

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 371

Introduced by Erdman, 47

Read first time January 12, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 16-1014
2 and 84-1511, Reissue Revised Statutes of Nebraska, and
3 sections 84-1301 and 84-1503, Revised Statutes Cumulative
4 Supplement, 2006; to adopt the Nebraska Peace Officer
5 Retirement Act; to create funds; to provide duties for
6 the Public Employees Retirement Board; to provide a
7 penalty; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 36 of this act shall be known
2 and may be cited as the Nebraska Peace Officer Retirement Act.

3 Sec. 2. For purposes of the Nebraska Peace Officer
4 Retirement Act:

5 (1) Actuarial equivalent means the equality in value
6 of the aggregate amounts expected to be received under different
7 forms of payment or to be received at an earlier retirement age
8 than the normal retirement age. The determinations shall be based
9 on the 1994 Group Annuity Mortality Table reflecting sex-distinct
10 factors blended using seventy-five percent of the male table and
11 twenty-five percent of the female table. An interest rate of eight
12 percent per annum shall be reflected in making the determinations
13 until such percent is amended by the Legislature;

14 (2) Board means the Public Employees Retirement Board;

15 (3) (a) Compensation means gross wages or salaries payable
16 to the member for personal services performed during the plan
17 year. Compensation does not include insurance premiums converted
18 into cash payments, reimbursement for expenses incurred, fringe
19 benefits, or bonuses for services not actually rendered, including,
20 but not limited to, early retirement inducements, cash awards,
21 and severance pay, except for retroactive salary payments paid
22 pursuant to court order, arbitration, or litigation and grievance
23 settlements. Compensation includes overtime pay, member retirement
24 contributions, and amounts contributed by the member to plans under
25 sections 125 and 457 of the Internal Revenue Code or any other

1 section of the code which defers or excludes such amounts from
2 income;

3 (b) Compensation in excess of the limitations set forth
4 in section 401(a)(17) of the Internal Revenue Code shall be
5 disregarded. For an employee who was a member of the retirement
6 system before the first plan year beginning after December 31, the
7 limitation on compensation shall not be less than the amount which
8 was allowed to be taken into account under the retirement system as
9 in effect on January 1, 2009;

10 (4) Creditable service means service granted pursuant
11 to section 31 of this act and all service rendered while a
12 contributing member of the retirement system. Creditable service
13 includes working days, sick days, vacation days, holidays, and any
14 other leave days for which the peace officer is paid regular wages.
15 Creditable service does not include eligibility and vesting credit
16 nor service years for which member contributions are withdrawn and
17 not repaid;

18 (5) Current benefit means the initial benefit increased
19 by all adjustments made pursuant to the act;

20 (6) DROP means the deferred retirement option plan as
21 provided in section 15 of this act. The deferred retirement option
22 plan shall be treated as a defined contribution plan for members.
23 The deferred retirement option plan is intended to meet the
24 requirements of section 414(i) of the Internal Revenue Code;

25 (7) DROP contributions means optional contributions paid

1 to the member's DROP account by the member while enrolled in DROP;

2 (8) DROP period means the amount of time the member
3 elects to participate in DROP which shall be for a period not to
4 exceed five years from and after the date of the member's DROP
5 election;

6 (9) Eligibility and vesting credit means credit for
7 years, or a fraction of a year, of participation in a Nebraska
8 government plan for purposes of determining eligibility for
9 benefits under the Nebraska Peace Officer Retirement Act. Such
10 credit shall be used toward the vesting percentage pursuant to
11 subsection (2) of section 22 of this act but shall not be included
12 as years of service in the benefit calculation;

13 (10) Initial benefit means the retirement benefit
14 calculated at the time of retirement;

15 (11) Peace officer means any town marshal, chief of
16 police, police officer, sheriff, or deputy sheriff and also
17 includes conservation officers of the Game and Parks Commission.
18 Peace officer does not mean any individual employed as a police
19 officer by a city of the metropolitan or primary classes, any
20 Nebraska State Patrol officer, or any individual employed by a
21 county containing a city of the metropolitan class;

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

24 (13) Regular interest means interest fixed at a rate
25 equal to the daily treasury yield curve for one-year treasury

1 securities, as published by the Secretary of the Treasury of the
2 United States, that applies on July 1 of each year, which may be
3 credited monthly, quarterly, semiannually, or annually as the board
4 may direct;

5 (14) Retirement system or system means the Nebraska Peace
6 Officer Retirement System as provided in the act;

7 (15) Service means employment as a peace officer in
8 Nebraska and is not deemed to be interrupted by (a) temporary
9 or seasonal suspension of service that does not terminate the
10 employee's employment, (b) leave of absence authorized by the
11 employer for a period not exceeding twelve months, (c) leave
12 of absence because of disability, or (d) military service, when
13 properly authorized by the board. Service does not include any
14 period of disability for which disability retirement benefits are
15 received under subsection (1) of section 14 of this act;

16 (16) Surviving spouse means (a) the spouse married to
17 the member on the date of the member's death if married for
18 at least one year prior to death or if married on the date of
19 the member's retirement or (b) the spouse or former spouse of
20 the member if survivorship rights are provided under a qualified
21 domestic relations order filed with the board pursuant to the
22 Spousal Pension Rights Act. The spouse or former spouse shall
23 supersede the spouse married to the member on the date of the
24 member's death as provided under a qualified domestic relations
25 order. If the benefits payable to the spouse or former spouse under

1 a qualified domestic relations order are less than the value of
2 benefits entitled to the surviving spouse, the spouse married to
3 the member on the date of the member's death shall be the surviving
4 spouse for the balance of the benefits; and

5 (17) Termination of employment occurs on the date on
6 which the political subdivision determines that the peace officer's
7 employer-employee relationship with the political subdivision is
8 dissolved. The political subdivision shall notify the board of
9 the date on which such a termination has occurred. Termination of
10 employment does not include ceasing employment with the political
11 subdivision if the peace officer returns to regular employment
12 with the political subdivision and there are less than one hundred
13 twenty days between the date when the employee's employer-employee
14 relationship ceased and the date when the employer-employee
15 relationship commenced with the political subdivision or another
16 political subdivision.

17 Sec. 3. A retirement system is hereby created and
18 established to be known as the Nebraska Peace Officer Retirement
19 System. It is the legislative intent and purpose of the Nebraska
20 Peace Officer Retirement Act to provide certain retirement and
21 other benefits for peace officers throughout Nebraska in the
22 amounts and under the terms and conditions set forth in the act.

23 Sec. 4. (1) Every peace officer in Nebraska who was
24 employed by a political subdivision in the State of Nebraska as
25 such, on January 1, 2009, and every person employed as a peace

1 officer of such a political subdivision after such date, shall be
2 a member of the system, except for (a) those members who elected
3 to remain members of the County Employees Retirement Act or the
4 State Employees Retirement System of the State of Nebraska, (b)
5 those peace officers employed by cities of the first class hired
6 prior to January 1, 1984, who elect to remain members of their
7 current system, and (c) those peace officers employed by cities of
8 the first class who elect to remain members of a retirement system
9 under sections 16-1001 to 16-1019.

10 (2) Each peace officer who is employed on June 30,
11 2009, may either elect to continue membership in his or her
12 current retirement system or elect to participate in the Nebraska
13 Peace Officer Retirement System. The peace officer shall make the
14 election prior to January 1, 2009. If no election is made prior
15 to January 1, 2009, the peace officer shall be treated as though
16 he or she elected to continue participating in his or her current
17 retirement system.

18 (3) A peace officer who is employed on December 31, 2008,
19 who elects to participate in the Nebraska Peace Officer Retirement
20 System shall transfer all of his or her funds held by his or
21 her current retirement system by paying to the Nebraska Peace
22 Officer Retirement System from funds held by the current retirement
23 system an amount not to exceed the employee and employer accounts
24 of the transferring employee plus earnings during the period of
25 employment. The employee shall receive vesting credit for his or

1 her years of service in a governmental plan, as defined in section
2 414(d) of the Internal Revenue Code, maintained by the state or
3 political subdivision. The state, political subdivisions, and peace
4 officers may by binding agreement determine which parties will
5 provide funds to pay any amount needed to purchase creditable
6 service in the Nebraska Peace Officer Retirement System sufficient
7 to provide a final benefit transfer value not to exceed the
8 employee's initial benefit transfer value, if the amount of
9 a direct rollover from the current retirement system is not
10 sufficient to provide a final benefit transfer value in the
11 Nebraska Peace Officer Retirement System.

12 (4) Within the first thirty days of employment, a member
13 may apply to the board for eligibility and vesting credit for years
14 of participation in another Nebraska governmental plan as defined
15 by section 414(d) of the Internal Revenue Code. During the years of
16 participation in the other Nebraska governmental plan, the employee
17 must have been a full-time employee as defined in the Nebraska
18 governmental plan in which the credit was earned.

19 (5) Any peace officer who qualifies for membership
20 pursuant to subsection (1) of this section may not be disqualified
21 from membership in the retirement system solely because such peace
22 officer also maintains separate employment which qualifies the
23 peace officer for membership in another public retirement system,
24 nor may membership in this retirement system disqualify such a
25 peace officer from membership in another public retirement system

1 solely by reason of separate employment which qualifies such peace
2 officer for membership in this retirement system.

3 (6) Information necessary to determine membership shall
4 be provided by the political subdivision employing the peace
5 officers.

6 (7) The board may adopt and promulgate rules and
7 regulations governing the assessment and granting of eligibility
8 and vesting credit.

9 Sec. 5. (1) Commencing January 1, 2009, each peace
10 officer while in the service of a political subdivision of the
11 State of Nebraska shall pay or have paid on his or her behalf
12 a sum equal to eight percent of his or her monthly compensation.
13 In addition, beginning January 1, 2009, there shall be transferred
14 from the general fund of the political subdivision, a sum equal
15 to the amount of eight percent. Such compensation deductions
16 shall be credited to the Peace Officer Retirement Fund. The fund
17 shall further be supplemented annually by an appropriation in such
18 amount, if any, as may be determined by the Legislature.

19 (2) For the fiscal year beginning on July 1, 2010,
20 and each fiscal year thereafter, the actuary for the board shall
21 perform an actuarial valuation of the system using the entry
22 age actuarial cost method. Under this method, the actuarially
23 required funding rate is equal to the normal cost rate, plus
24 the contribution rate necessary to amortize the unfunded actuarial
25 accrued liability on a level payment basis. The normal cost under

1 this method shall be determined for each individual member on
2 a level percentage of salary basis. The normal cost amount is
3 then summed for all members. The initial unfunded actual accrued
4 liability as of January 1, 2009, if any, shall be amortized over
5 a thirty-year period. During each subsequent actuarial valuation,
6 changes in the funded actuarial accrued liability due to changes
7 in benefits, actuarial assumptions, the asset valuation method, or
8 actuarial gains or losses shall be measured and amortized over
9 a thirty-year period beginning on the valuation date of such
10 change. If the unfunded actuarial accrued liability under the
11 entry age actuarial cost method is zero or less than zero on an
12 actuarial valuation date, then all prior unfunded actuarial accrued
13 liabilities shall be considered fully funded and the unfunded
14 actuarial accrued liability shall be reinitialized and amortized
15 over a thirty-year period as of the actuarial valuation date. If
16 the actuarially required contribution rate exceeds the rate of
17 all contributions required pursuant to the Nebraska Peace Officer
18 Retirement Act, there shall be a supplemental appropriation by
19 local political subdivisions sufficient to pay for the differences
20 between the actuarially required contribution rate and the rate of
21 all contributions required pursuant to the Nebraska Peace Officer
22 Retirement Act. Such valuation shall be on the basis of actuarial
23 assumptions recommended by the actuary, approved by the board, and
24 kept on file with the board.

25 (3) The political subdivisions shall pick up the member

1 contributions required by this section for all compensation paid on
2 or after January 1, 2009, and the contributions so picked up shall
3 be treated as employer contributions in determining federal tax
4 treatment under the Internal Revenue Code, except that the state
5 shall continue to withhold federal income taxes based upon these
6 contributions until the Internal Revenue Service or the federal
7 courts rule that, pursuant to section 414(h) of the code, these
8 contributions shall not be included as gross income of the member
9 until such time as they are distributed or made available. The
10 political subdivision shall pay these member contributions from
11 the same source of funds which is used in paying earnings to the
12 member. The political subdivision shall pick up these contributions
13 by a compensation deduction through a reduction in the cash
14 compensation of the member. Member contributions picked up shall be
15 treated for all purposes of the Nebraska Peace Officer Retirement
16 Act in the same manner and to the extent as member contributions
17 made prior to the date picked up.

18 Sec. 6. (1) Except as provided in subsection (2) of
19 this section, all money received by the retirement system shall be
20 remitted to the State Treasurer for credit to the Peace Officer
21 Retirement Fund which is hereby created. Out of the fund shall be
22 paid the benefits and annuities as provided in the Nebraska Peace
23 Officer Retirement Act.

24 (2) The Peace Officer Retirement Act Expense Fund is
25 created. The fund shall be credited with money from the retirement

1 system assets and income sufficient to pay the pro rata share of
2 administrative expenses incurred as directed by the board for the
3 proper administration of the Nebraska Peace Officer Retirement Act
4 and necessary in connection with the administration and operation
5 of the retirement system.

6 Sec. 7. The general administration of the retirement
7 system, except the investment of funds, is hereby vested in the
8 board. The board shall adopt and promulgate rules and regulations
9 as may be necessary to carry out the Nebraska Peace Officer
10 Retirement Act. The board shall employ a director and such
11 assistants and employees as may be necessary to efficiently
12 discharge the duties imposed by the act.

13 Sec. 8. (1) If the board determines that the retirement
14 system has previously received contributions or distributed
15 benefits which for any reason are not in accordance with the
16 Nebraska Peace Officer Retirement Act, the board shall refund
17 contributions, require additional contributions, adjust benefits,
18 or require repayment of benefits paid. In the event of an
19 overpayment of a benefit, the board may, in addition to other
20 remedies, offset future benefit payments by the amount of the prior
21 overpayment, together with regular interest thereon. In the event
22 of an underpayment of a benefit, the board shall immediately make
23 payment equal to the deficit amount plus regular interest.

24 (2) The board shall adopt and promulgate rules and
25 regulations implementing this section, which shall include, but not

1 be limited to, the following: (a) The procedures for refunding
2 contributions, adjusting future contributions or benefit payments,
3 and requiring additional contributions or repayment of benefits;
4 (b) the process for a member, member's beneficiary, employee, or
5 employer to dispute an adjustment of contributions or benefits;
6 and (c) notice provided to all affected persons. All notices shall
7 be sent prior to an adjustment and shall describe the process for
8 disputing an adjustment of contributions or benefits.

9 Sec. 9. The State Treasurer shall be the custodian of
10 the funds and securities of the retirement system and may deposit
11 the funds and securities in any financial institution approved by
12 the Nebraska Investment Council. The State Treasurer shall transmit
13 monthly to the board a detailed statement showing all credits to
14 and disbursements from the Peace Officer Retirement Fund. The State
15 Treasurer shall disburse money from such fund only on warrants
16 issued by the Director of Administrative Services upon vouchers
17 signed by a person authorized by the retirement board.

18 Sec. 10. (1) The director in charge of the retirement
19 system shall keep a record of all acts and proceedings taken by
20 the board. He or she shall keep a complete record of all members
21 with respect to name, current address, age, contributions, length
22 of service, compensation, and any other facts as may be necessary
23 in the administration of the Nebraska Peace Officer Retirement Act.
24 The board shall prescribe the form in which such information shall
25 be reported by the local political subdivision to the board. The

1 information in the records shall be provided by the local political
2 subdivision in an accurate and verifiable form, as specified by the
3 director. The director shall, from time to time, carry out testing
4 procedures pursuant to section 84-1512 to verify the accuracy of
5 such information. For the purpose of obtaining such facts and
6 information, the director shall have access to the records of
7 the various state departments and agencies and the holder of the
8 records shall comply with a request by the director for access by
9 providing such facts and information to the director in a timely
10 manner. A certified copy of a birth certificate or delayed birth
11 certificate shall be prima facie evidence of the age of the person
12 named in the certificate.

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

18 Sec. 11. Any funds of the retirement system available
19 for investment shall be invested by the Nebraska Investment Council
20 pursuant to the Nebraska Capital Expansion Act and the Nebraska
21 State Funds Investment Act. Payment for investment services by
22 the council shall be charged directly against the gross investment
23 returns of the funds. Charges so incurred shall not be a part
24 of the board's annual budget request. The amounts of payment for
25 such services, as of December 31 of each year, shall be reported

1 not later than March 31 of the following year to the council, the
2 board, and the Nebraska Retirement Systems Committee.

3 The state investment officer shall sell any securities
4 upon request from the director in charge of the retirement system
5 so as to provide money for the payment of benefits or annuities.

6 Sec. 12. It shall be the duty of the Auditor of Public
7 Accounts to make an annual audit of the retirement system and an
8 annual report to the Clerk of the Legislature of its condition.
9 Each member of the Legislature shall receive a copy of such report
10 by making a request for it to the Auditor of Public Accounts.

11 Sec. 13. The retirement system may sue or be sued in the
12 name of the system and in all actions brought by or against it the
13 retirement system shall be represented by the Attorney General.

14 Sec. 14. (1) Every peace officer who has been in the
15 employ of a political subdivision as such and who becomes disabled
16 and physically unfit to perform the duties of a peace officer shall
17 be entitled to retire and receive an annuity as provided by law.

18 (2) Every peace officer who has been in the employ of a
19 political subdivision in this state as such for ten years or more,
20 as calculated in section 30 of this act, and has attained the age
21 of fifty years or more shall be entitled to retire and receive
22 an annuity as provided by law. The right to retire at the age of
23 fifty years shall be at the option of the peace officer but such
24 retirement shall be mandatory upon the peace officer attaining the
25 age of sixty-two years.

1 (3) Any peace officer who has attained the age of
2 sixty-two years upon his or her separation from service but who has
3 not been in the employ of a political subdivision of this state for
4 ten years as such shall be entitled to the annuity as provided for
5 in the Nebraska Peace Officer Retirement Act.

6 (4) Every peace officer who has been in the employ of
7 a political subdivision of the state as such for twenty years or
8 more, as calculated in section 30 of this act, shall receive an
9 annuity as provided by law. The right to retire with twenty years
10 or more of creditable service shall be at the option of the peace
11 officer.

12 (5) Payment of any benefit provided under the act may
13 not be deferred later than April 1 of the year following the year
14 in which the peace officer has both attained at least age seventy
15 and one-half years and terminated his or her employment with a
16 political subdivision.

17 (6) The effective date of retirement payments shall be
18 the first day of the month following (a) the date a member
19 qualifies for retirement as provided in this section or (b) the
20 date upon which a member's request for retirement is received on
21 an application form provided by the system, whichever is later. An
22 application may be filed no more than ninety days in advance of
23 qualifying for retirement.

24 (7) The board shall make reasonable efforts to locate
25 the peace officer or the peace officer's beneficiary and distribute

1 benefits by the required beginning date as specified by section
2 401(a)(9) of the Internal Revenue Code and the regulations issued
3 thereunder. If the board is unable to make such a distribution, the
4 account shall be distributed pursuant to the Uniform Disposition of
5 Unclaimed Property Act and no amounts may be applied to increase
6 the benefits any peace officer would otherwise receive under the
7 Nebraska Peace Officer Retirement Act.

8 Sec. 15. (1) Any member who meets the participation
9 requirements of subsection (2) of this section may participate in
10 DROP. DROP provides that subsequent to attaining normal age and
11 service retirement eligibility, a member may voluntarily choose to
12 participate in DROP upon its adoption which, for purposes of this
13 section, shall be the first of the month following a favorable
14 letter determination by the Internal Revenue Service. If the member
15 chooses to participate in DROP, the member shall be deemed to have
16 retired, but the member may continue in active employment for a
17 five-year period. During the DROP period, the member's eligible
18 pension benefit payments and DROP contributions will be deposited
19 into the DROP account for the benefit of the member until the
20 member actually retires from active employment at or before the
21 expiration of the DROP period. Thereafter, future pension payments
22 will be made directly to the member, and the member will then have
23 access to all funds in the account designated for the benefit of
24 the member.

25 (2) To participate in the DROP program, a member shall

1 meet the following requirements:

2 (a) A member shall be eligible to enter DROP at any time
3 subsequent to the date when the member has (i) attained normal
4 retirement age and (ii) completed twenty-five years of service.
5 Members having attained normal retirement age and completed
6 twenty-five years of service on or before the date of adoption of
7 DROP shall be eligible to enter DROP at any future date;

8 (b) A member who elects to enter DROP shall be entitled
9 to receive regular age and service retirement benefits. A member is
10 entitled to remain in DROP for a maximum of five years subsequent
11 to the date of the member's DROP election. A member may separate
12 from service and thereby exit DROP at any time during the DROP
13 period. On or before the completion of the DROP period, the member
14 must separate from active employment and exit DROP. During the
15 DROP period, a member's eligible pension benefit payment shall
16 be payable to the DROP investment account vendor designated in
17 the member's name. Accordingly, amounts transferred or paid to a
18 participating member's DROP account shall not constitute annual
19 additions under section 415 of the Internal Revenue Code;

20 (c) A member electing to enter DROP shall choose a
21 pension payment option. After the option is chosen, the member
22 shall not be entitled to any retirement benefit changes, for
23 reasons including, but not limited to, wage increases, promotions,
24 and demotions, except that the restriction on retirement benefit
25 changes shall not apply in the event of duty-related death or

1 duty-related disability. The benefit amount shall be frozen as of
2 the date of election and shall be payable as if the employee
3 retired on that date and separated from active employment. If
4 a member incurs a duty-related death or duty-related disability
5 during the DROP period, the member or the member's designated
6 pension survivor beneficiary will have the option to forfeit the
7 DROP account designated for the member and accept a duty-related
8 death pension or duty-related disability pension or keep the DROP
9 account and normal age and service pension. A member shall also
10 have the option of designating a specific beneficiary of the DROP
11 account maintained for the benefit of the member;

12 (d) No member shall be allowed to continue making the
13 required contributions while the member is enrolled in DROP.
14 Any member that is enrolled in DROP may elect to make DROP
15 contributions during the DROP period. Such contributions shall
16 constitute annual additions under section 415(c) of the Internal
17 Revenue Code;

18 (e) The member shall be paid the balance of the DROP
19 account upon the member's separation from active employment or
20 at the expiration of the DROP period thereby ending the member's
21 participation in DROP. If a member has not voluntarily separated
22 from active employment on or before the completion of the
23 DROP period, the member's pension benefit payments shall be
24 made directly to the member thereby ending the member's active
25 employment. The member's DROP account shall consist of accrued

1 eligible pension benefit payments, interest on such payments, any
2 DROP contributions, and interest on any DROP contributions;

3 (f) Any member that is enrolled in DROP shall be
4 responsible for directing the DROP account designated for the
5 benefit of the member by investing the account in any DROP
6 investment options. There shall be no guaranteed rate of investment
7 return on DROP account assets. Any losses, charges, or expenses
8 incurred by the participating DROP member in such member's DROP
9 account by virtue of the investment options selected by the
10 participating DROP member, shall not be made up by the retirement
11 system but all of the same shall be born by the participating
12 DROP member. Transfers between investment options shall be in
13 accordance with the rules and regulations of DROP. A DROP account
14 shall be established for each participating DROP member. Such DROP
15 account shall be adjusted no less frequently than annually for
16 DROP contributions, the member's eligible pension benefit payment
17 distributions, and net investment earnings and losses; and

18 (g) If the DROP account is subject to administrative or
19 other fees or charges, such fees or charges shall be charged to the
20 participating DROP member's DROP account.

21 Sec. 16. (1)(a) Any peace officer qualified for an
22 annuity as provided in section 14 of this act for reasons other
23 than disability shall be entitled to receive a monthly annuity
24 for the remainder of the peace officer's life. The amount of the
25 annuity shall be a percentage of the peace officer's final average

1 monthly compensation. For a member who has been in the employ of a
2 political subdivision for a minimum of twenty years, as calculated
3 in section 34 of this act, the percentage shall be two and one-half
4 percent multiplied by the number of years of creditable service, as
5 calculated in section 34 of this act, except that the percentage
6 shall never be greater than eighty percent.

7 (b) For retirement pursuant to subsection (2) of section
8 14 of this act on or after the fiftieth birthday of a member but
9 prior to the fifty-fifth birthday of a member who has been in the
10 employ of a political subdivision for less than twenty years, as
11 calculated in section 30 of this act, the annuity which would apply
12 if the member were age fifty-five at the date of retirement shall
13 be reduced by five-ninths of one percent for each month by which
14 the early retirement date precedes age fifty-five or for each month
15 by which the early retirement date precedes the date upon which
16 the member has served for twenty-five years, whichever is earlier.
17 Any peace officer who has completed thirty years of creditable
18 service with a political subdivision shall have retirement benefits
19 computed as if the peace officer had reached age fifty-five.

20 (c) For purposes of this computation, final average
21 monthly compensation means the sum of the peace officer's total
22 compensation during the three twelve-month periods of service as
23 a peace officer in which compensation was the greatest divided by
24 thirty-six.

25 (2) Any peace officer qualified for an annuity as

1 provided in section 14 of this act for reasons of disability shall
2 be entitled to receive a monthly annuity for the remainder of the
3 period of disablement. The amount of the annuity shall be sixty-two
4 and one-half percent of the monthly compensation at the date of
5 disablement if the peace officer was injured in a job-related
6 incident. If the peace officer was injured in a non-job-related
7 incident, the amount of the annuity shall be fifty percent of the
8 final monthly compensation at the date of disablement. The date of
9 disablement shall be the date on which the benefits as provided in
10 section 19 of this act have been exhausted.

11 (3) Upon the death of a peace officer after retirement
12 for reasons other than disability, benefits shall be provided as a
13 percentage of the amount of the peace officer's annuity, calculated
14 as follows:

15 (a) If there is a surviving spouse but no dependent child
16 or children of the peace officer under nineteen years of age,
17 the surviving spouse shall receive a benefit equal to seventy-five
18 percent of the amount of the peace officer's annuity for the
19 remainder of the surviving spouse's life or until the surviving
20 spouse remarries;

21 (b) If there is a surviving spouse and the surviving
22 spouse has in his or her care a dependent child or children of
23 the peace officer under nineteen years of age and there is no
24 other dependent child or children of the peace officer not in
25 the care of the surviving spouse under nineteen years of age,

1 the benefit shall be equal to one hundred percent of the peace
2 officer's annuity. When there is no remaining dependent child of
3 the peace officer under nineteen years of age, the benefit shall be
4 seventy-five percent of the amount of the peace officer's annuity
5 to the surviving spouse for the remainder of the surviving spouse's
6 life or until the surviving spouse remarries;

7 (c) If there is a surviving spouse and the surviving
8 spouse has in his or her care a dependent child or children of
9 the peace officer under nineteen years of age or there is another
10 dependent child or children of the peace officer under nineteen
11 years of age not in the care of the surviving spouse, the benefit
12 shall be twenty-five percent of the amount of the peace officer's
13 annuity to the surviving spouse and seventy-five percent of the
14 amount of the peace officer's annuity to the dependent children of
15 the peace officer under nineteen years of age to be divided equally
16 among such dependent children but in no case shall the benefit
17 received by a surviving spouse and dependent children residing with
18 such spouse be less than fifty percent of the amount of the peace
19 officer's annuity. At such time as any dependent child of the peace
20 officer attains nineteen years of age, the benefit shall be divided
21 equally among the remaining dependent children of the peace officer
22 who have not yet attained nineteen years of age. When there is
23 no remaining dependent child of the peace officer under nineteen
24 years of age, the benefit shall be seventy-five percent of the
25 amount of the peace officer's annuity to the surviving spouse for

1 the remainder of the surviving spouse's life or until the surviving
2 spouse remarries;

3 (d) If there is no surviving spouse and a dependent
4 child or children of the peace officer under nineteen years of
5 age, the benefit shall be equal to seventy-five percent of the
6 peace officer's annuity to the dependent children of the peace
7 officer under nineteen years of age to be divided equally among
8 such dependent children. At such time as any dependent child of the
9 peace officer attains nineteen years of age, the benefit shall be
10 divided equally among the remaining dependent children of the peace
11 officer who have not yet attained nineteen years of age; and

12 (e) If there is no surviving spouse or no dependent
13 child or children of the peace officer under nineteen years of
14 age, the amount of benefit such peace officer has received under
15 the Nebraska Peace Officer Retirement Act shall be computed. If
16 such amount is less than the contributions to the Peace Officer
17 Retirement Fund made by such peace officer, plus regular interest,
18 the difference shall be paid to the peace officer's designated
19 beneficiary or estate.

20 (4) Upon the death of a peace officer after retirement
21 for reasons of disability, benefits shall be provided as if the
22 peace officer had retired for reasons other than disability.

23 (5) Upon the death of a peace officer in a job-related
24 incident before retirement, benefits shall be provided as if the
25 peace officer had retired for reasons of disability on the date of

1 such peace officer's death, calculated as follows:

2 (a) If there is a surviving spouse but no dependent child
3 or children of the peace officer under nineteen years of age, the
4 surviving spouse shall receive a benefit equal to sixty-two and
5 one-half percent of the amount of the peace officer's annuity for
6 the remainder of the surviving spouse's life or until the surviving
7 spouse remarries;

8 (b) If there is a surviving spouse and the surviving
9 spouse has in his or her care a dependent child or children of the
10 peace officer under nineteen years of age and there is no other
11 dependent child or children of the peace officer not in the care of
12 the surviving spouse under nineteen years of age, the benefit shall
13 be equal to sixty-two and one-half percent to the spouse and six
14 percent to each of the dependent children of the peace officer's
15 annuity. When there is no remaining dependent child of the peace
16 officer under nineteen years of age, the benefit shall be sixty-two
17 and one-half percent of the amount of the peace officer's annuity
18 to the surviving spouse for the remainder of the surviving spouse's
19 life or until the surviving spouse remarries;

20 (c) If there is a surviving spouse and the surviving
21 spouse has in his or her care a dependent child or children of
22 the peace officer under nineteen years of age or there is another
23 dependent child or children of the peace officer under nineteen
24 years of age not in the care of the surviving spouse, the benefit
25 shall be twenty-five percent of the amount of the peace officer's

1 annuity to the surviving spouse and six percent of the amount of
2 the peace officer's annuity to each of the dependent children of
3 the peace officer under nineteen years of age but, in no case shall
4 the benefit received by a surviving spouse and dependent children
5 residing with such spouse be less than sixty-two and one-half
6 percent of the amount of the peace officer's annuity. At such
7 time as any dependent child of the peace officer attains nineteen
8 years of age, the benefit shall lapse. When there is no remaining
9 dependent child of the peace officer under nineteen years of age,
10 the benefit shall be sixty-two and one-half percent of the amount
11 of the peace officer's annuity to the surviving spouse for the
12 remainder of the surviving spouse's life or until the surviving
13 spouse remarries;

14 (d) If there is no surviving spouse and a dependent child
15 or children of the peace officer under nineteen years of age, the
16 benefit shall be equal to sixty-two and one-half percent of the
17 peace officer's annuity to the dependent children of the peace
18 officer under nineteen years of age to be divided equally among
19 such dependent children. At such time as any dependent child of the
20 peace officer attains nineteen years of age, the benefit shall be
21 divided equally among the remaining dependent children of the peace
22 officer who have not yet attained nineteen years of age; and

23 (e) If no benefits are paid to a surviving spouse or
24 dependent child or children of the peace officer, benefits will be
25 paid as described in subsection (1) of section 22 of this act.

1 (6) Upon the death of a peace officer not yet eligible
2 to retire in a non-job-related incident before retirement, benefits
3 shall be provided as if the peace officer had retired for reasons
4 of disability on the date of such peace officer's death, calculated
5 as follows:

6 (a) If there is a surviving spouse but no dependent child
7 or children of the peace officer under nineteen years of age, the
8 surviving spouse shall receive a benefit equal to fifty percent of
9 the amount of the peace officer's annuity for the remainder of the
10 surviving spouse's life or until the surviving spouse remarries;

11 (b) If there is a surviving spouse and the surviving
12 spouse has in his or her care a dependent child or children of the
13 peace officer under nineteen years of age and there is no other
14 dependent child or children of the peace officer not in the care
15 of the surviving spouse under nineteen years of age, the benefit
16 shall be equal to fifty percent to the spouse and six percent to
17 each dependent child of the peace officer's annuity. When there is
18 no remaining dependent child of the peace officer under nineteen
19 years of age, the benefit shall be fifty percent of the amount
20 of the peace officer's annuity to the surviving spouse for the
21 remainder of the surviving spouse's life or until the surviving
22 spouse remarries;

23 (c) If there is a surviving spouse and the surviving
24 spouse has in his or her care a dependent child or children of
25 the peace officer under nineteen years of age or there is another

1 dependent child or children of the peace officer under nineteen
2 years of age not in the care of the surviving spouse, the benefit
3 shall be twenty-five percent of the amount of the peace officer's
4 annuity to the surviving spouse and six percent of the amount of
5 the peace officer's annuity to each of the dependent children of
6 the peace officer under nineteen years of age. But, in no case
7 shall the benefit received by a surviving spouse and dependent
8 children residing with such spouse be less than fifty percent of
9 the amount of the peace officer's annuity. At such time as any
10 dependent child of the peace officer attains nineteen years of age,
11 the benefit shall lapse. When there is no remaining dependent child
12 for the peace officer under nineteen years of age, the benefit
13 shall be fifty percent of the amount of the peace officer's annuity
14 to the surviving spouse for the remainder of the surviving spouse's
15 life or until the surviving spouse remarries;

16 (d) If there is no surviving spouse and a dependent child
17 or children of the peace officer under nineteen years of age, the
18 benefit shall be equal to fifty percent of the peace officer's
19 annuity to the dependent children of the peace officer under
20 nineteen years of age to be divided equally among such dependent
21 children. At such time as any dependent child of the peace officer
22 attains nineteen years of age, the benefit shall be divided equally
23 among the remaining dependent children of the peace officer who
24 have not yet attained nineteen years of age; and

25 (e) If no benefits are paid to a surviving spouse or

1 dependent child or children of the peace officer, benefits will be
2 paid as described in subsection (1) of section 22 of this act.

3 (7) Upon the death of a peace officer eligible to retire
4 in a non-job-related incident before retirement, benefits shall be
5 provided as if the peace officer had retired on the date of such
6 peace officer's death calculated in the same manner as provided
7 under subsection (3) of this section.

8 Sec. 17. For purposes of this section and section 18 of
9 this act:

10 (1) Eligible retiree means (a) a member or beneficiary
11 who has been receiving a retirement benefit for at least five
12 years, which member has had at least twenty years of creditable
13 service; (b) a member who has been receiving a disability
14 retirement benefit for at least five years pursuant to section
15 14 of this act; or (c) a beneficiary who has been receiving a death
16 benefit pursuant to section 16 of this act for at least five years,
17 and which member's or beneficiary's monthly accrual rate is less
18 than or equal to the minimum accrual rate as determined by section
19 20 of this act;

20 (2) Monthly accrual rate means the eligible retiree's
21 total monthly benefit divided by the number of years of creditable
22 service earned by the retiree or deceased member; and

23 (3) Total monthly benefit means the total benefit
24 received by an eligible retiree pursuant to the Nebraska Peace
25 Officer Retirement Act, previous adjustments made pursuant to

1 section 18 of this act, or any other provision of Nebraska law
2 which grants a benefit or cost-of-living increase within the
3 Nebraska Peace Officer Retirement Act, but total monthly benefit
4 does not include sums received by an eligible retiree from federal
5 sources.

6 Sec. 18. (1) Beginning June 30, 2010, and each June
7 30 thereafter, the retirement board shall determine the number
8 of eligible retirees in the retirement system and shall grant an
9 annual benefit adjustment to each eligible retiree. The annual
10 benefit adjustment shall be calculated by multiplying the eligible
11 retiree's total monthly benefit by the greater of:

12 (a) For calculations on June 30, 2010, the cumulative
13 change in the Consumer Price Index for Urban Wage Earners and
14 Clerical Workers published by the Bureau of Labor Statistics from
15 June 30, 2009, through June 30, 2010; or

16 (b) For calculations on June 30, 2011, and each June 30
17 thereafter, the cumulative change in the Consumer Price Index for
18 Urban Wage Earners and Clerical Workers published by the Bureau
19 of Labor Statistics of the United States Department of Labor from
20 the last adjustment of the total monthly benefit of each eligible
21 retiree pursuant to this section through June 30 of the year for
22 which the annual benefit adjustment is being calculated.

23 (2) Beginning July 1 each year, each eligible retiree
24 shall receive the sum of the annual benefit adjustment and such
25 retiree's total monthly benefit, which sum shall be the retiree's

1 adjusted total monthly benefit.

2 Sec. 19. No peace officer shall receive any disability
3 benefit payments under section 16 of this act when there remains to
4 his or her credit unused annual leave or sick leave or under any
5 other circumstances if during the period of disability there has
6 been no impairment of his or her compensation.

7 Sec. 20. No disability benefit payments shall be made
8 except upon adequate proof furnished to the retirement system of
9 the existence of such disability, and during the time when any
10 such benefits are being paid, the retirement system shall have the
11 right, at reasonable times, to require the disabled peace officer
12 to submit proof of the continuance of the disability claimed.
13 Disability is defined to be the complete inability of the peace
14 officer, for reasons of accident or sickness, to perform the duties
15 of a peace officer.

16 Sec. 21. The board shall have the right to demand a
17 physical examination of the member by a disinterested physician
18 legally authorized to practice medicine under the laws of the state
19 in which he or she practices, chosen by the retirement system and
20 at the expense of the retirement system.

21 Sec. 22. (1) Upon termination of employment prior to
22 becoming eligible to retire as provided in section 14 of this act
23 and for reasons other than death or disability, a peace officer
24 shall be entitled to receive all payments which have been made by
25 compensation deductions into the Peace Officer Retirement Fund plus

1 regular interest. The return of such contributions and interest
2 to such peace officer shall preclude such peace officer from any
3 benefits under the Nebraska Peace Officer Retirement Act unless and
4 until such peace officer is reemployed in such capacity and repays
5 such withdrawals pursuant to section 27 of this act. If the peace
6 officer chooses not to repay such withdrawals with interest, the
7 peace officer shall enter the retirement system as a new member
8 with no prior rights.

9 (2) In lieu of the benefit described in subsection (1)
10 of this section, the peace officer may elect to receive a deferred
11 annuity to commence as early as age fifty. If this election is
12 made, the contributions made to the retirement system by the
13 peace officer may not be withdrawn from the retirement system.
14 The deferred annuity shall be computed as a percentage of the
15 retirement annuity, as computed in subsection (1) of section 16 of
16 this act. The percentage shall be:

17 (a) Zero percent for the first seven years of (i)
18 creditable service plus (ii) eligibility and vesting credit;

19 (b) Twenty percent for each completed year for the next
20 three years of (i) creditable service plus (ii) eligibility and
21 vesting credit; and

22 (c) One hundred percent after ten completed years of (i)
23 creditable service plus (ii) eligibility and vesting credit.

24 In the event of the death of any peace officer during
25 the deferred period, the accumulated value of the peace officer's

1 contributions at the date of termination plus regular interest to
2 the date of his or her death shall be paid to such peace officer's
3 beneficiary.

4 Sec. 23. Any person who withdraws his or her accumulated
5 contributions pursuant to subsection (1) of section 22 of this
6 act prior to their eligibility for retirement under the Nebraska
7 Peace Officer Retirement Act and again becomes a peace officer may
8 elect to repay the retirement system for any number of years of
9 service which he or she accumulated prior to withdrawing his or her
10 accumulated contributions. The amount to be repaid shall not exceed
11 the amount of the withdrawal for the years of service for which the
12 repayment is being made plus the interest which would have accrued
13 on that amount under the retirement system. Any person who repays
14 such amount shall be restored to the same status for the years of
15 service for which repayment is made as he or she had prior to the
16 withdrawal of the accumulated contributions.

17 Sec. 24. (1) For purposes of this section and section 25
18 of this act:

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

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

1 (c) Eligible retirement plan means (i) an individual
2 retirement account described in section 408(a) of the Internal
3 Revenue Code, (ii) an individual retirement annuity described in
4 section 408(b) of the code, except for an endowment contract, (iii)
5 a qualified plan described in section 401(a) of the code, (iv) an
6 annuity plan described in section 403(a) or 403(b) of the code, and
7 (v) a plan described in section 457(b) of the code and maintained
8 by a governmental employer. For eligible rollover distributions to
9 a surviving spouse, an eligible retirement plan means subdivisions
10 (1)(c)(i) through (iv) of this section; and

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

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

24 (3) The board shall adopt and promulgate rules and
25 regulations for direct rollover procedures which are consistent

1 with section 401(a)(31) of the Internal Revenue Code and which
2 include, but are not limited to, the form and time of direct
3 rollover distributions.

4 Sec. 25. (1) The retirement system may accept cash
5 rollover contributions from a member who is making payment pursuant
6 to section 22 of this act if the contributions do not exceed the
7 amount of payment required for the service credits purchased by the
8 member pursuant to such section and the contributions represent (a)
9 all or any portion of the balance of the member's interest in a
10 qualified plan under section 401(a) of the Internal Revenue Code
11 or (b) the interest of the member from an individual retirement
12 account or an individual retirement annuity, the entire amount of
13 which is attributable to a qualified total distribution, as defined
14 in the Internal Revenue Code, from a qualified plan under section
15 401(a) of the code and qualified as a tax-free rollover amount. The
16 member's interest under subdivision (a) or (b) of this subsection
17 must be transferred to the retirement system within sixty days from
18 the date of the distribution from the qualified plan, individual
19 retirement account, or individual retirement annuity.

20 (2) Cash transferred to the retirement system as a
21 rollover contribution shall be deposited as other payments for
22 service credits.

23 (3) Under the same conditions as provided in subsection
24 (1) of this section, the retirement system may accept eligible
25 rollover distributions from (a) an annuity contract described in

1 section 403(b) of the Internal Revenue Code, (b) a plan described
2 in section 457(b) of the code which is maintained by a state, a
3 political subdivision of a state, or any agency or instrumentality
4 of a state or political subdivision of a state, or (c) the
5 portion of a distribution from an individual retirement account or
6 annuity described in section 408(a) or 408(b) of the code that is
7 eligible to be rolled over and would otherwise be includible in
8 gross income. Amounts accepted pursuant to this subsection shall be
9 deposited as all other payments under this section.

10 (4) The retirement system may accept direct rollover
11 distributions made from a qualified plan pursuant to section
12 401(a)(31) of the Internal Revenue Code. The direct rollover
13 distribution shall be deposited as all other payments under this
14 section.

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

19 Sec. 26. A retired peace officer of a political
20 subdivision of this state who becomes a member of either the same
21 or another political subdivision of this state shall continue
22 receiving retirement benefits and shall be treated for all purposes
23 of the Nebraska Peace Officer Retirement Act as a new member of
24 the system.

25 Sec. 27. A peace officer who terminates employment prior

1 to becoming eligible to retire and again serves as a peace officer
2 in a political subdivision of this state may elect to repay part or
3 all of the amount he or she had withdrawn as a refund pursuant to
4 section 22 of this act plus the interest that would have accrued
5 on such amount. Repayment shall commence within one hundred eighty
6 days after reemployment, shall not be extended more than five years
7 after the date the peace officer elects to repay his or her refund,
8 and shall be completed prior to termination of employment. Prior
9 service and rights shall be restored in proportion to the amounts
10 repaid, and the prior service and rights of the peace officer
11 shall be fully restored only if he or she repays all accumulated
12 withdrawals plus interest which would have accrued on that amount.

13 Sec. 28. The retirement system may accept as payment for
14 withdrawn amounts made pursuant to the Nebraska Peace Officer
15 Retirement Act a direct trustee-to-trustee transfer from (1)
16 an eligible tax-sheltered annuity plan as described in section
17 403(b) of the Internal Revenue Code or (2) an eligible deferred
18 compensation plan as described in section 457(b) of the code
19 on behalf of a member who is making payments for such amounts.
20 The amount transferred shall not exceed the amount withdrawn and
21 such transferred amount shall qualify as a purchase of permissive
22 service credit by the member as defined in section 415 of the code.

23 Sec. 29. All annuities or benefits which any person shall
24 be entitled to receive under the Nebraska Peace Officer Retirement
25 Act shall not be subject to garnishment, attachment, levy, the

1 operation of bankruptcy or insolvency laws, or any other process
2 of law whatsoever and shall not be assignable except to the extent
3 that such annuities or benefits are subject to a qualified domestic
4 relations order under the Spousal Pension Rights Act.

5 Sec. 30. In computing length of creditable service under
6 the Nebraska Peace Officer Retirement Act, such service shall
7 include the years of service as a peace officer in the State of
8 Nebraska. Length of creditable service shall also include credit
9 for time served in the armed forces pursuant to section 31 of this
10 act.

11 Sec. 31. Any member who, while a peace officer in
12 Nebraska, entered into and served or shall enter into and serve in
13 the armed forces of the United States during a declared emergency,
14 as defined and prescribed under such rules and regulations as
15 the board may adopt, and who, within six months after honorable
16 discharge or honorable separation from active duty, returned or
17 returns to the service of the state and again becomes a peace
18 officer in Nebraska shall be credited, in determining benefits due
19 such member from the Peace Officer Retirement Fund, for all the
20 time actually served in the armed forces as if such person had
21 been a peace officer in Nebraska throughout such declared emergency
22 service in the armed forces.

23 Sec. 32. Any annuity paid pursuant to the Nebraska Peace
24 Officer Retirement Act to any peace officer or surviving spouse
25 qualified to receive such payment shall be adjusted on June 30

1 to reflect any changes in the family unit when the change occurs.
2 A change in the family unit after retirement occurs (1) upon the
3 death of the peace officer, (2) upon the death of the spouse or a
4 dependent child, (3) upon the birth of a dependent child, (4) upon
5 the divorce of the peace officer and his or her spouse, (5) when
6 the peace officer no longer provides support for a dependent child,
7 and (6) when a dependent child becomes nineteen years of age.
8 Each peace officer or surviving spouse whose annuity is adjusted
9 pursuant to this section shall file an annual report with the
10 retirement system, on a form prescribed by the board, to verify
11 the size of the family unit. For purposes of this section, family
12 unit shall include the peace officer, his or her spouse at the
13 time of retirement, the peace officer's legal dependent children
14 under nineteen years of age, and the peace officer's dependent
15 handicapped children.

16 Sec. 33. Every claim and demand under the Nebraska Peace
17 Officer Retirement Act and against the retirement system or the
18 board shall be forever barred unless the action is brought within
19 two years of the time at which the claim accrued.

20 Sec. 34. Any person who, knowing it to be false
21 or fraudulent, presents or causes to be presented a false or
22 fraudulent claim or benefit application, any false or fraudulent
23 proof in support of such a claim or benefit, or false or
24 fraudulent information which would affect a future claim or benefit
25 application to be paid under the retirement system for the purpose

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

7 Sec. 35. All contributions to the retirement system,
8 all property and rights purchased with the contributions, and all
9 investment income attributable to the contributions, property, or
10 rights shall be held in trust by the State of Nebraska for the
11 exclusive benefit of members and their beneficiaries and shall only
12 be used to pay benefits to such persons and to pay administrative
13 expenses according to the provisions of the Nebraska Peace Officer
14 Retirement Act.

15 Sec. 36. Upon termination or partial termination of the
16 retirement system or upon complete discontinuance of contributions
17 under the retirement system, the rights of all affected members
18 to benefits accrued to the date of such termination, partial
19 termination, or discontinuance, to the extent funded as of such
20 date, shall be nonforfeitable.

21 Sec. 37. Section 16-1014, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 16-1014 (1) A retirement committee shall be established
24 to supervise the general operation of the retirement system
25 established pursuant to sections 16-1001 to 16-1019. The governing

1 body of the city shall continue to be responsible for the
2 general administration of such retirement system unless specific
3 functions or all functions with regard to the administration of the
4 retirement system are delegated, by ordinance, to the retirement
5 committee or to the Public Employees Retirement Board. Whenever
6 duties or powers are vested in the city or the retirement committee
7 under such sections or whenever such sections fail to specifically
8 allocate the duties or powers of administration of the retirement
9 system, such powers or duties shall be vested in the city unless
10 such powers or duties have been delegated by ordinance to the
11 retirement committee or the board. The city, ~~and~~ the retirement
12 committee, and the board shall have all powers which are necessary
13 for or appropriate to establishing, maintaining, managing, and
14 administering the retirement system.

15 (2) The board shall develop a schedule for the allocation
16 of administrative costs and shall assess the costs so that each
17 member pays a reasonable fee as determined by the board. In
18 order to carry out the provisions of this section, the board
19 may enter into administrative services agreements for accounting
20 or record-keeping services. No agreement shall be entered into
21 unless the board determines that it will result in administrative
22 economy and will be in the best interests of the state and the
23 participating employees. The state, the board, the state investment
24 officer, or the members of the Nebraska Investment Council shall
25 not be liable for any investment results resulting from the

1 member's exercise of control over the assets in the employee
2 account.

3 Sec. 38. Section 84-1301, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 84-1301 For purposes of the State Employees Retirement
6 Act, unless the context otherwise requires:

7 (1) Actuarial equivalent means the equality in value of
8 the aggregate amounts expected to be received under different forms
9 of an annuity payment. The mortality assumption used for purposes
10 of converting the member cash balance account shall be the 1994
11 Group Annuity Mortality Table using a unisex rate that is fifty
12 percent male and fifty percent female. For purposes of converting
13 the member cash balance account attributable to contributions made
14 prior to January 1, 1984, that were transferred pursuant to the
15 act, the 1994 Group Annuity Mortality Table for males shall be
16 used;

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

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

5 (4) Cash balance benefit means a member's retirement
6 benefit that is equal to an amount based on annual employee
7 contribution credits plus interest credits and, if vested, employer
8 contribution credits plus interest credits and dividend amounts
9 credited in accordance with subdivision (4)(c) of section 84-1319;

10 (5)(a) Compensation means gross wages or salaries payable
11 to the member for personal services performed during the plan
12 year. Compensation does not include insurance premiums converted
13 into cash payments, reimbursement for expenses incurred, fringe
14 benefits, or bonuses for services not actually rendered, including,
15 but not limited to, early retirement inducements, cash awards,
16 and severance pay, except for retroactive salary payments paid
17 pursuant to court order, arbitration, or litigation and grievance
18 settlements. Compensation includes overtime pay, member retirement
19 contributions, and amounts contributed by the member to plans under
20 sections 125, 403(b), and 457 of the Internal Revenue Code or any
21 other section of the code which defers or excludes such amounts
22 from income.

23 (b) Compensation in excess of the limitations set forth
24 in section 401(a)(17) of the Internal Revenue Code shall be
25 disregarded. For an employee who was a member of the retirement

1 system before the first plan year beginning after December 31,
2 1995, the limitation on compensation shall not be less than the
3 amount which was allowed to be taken into account under the
4 retirement system as in effect on July 1, 1993;

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

7 (7) Defined contribution benefit means a member's
8 retirement benefit from a money purchase plan in which member
9 benefits equal annual contributions and earnings pursuant to
10 section 84-1310 and, if vested, employer contributions and earnings
11 pursuant to section 84-1311;

12 (8) Disability means an inability to engage in a
13 substantially gainful activity by reason of any medically
14 determinable physical or mental impairment which can be expected to
15 result in death or to be of long-continued and indefinite duration;

16 (9) Employee means any employee of the State Board of
17 Agriculture who is a member of the state retirement system on
18 July 1, 1982, and any person or officer employed by the State of
19 Nebraska whose compensation is paid out of state funds or funds
20 controlled or administered by a state department through any of
21 its executive or administrative officers when acting exclusively in
22 their respective official, executive, or administrative capacities.
23 Employee does not include (a) judges as defined in section 24-701,
24 (b) members of the Nebraska State Patrol, except for those members
25 of the Nebraska State Patrol who elected pursuant to section

1 60-1304 to remain members of the State Employees Retirement System
2 of the State of Nebraska, (c) employees of the University of
3 Nebraska, (d) employees of the state colleges, (e) employees
4 of community colleges, (f) employees of the Department of Labor
5 employed prior to July 1, 1984, and paid from funds provided
6 pursuant to Title III of the federal Social Security Act or
7 funds from other federal sources, (g) the Commissioner of Labor
8 employed prior to July 1, 1984, (h) employees of the State Board
9 of Agriculture who are not members of the state retirement system
10 on July 1, 1982, (i) the Nebraska National Guard air and army
11 technicians, (j) persons eligible for membership under the School
12 Retirement System of the State of Nebraska who have not elected
13 to become members of the retirement system pursuant to section
14 79-920 or been made members of the system pursuant to such section,
15 except that those persons so eligible and who as of September 2,
16 1973, are contributing to the State Employees Retirement System of
17 the State of Nebraska shall continue as members of such system,
18 ~~e~~ (k) employees of the Coordinating Commission for Postsecondary
19 Education who are eligible for and have elected to become members
20 of a qualified retirement program approved by the commission which
21 is commensurate with retirement programs at the University of
22 Nebraska, or (l) conservation officers of the Game and Parks
23 Commission, except for those officers who elected to remain members
24 of the State Employees Retirement System of the State of Nebraska.
25 Any individual appointed by the Governor may elect not to become

1 a member of the State Employees Retirement System of the State of
2 Nebraska;

3 (10) Employee contribution credit means an amount equal
4 to the member contribution amount required by section 84-1308;

5 (11) Employer contribution credit means an amount equal
6 to the employer contribution amount required by section 84-1309;

7 (12) Final account value means the value of a member's
8 account on the date the account is either distributed to the member
9 or used to purchase an annuity from the plan, which date shall
10 occur as soon as administratively practicable after receipt of a
11 valid application for benefits, but no sooner than forty-five days
12 after the member's termination;

13 (13) Five-year break in service means five consecutive
14 one-year breaks in service;

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

18 (15) Fund means the State Employees Retirement Fund
19 created by section 84-1309;

20 (16) Guaranteed investment contract means an investment
21 contract or account offering a return of principal invested plus
22 interest at a specified rate. For investments made after July
23 19, 1996, guaranteed investment contract does not include direct
24 obligations of the United States or its instrumentalities, bonds,
25 participation certificates or other obligations of the Federal

1 National Mortgage Association, the Federal Home Loan Mortgage
2 Corporation, or the Government National Mortgage Association,
3 or collateralized mortgage obligations and other derivative
4 securities. This subdivision shall not be construed to require the
5 liquidation of investment contracts or accounts entered into prior
6 to July 19, 1996;

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

12 (18) Interest credits means the amounts credited to the
13 employee cash balance account and the employer cash balance account
14 at the end of each day. Such interest credit for each account
15 shall be determined by applying the daily portion of the interest
16 credit rate to the account balance at the end of the previous day.
17 Such interest credits shall continue to be credited to the employee
18 cash balance account and the employer cash balance account after
19 a member ceases to be an employee, except that no such credit
20 shall be made with respect to the employee cash balance account
21 and the employer cash balance account for any day beginning on
22 or after the member's date of final account value. If benefits
23 payable to the member's surviving spouse or beneficiary are delayed
24 after the member's death, interest credits shall continue to be
25 credited to the employee cash balance account and the employer

1 cash balance account until such surviving spouse or beneficiary
2 commences receipt of a distribution from the plan;

3 (19) Member cash balance account means an account equal
4 to the sum of the employee cash balance account and, if vested,
5 the employer cash balance account and dividend amounts credited in
6 accordance with subdivision (4)(c) of section 84-1319;

7 (20) One-year break in service means a plan year during
8 which the member has not completed more than five hundred hours of
9 service;

10 (21) Participation means qualifying for and making the
11 required deposits to the retirement system during the course of a
12 plan year;

13 (22) Part-time employee means an employee who is employed
14 to work less than one-half of the regularly scheduled hours during
15 each pay period;

16 (23) Plan year means the twelve-month period beginning on
17 January 1 and ending on December 31;

18 (24) Prior service means service before January 1, 1964;

19 (25) Regular interest means the rate of interest earned
20 each calendar year commencing January 1, 1975, as determined by the
21 retirement board in conformity with actual and expected earnings on
22 the investments through December 31, 1984;

23 (26) Required contribution means the deduction to be made
24 from the compensation of employees as provided in section 84-1308;

25 (27) Retirement means qualifying for and accepting the

1 retirement benefit granted under the State Employees Retirement Act
2 after terminating employment;

3 (28) Retirement board or board means the Public Employees
4 Retirement Board;

5 (29) Retirement system means the State Employees
6 Retirement System of the State of Nebraska;

7 (30) Service means the actual total length of employment
8 as an employee and shall not be deemed to be interrupted by (a)
9 temporary or seasonal suspension of service that does not terminate
10 the employee's employment, (b) leave of absence authorized by
11 the employer for a period not exceeding twelve months, (c) leave
12 of absence because of disability, or (d) military service, when
13 properly authorized by the retirement board. Service does not
14 include any period of disability for which disability retirement
15 benefits are received under section 84-1317;

16 (31) State department means any department, bureau,
17 commission, or other division of state government not otherwise
18 specifically defined or exempted in the act, the employees and
19 officers of which are not already covered by a retirement plan;

20 (32) Surviving spouse means (a) the spouse married to
21 the member on the date of the member's death or (b) the spouse
22 or former spouse of the member if survivorship rights are provided
23 under a qualified domestic relations order filed with the board
24 pursuant to the Spousal Pension Rights Act. The spouse or former
25 spouse shall supersede the spouse married to the member on the

1 date of the member's death as provided under a qualified domestic
2 relations order. If the benefits payable to the spouse or former
3 spouse under a qualified domestic relations order are less than
4 the value of benefits entitled to the surviving spouse, the spouse
5 married to the member on the date of the member's death shall be
6 the surviving spouse for the balance of the benefits;

7 (33) Termination of employment occurs on the date on
8 which the agency which employs the member determines that the
9 member's employer-employee relationship with the State of Nebraska
10 is dissolved. The agency which employs the member shall notify
11 the board of the date on which such a termination has occurred.
12 Termination of employment does not occur if an employee whose
13 employer-employee relationship with the State of Nebraska is
14 dissolved enters into an employer-employee relationship with the
15 same or another agency of the State of Nebraska and there are
16 less than one hundred twenty days between the date when the
17 employee's employer-employee relationship ceased with the state and
18 the date when the employer-employee relationship commenced with
19 the same or another agency. It shall be the responsibility of the
20 current employer to notify the board of such change in employment
21 and provide the board with such information as the board deems
22 necessary. If the board determines that termination of employment
23 has not occurred and a termination benefit has been paid to a
24 member of the retirement system pursuant to section 84-1321, the
25 board shall require the member who has received such benefit to

1 repay the benefit to the retirement system; and

2 (34) Vesting credit means credit for years, or a fraction
3 of a year, of participation in another Nebraska governmental plan
4 for purposes of determining vesting of the employer account.

5 Sec. 39. Section 84-1503, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 84-1503 (1) It shall be the duty of the Public Employees
8 Retirement Board:

9 (a) To administer the retirement systems provided for in
10 the County Employees Retirement Act, the Judges Retirement Act, the
11 Nebraska Peace Officer Retirement Act, the Nebraska State Patrol
12 Retirement Act, the School Employees Retirement Act, and the State
13 Employees Retirement Act. The agency for the administration of the
14 retirement systems and under the direction of the board shall be
15 known and may be cited as the Nebraska Public Employees Retirement
16 Systems;

17 (b) To appoint a director to administer the systems under
18 the direction of the board. The appointment shall be subject to
19 the approval of the Governor and a majority of the Legislature.
20 The director shall be qualified by training and have at least five
21 years of experience in the administration of a qualified public
22 or private employee retirement plan. The director shall not be a
23 member of the board. The salary of the director shall be set by the
24 board. The director shall serve without term and may be removed by
25 the board;

1 (c) To provide for an equitable allocation of expenses
2 among the retirement systems administered by the board, and all
3 expenses shall be provided from the investment income earned by the
4 various retirement funds unless alternative sources of funds to pay
5 expenses are specified by law;

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

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

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

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

25 (h) To prescribe and furnish forms for the public

1 retirement system plan reports required to be filed pursuant
2 to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,
3 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987
4 and to notify the Nebraska Retirement Systems Committee of the
5 Legislature of the failure of any governmental entity to file such
6 reports.

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

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

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

18 (c) To adopt and promulgate rules and regulations for the
19 management of the board;

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

22 (e) To obtain, by a competitive, formal, and sealed
23 bidding process through the materiel division of the Department
24 of Administrative Services, actuarial services on behalf of the
25 State of Nebraska as may be necessary in the administration and

1 development of the retirement systems. Any contract for actuarial
2 services shall contain a provision allowing the actuary, without
3 prior approval of the board, to perform actuarial studies of the
4 systems as requested by entities other than the board, if notice,
5 which does not identify the entity or substance of the request, is
6 given to the board, all costs are paid by the requesting entity,
7 results are provided to the board upon being made public, and
8 such actuarial studies do not interfere with the actuary's ongoing
9 responsibility to the board. The term of the contract shall be
10 for up to three years. A competitive, formal, and sealed bidding
11 process shall be completed at least once in every three years,
12 unless the board determines that such a process would not be cost
13 effective under the circumstances and that the actuarial services
14 performed have been satisfactory, in which case the contract may
15 also contain an option for renewal without a competitive, formal,
16 and sealed bidding process for up to three additional years. An
17 actuary under contract for the State of Nebraska shall be a member
18 of the American Academy of Actuaries;

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

25 (g) To adopt and promulgate rules and regulations to

1 carry out the provisions of each retirement system described in
2 subdivision (1)(a) of this section, which shall include, but not
3 be limited to, the crediting of military service, direct rollover
4 distributions, and the acceptance of rollovers;

5 (h) To obtain, by a competitive, formal, and sealed
6 bidding process through the materiel division of the Department
7 of Administrative Services, auditing services for a separate
8 compliance audit of the retirement systems to be completed by
9 December 31, 2007, and from time to time thereafter at the request
10 of the Nebraska Retirement Systems Committee, to be completed not
11 more than every four years but not less than every ten years.
12 The compliance audit shall be in addition to the annual audit
13 conducted by the Auditor of Public Accounts. The compliance audit
14 shall include, but not be limited to, an examination of records,
15 files, and other documents and an evaluation of all policies and
16 procedures to determine compliance with all state and federal laws.
17 A copy of the compliance audit shall be given to the Governor, the
18 board, and the Nebraska Retirement Systems Committee and shall be
19 presented to the committee at a public hearing;

20 (i) To adopt and promulgate rules and regulations for the
21 adjustment of contributions or benefits, which shall include, but
22 not be limited to: (i) The procedures for refunding contributions,
23 adjusting future contributions or benefit payments, and requiring
24 additional contributions or repayment of benefits; (ii) the process
25 for a member, member's beneficiary, employee, or employer to

1 dispute an adjustment to contributions or benefits; and (iii)
2 notice provided to all affected persons. All notices shall be sent
3 prior to an adjustment and shall describe the process for disputing
4 an adjustment to contributions or benefits; and

5 (j) To administer all retirement system plans in a manner
6 which will maintain each plan's status as a qualified plan pursuant
7 to the Internal Revenue Code. The board shall adopt and promulgate
8 rules and regulations necessary or appropriate to maintain such
9 status including, but not limited to, rules or regulations which
10 restrict discretionary or optional contributions to a plan or which
11 limit distributions from a plan.

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

22 Sec. 40. Section 84-1511, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 84-1511 (1) The Public Employees Retirement Board shall
25 establish a comprehensive preretirement planning program for state

1 patrol officers, state employees, judges, county employees, and
2 school employees who are members of the retirement systems
3 established pursuant to the Class V School Employees Retirement
4 Act, the County Employees Retirement Act, the Judges Retirement
5 Act, the ~~School Employees~~ Nebraska Peace Officer Retirement Act,
6 the Nebraska State Patrol Retirement Act, the School Employees
7 Retirement Act, and the State Employees Retirement Act. The program
8 shall provide information and advice regarding the many changes
9 employees face upon retirement including, but not limited to,
10 changes in physical and mental health, housing, family life,
11 leisure activity, and retirement income.

12 (2) The preretirement planning program shall be available
13 to all employees who have attained the age of fifty or are within
14 five years of qualifying for retirement or early retirement under
15 their retirement systems.

16 (3) The preretirement planning program shall include
17 information on the federal and state income tax consequences of
18 the various annuity or retirement benefit options available to the
19 employee, information on social security benefits, information on
20 various local, state, and federal government programs and programs
21 in the private sector designed to assist elderly persons, and
22 information and advice the board deems valuable in assisting public
23 employees in the transition from public employment to retirement.

24 (4) The board shall work with the Department of Health
25 and Human Services, the personnel division of the Department

1 of Administrative Services, employee groups, and any other
2 governmental agency, including political subdivisions or bodies
3 whose services or expertise may enhance the development or
4 implementation of the preretirement planning program.

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

8 (6) The employer shall provide each eligible employee
9 leave with pay to attend up to two preretirement planning programs.
10 For purposes of this subsection, leave with pay shall mean a
11 day off paid by the employer and shall not mean vacation, sick,
12 personal, or compensatory time. An employee may choose to attend
13 a program more than twice, but such leave shall be at the expense
14 of the employee and shall be at the discretion of the employer.
15 An eligible employee shall not be entitled to attend more than
16 one preretirement planning program per fiscal year prior to actual
17 election of retirement.

18 (7) A nominal registration fee shall be charged each
19 person attending a preretirement planning program to cover the
20 costs for meals, meeting rooms, or other expenses incurred under
21 such program.

22 Sec. 41. Original sections 16-1014 and 84-1511, Reissue
23 Revised Statutes of Nebraska, and sections 84-1301 and 84-1503,
24 Revised Statutes Cumulative Supplement, 2006, are repealed.