement board shall be forever barred unless the action  
27 is brought within two years of the time at which the claim accrued.

28       Sec. 35. All contributions to the retirement system, all property  
29 and rights purchased with the contributions, and all investment income  
30 attributable to the contributions, property, or rights shall be held in  
31 trust by the State of Nebraska for the exclusive benefit of members and

1 their beneficiaries and shall only be used to pay benefits to such  
2 persons and to pay administrative expenses according to the Cities of the  
3 First Class Firefighters Cash Balance Retirement Act.

4       Sec. 36. Upon termination or partial termination of the retirement  
5 system or upon complete discontinuance of contributions under the  
6 retirement system, the rights of all affected members to the amounts  
7 credited to the members' accounts shall be nonforfeitable.

8       Sec. 37. Section 4-108, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10       4-108 (1) Notwithstanding any other provisions of law, unless  
11 exempted from verification under section 4-110 or pursuant to federal  
12 law, no state agency or political subdivision of the State of Nebraska  
13 shall provide public benefits to a person not lawfully present in the  
14 United States.

15       (2) Except as provided in section 4-110 or if exempted by federal  
16 law, every agency or political subdivision of the State of Nebraska shall  
17 verify the lawful presence in the United States of any person who has  
18 applied for public benefits administered by an agency or a political  
19 subdivision of the State of Nebraska. This section shall be enforced  
20 without regard to race, religion, gender, ethnicity, or national origin.

21       (3) ~~No On and after October 1, 2009, no~~ employee of a state agency  
22 or political subdivision of the State of Nebraska shall be authorized to  
23 participate in any retirement system, including, but not limited to, the  
24 systems provided for in the Cities of the First Class Firefighters Cash  
25 Balance Retirement Act, the Class V School Employees Retirement Act, the  
26 County Employees Retirement Act, the Judges Retirement Act, the Nebraska  
27 State Patrol Retirement Act, the School Employees Retirement Act, and the  
28 State Employees Retirement Act, unless the employee (a) is a United  
29 States citizen or (b) is a qualified alien under the federal Immigration  
30 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on  
31 January 1, 2009, and is lawfully present in the United States.

1           Sec. 38. Section 16-1020, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           16-1020 Sections ~~Except as provided in section 16-1039, sections~~  
4 16-1020 to 16-1038 shall apply to all firefighters of a city of the first  
5 class except: -

6           (1) As provided in section 16-1039; and

7           (2) Such sections shall not apply to any firefighter employed by a  
8 city of the first class on or after XXXX, XX, XXXX, or to a firefighter  
9 employed prior to such date who elected to be subject to the Cities of  
10 the First Class Firefighters Cash Balance Retirement Act.

11          Sec. 39. Section 84-1501, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13          84-1501 (1) The Public Employees Retirement Board is hereby  
14 established.

15          (2)(a) The board shall consist of nine ~~eight~~ appointed members as  
16 described in this subsection and the state investment officer as a  
17 nonvoting, ex officio member. Seven ~~Six~~ of the appointed members shall be  
18 active or retired participants in the retirement systems administered by  
19 the board, and two of the appointed members (i) shall not be employees of  
20 the State of Nebraska or any of its political subdivisions and (ii) shall  
21 have at least ten years of experience in the management of a public or  
22 private organization or have at least five years of experience in the  
23 field of actuarial analysis or the administration of an employee benefit  
24 plan.

25          (b) The seven ~~six~~ appointed members who are participants in the  
26 systems shall be as follows:

27          (i) Two of the appointed members shall be participants in the School  
28 Employees Retirement System of the State of Nebraska and shall include  
29 one administrator and one teacher;

30          (ii) One of the appointed members shall be a participant in the  
31 Nebraska Judges Retirement System as provided in the Judges Retirement



1 Act;

2 (iii) One of the appointed members shall be a participant in the  
3 Nebraska State Patrol Retirement System;

4 (iv) One of the appointed members shall be a participant in the  
5 Retirement System for Nebraska Counties; ~~and~~

6 (v) One of the appointed members shall be a participant in the State  
7 Employees Retirement System of the State of Nebraska; and -

8 (vi) One of the appointed members shall be a participant in the Cash  
9 Balance Retirement System for Firefighters in Cities of the First Class.

10 (c) Appointments to the board shall be made by the Governor and  
11 shall be subject to the approval of the Legislature. All appointed  
12 members shall be citizens of the State of Nebraska.

13 (3) All members shall serve for terms of five years or until a  
14 successor has been appointed and qualified. The terms shall begin on  
15 January 1 of the appropriate year. The members of the board shall be  
16 reimbursed for their actual and necessary expenses as provided in  
17 sections 81-1174 to 81-1177. The appointed members of the board may be  
18 removed by the Governor for cause after notice and an opportunity to be  
19 heard.

20 Sec. 40. Section 84-1503, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 84-1503 (1) It shall be the duty of the Public Employees Retirement  
23 Board:

24 (a) To administer the retirement systems provided for in the Cities  
25 of the First Class Firefighters Cash Balance Retirement Act, the County  
26 Employees Retirement Act, the Judges Retirement Act, the Nebraska State  
27 Patrol Retirement Act, the School Employees Retirement Act, and the State  
28 Employees Retirement Act. The agency for the administration of the  
29 retirement systems and under the direction of the board shall be known  
30 and may be cited as the Nebraska Public Employees Retirement Systems;

31 (b) To appoint a director to administer the systems under the

1 direction of the board. The appointment shall be subject to the approval  
2 of the Governor and a majority of the Legislature. The director shall be  
3 qualified by training and have at least five years of experience in the  
4 administration of a qualified public or private employee retirement plan.  
5 The director shall not be a member of the board. The salary of the  
6 director shall be set by the board. The director shall serve without term  
7 and may be removed by the board;

8 (c) To provide for an equitable allocation of expenses among the  
9 retirement systems administered by the board, and all expenses shall be  
10 provided from the investment income earned by the various retirement  
11 funds unless alternative sources of funds to pay expenses are specified  
12 by law;

13 (d) To administer the deferred compensation program authorized in  
14 section 84-1504;

15 (e) To hire an attorney, admitted to the Nebraska State Bar  
16 Association, to advise the board in the administration of the retirement  
17 systems listed in subdivision (a) of this subsection;

18 (f) To hire an internal auditor to perform the duties described in  
19 section 84-1503.04 who meets the minimum standards as described in  
20 section 84-304.03;

21 (g) To adopt and implement procedures for reporting information by  
22 employers, as well as testing and monitoring procedures in order to  
23 verify the accuracy of such information. The information necessary to  
24 determine membership shall be provided by the employer. The board shall  
25 adopt and promulgate rules and regulations and prescribe such forms  
26 necessary to carry out this subdivision. Nothing in this subdivision  
27 shall be construed to require the board to conduct onsite audits of  
28 political subdivisions for compliance with statutes, rules, and  
29 regulations governing the retirement systems listed in subdivision (1)(a)  
30 of this section regarding membership and contributions; and

31 (h) To prescribe and furnish forms for the public retirement system

1 plan reports required to be filed pursuant to sections 2-3228, 12-101,  
2 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,  
3 23-3526, 71-1631.02, and 79-987.

4 (2) In administering the retirement systems listed in subdivision  
5 (1)(a) of this section, it shall be the duty of the board:

6 (a) To determine, based on information provided by the employer, the  
7 prior service annuity, if any, for each person who is an employee of the  
8 county on the date of adoption of the retirement system;

9 (b) To determine the eligibility of an individual to be a member of  
10 the retirement system and other questions of fact in the event of a  
11 dispute between an individual and the individual's employer;

12 (c) To adopt and promulgate rules and regulations for the management  
13 of the board;

14 (d) To keep a complete record of all proceedings taken at any  
15 meeting of the board;

16 (e) To obtain, by a competitive, formal, and sealed bidding process  
17 through the materiel division of the Department of Administrative  
18 Services, actuarial services on behalf of the State of Nebraska as may be  
19 necessary in the administration and development of the retirement  
20 systems, including, but not limited to, preparation of an annual  
21 actuarial valuation report of each of the defined benefit and cash  
22 balance plans administered by the board. Such annual valuation reports  
23 shall be presented by the actuary to the Nebraska Retirement Systems  
24 Committee of the Legislature at a public hearing or hearings. Any  
25 contract for actuarial services shall contain a provision allowing the  
26 actuary, without prior approval of the board, to perform actuarial  
27 studies of the systems as requested by entities other than the board, if  
28 notice, which does not identify the entity or substance of the request,  
29 is given to the board, all costs are paid by the requesting entity,  
30 results are provided to the board, the Nebraska Retirement Systems  
31 Committee of the Legislature, and the Legislative Fiscal Analyst upon

1 being made public, and such actuarial studies do not interfere with the  
2 actuary's ongoing responsibility to the board. The term of the contract  
3 shall be for up to three years. A competitive, formal, and sealed bidding  
4 process shall be completed at least once every three years, unless the  
5 board determines that such a process would not be cost effective under  
6 the circumstances and that the actuarial services performed have been  
7 satisfactory, in which case the contract may also contain an option for  
8 renewal without a competitive, formal, and sealed bidding process for up  
9 to three additional years. An actuary under contract for the State of  
10 Nebraska shall be a member of the American Academy of Actuaries and meet  
11 the academy's qualification standards to render a statement of actuarial  
12 opinion;

13 (f) To direct the State Treasurer to transfer funds, as an expense  
14 of the retirement systems, to the Legislative Council Retirement Study  
15 Fund. Such transfer shall occur beginning on or after July 1, 2005, and  
16 at intervals of not less than five years and not more than fifteen years  
17 and shall be in such amounts as the Legislature shall direct;

18 (g) To adopt and promulgate rules and regulations to carry out the  
19 provisions of each retirement system described in subdivision (1)(a) of  
20 this section, which includes, but is not limited to, the crediting of  
21 military service, direct rollover distributions, and the acceptance of  
22 rollovers;

23 (h) To obtain, by a competitive, formal, and sealed bidding process  
24 through the materiel division of the Department of Administrative  
25 Services, auditing services for a separate compliance audit of the  
26 retirement systems to be completed by December 31, 2020, and from time to  
27 time thereafter at the request of the Nebraska Retirement Systems  
28 Committee of the Legislature, to be completed not more than every four  
29 years but not less than every ten years. The compliance audit shall be in  
30 addition to the annual audit conducted by the Auditor of Public Accounts.  
31 The compliance audit shall include, but not be limited to, an examination

1 of records, files, and other documents and an evaluation of all policies  
2 and procedures to determine compliance with all state and federal laws. A  
3 copy of the compliance audit shall be given to the Governor, the board,  
4 and the Nebraska Retirement Systems Committee of the Legislature and  
5 shall be presented to the committee at a public hearing;

6 (i) To adopt and promulgate rules and regulations for the adjustment  
7 of contributions or benefits, which includes, but is not limited to: (i)  
8 The procedures for refunding contributions, adjusting future  
9 contributions or benefit payments, and requiring additional contributions  
10 or repayment of benefits; (ii) the process for a member, member's  
11 beneficiary, employee, or employer to dispute an adjustment to  
12 contributions or benefits; (iii) establishing materiality and de minimus  
13 amounts for agency transactions, adjustments, and inactive account  
14 closures; and (iv) notice provided to all affected persons. Following an  
15 adjustment, a timely notice shall be sent that describes the adjustment  
16 and the process for disputing an adjustment to contributions or benefits;  
17 and

18 (j) To administer all retirement system plans in a manner which will  
19 maintain each plan's status as a qualified plan pursuant to the Internal  
20 Revenue Code, as defined in section 49-801.01, including: Section 401(a)  
21 (9) of the Internal Revenue Code relating to the time and manner in which  
22 benefits are required to be distributed, including the incidental death  
23 benefit distribution requirement of section 401(a)(9)(G) of the Internal  
24 Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to  
25 the specification of actuarial assumptions; section 401(a)(31) of the  
26 Internal Revenue Code relating to direct rollover distributions from  
27 eligible retirement plans; section 401(a)(37) of the Internal Revenue  
28 Code relating to the death benefit of a member whose death occurs while  
29 performing qualified military service; and section 401(a) of the Internal  
30 Revenue Code by meeting the requirements of section 414(d) of the  
31 Internal Revenue Code relating to the establishment of retirement plans

1 for governmental employees of a state or political subdivision thereof.  
2 The board shall adopt and promulgate rules and regulations necessary or  
3 appropriate to maintain such status including, but not limited to, rules  
4 or regulations which restrict discretionary or optional contributions to  
5 a plan or which limit distributions from a plan.

6 (3) By March 31 of each year, the board shall prepare a written plan  
7 of action and shall present such plan to the Nebraska Retirement Systems  
8 Committee of the Legislature at a public hearing. The plan shall include,  
9 but not be limited to, the board's funding policy, the administrative  
10 costs and other fees associated with each fund and plan overseen by the  
11 board, member education and informational programs, the director's duties  
12 and limitations, an organizational structure of the office of the  
13 Nebraska Public Employees Retirement Systems, and the internal control  
14 structure of such office to ensure compliance with state and federal  
15 laws.

16 Sec. 41. Section 84-1511, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 84-1511 (1) The Public Employees Retirement Board shall establish a  
19 comprehensive preretirement planning program for state patrol officers,  
20 state employees, judges, county employees, ~~and~~ school employees, and  
21 firefighters who are members of the retirement systems established  
22 pursuant to the Cities of the First Class Firefighters Cash Balance  
23 Retirement Act, the County Employees Retirement Act, the Judges  
24 Retirement Act, the School Employees Retirement Act, the Nebraska State  
25 Patrol Retirement Act, and the State Employees Retirement Act. The  
26 program shall provide information and advice regarding the many changes  
27 employees face upon retirement, including, but not limited to, changes in  
28 physical and mental health, housing, family life, leisure activity, and  
29 retirement income.

30 (2) The preretirement planning program shall be available to all  
31 employees who have attained the age of fifty years or are within five

1 years of qualifying for retirement or early retirement under their  
2 retirement systems.

3 (3) The preretirement planning program shall include information on  
4 the federal and state income tax consequences of the various annuity or  
5 retirement benefit options available to the employee, information on  
6 social security benefits, information on various local, state, and  
7 federal government programs and programs in the private sector designed  
8 to assist elderly persons, and information and advice the board deems  
9 valuable in assisting public employees in the transition from public  
10 employment to retirement.

11 (4) The board shall work with the Department of Health and Human  
12 Services, the personnel division of the Department of Administrative  
13 Services, employee groups, and any other governmental agency, including  
14 political subdivisions or bodies whose services or expertise may enhance  
15 the development or implementation of the preretirement planning program.

16 (5) Funding to cover the expense of the preretirement planning  
17 program shall be charged back to each retirement fund on a pro rata share  
18 based on the number of employees in each plan.

19 (6) The employer shall provide each eligible employee leave with pay  
20 to attend up to two preretirement planning programs. For purposes of this  
21 subsection, leave with pay shall mean a day off paid by the employer and  
22 shall not mean vacation, sick, personal, or compensatory time. An  
23 employee may choose to attend a program more than twice, but such leave  
24 shall be at the expense of the employee and shall be at the discretion of  
25 the employer. An eligible employee shall not be entitled to attend more  
26 than one preretirement planning program per fiscal year prior to actual  
27 election of retirement.

28 (7) A nominal registration fee may be charged each person attending  
29 a preretirement planning program to cover the costs for meals, meeting  
30 rooms, or other expenses incurred under such program.

31 Sec. 42. Original sections 4-108, 16-1020, 84-1501, 84-1503, and

1 84-1511, Reissue Revised Statutes of Nebraska, are repealed.

2 Sec. 43. Since an emergency exists, this act takes effect when  
3 passed and approved according to law.