

AMENDMENTS TO LB 916

Introduced by Nebraska Retirement Systems

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 14-2111, Revised Statutes Supplement,  
4 2011, is amended to read:

5           14-2111 (1) The board of directors of any metropolitan  
6 utilities district may also provide benefits for, insurance of, and  
7 annuities for the present and future employees and appointees of  
8 the district covering accident, disease, death, total and permanent  
9 disability, and retirement, all or any of them, under such terms  
10 and conditions as the board may deem proper and expedient from  
11 time to time. Any retirement plan adopted by the board of directors  
12 shall be upon some contributory basis requiring contributions by  
13 both the district and the employee or appointee, except that the  
14 district may pay the entire cost of the fund necessary to cover  
15 service rendered prior to the adoption of any new retirement plan.  
16 Any retirement plan shall take into consideration the benefits  
17 provided for employees and appointees of metropolitan utilities  
18 districts under the Social Security Act, and any benefits provided  
19 under a contributory retirement plan shall be supplemental to the  
20 benefits provided under the Social Security Act as defined in  
21 section 68-602 if the employees entitled to vote in a referendum  
22 vote in favor of old age and survivors' insurance coverage. To  
23 effectuate any plan adopted pursuant to this authority, the board

1 of directors of the district is empowered to establish and maintain  
2 reserves and funds, provide for insurance premiums and costs, and  
3 make such delegation as may be necessary to carry into execution  
4 the general powers granted by this section. ~~Payments~~ Except as  
5 provided in subsection (4) of this section, payments made to  
6 employees and appointees, under the authority in this section,  
7 shall be exempt from attachment or other legal process and shall  
8 not be assignable.

9 (2) Any retirement plan adopted by the board of directors  
10 of any metropolitan utilities district may allow the district  
11 to pick up the employee contribution required by this section  
12 for all compensation paid on or after January 1, 1986, and  
13 the contributions so picked up shall be treated as employer  
14 contributions in determining federal tax treatment under the  
15 Internal Revenue Code, except that the employer shall continue  
16 to withhold federal income taxes based upon such contributions  
17 until the Internal Revenue Service or the federal courts rule  
18 that, pursuant to section 414(h) of the Internal Revenue Code,  
19 such contributions shall not be included as gross income of the  
20 employee until such time as they are distributed or made available.  
21 The employer shall pay the employee contributions from the same  
22 source of funds which is used in paying earnings to the employees.  
23 The employer shall pick up the contributions by a salary deduction  
24 either through a reduction in the cash salary of the employee or  
25 a combination of a reduction in salary and offset against a future  
26 salary increase. Employee contributions picked up shall be treated  
27 in the same manner and to the same extent as employee contributions

1 made prior to the date picked up.

2 (3) (a) Beginning December 31, 1998, and each December 31  
3 thereafter, the chairperson of the board shall file with the Public  
4 Employees Retirement Board an annual report on each retirement  
5 plan established pursuant to this section and section 401(a) of  
6 the Internal Revenue Code and shall submit copies of such report  
7 to the Auditor of Public Accounts. The Auditor of Public Accounts  
8 may prepare a review of such report pursuant to section 84-304.02  
9 but is not required to do so. The annual report shall be in a  
10 form prescribed by the Public Employees Retirement Board and shall  
11 contain the following information for each such retirement plan:

12 (i) The number of persons participating in the retirement  
13 plan;

14 (ii) The contribution rates of participants in the plan;

15 (iii) Plan assets and liabilities;

16 (iv) The names and positions of persons administering the  
17 plan;

18 (v) The names and positions of persons investing plan  
19 assets;

20 (vi) The form and nature of investments;

21 (vii) For each defined contribution plan, a full  
22 description of investment policies and options available to plan  
23 participants; and

24 (viii) For each defined benefit plan, the levels of  
25 benefits of participants in the plan, the number of members who  
26 are eligible for a benefit, and the total present value of such  
27 members' benefits, as well as the funding sources which will pay

1 for such benefits.

2 If a plan contains no current active participants, the  
3 chairperson may file in place of such report a statement with the  
4 Public Employees Retirement Board indicating the number of retirees  
5 still drawing benefits, and the sources and amount of funding for  
6 such benefits.

7 (b) Beginning December 31, 1998, and every four years  
8 thereafter, if such retirement plan is a defined benefit plan,  
9 the board of directors of any metropolitan utilities district  
10 shall cause to be prepared a quadrennial report and shall file  
11 the same with the Public Employees Retirement Board and submit  
12 to the Auditor of Public Accounts a copy of such report. The  
13 Auditor of Public Accounts may prepare a review of such report  
14 pursuant to section 84-304.02 but is not required to do so. The  
15 report shall consist of a full actuarial analysis of each such  
16 retirement plan established pursuant to this section. The analysis  
17 shall be prepared by an independent private organization or public  
18 entity employing actuaries who are members in good standing of the  
19 American Academy of Actuaries, and which organization or entity  
20 has demonstrated expertise to perform this type of analysis and is  
21 unrelated to any organization offering investment advice or which  
22 provides investment management services to the retirement plan.

23 (4) If an employee or appointee is convicted of or  
24 pleads no contest to a felony that is defined as assault, sexual  
25 assault, kidnapping, child abuse, false imprisonment, or theft  
26 by embezzlement and is found liable for civil damages as a  
27 result of such felony, following distribution of the employee's

1 or appointee's benefits or annuities from the retirement plan,  
2 the court may order the payment of the employee's or appointee's  
3 benefits or annuities under the retirement plan for such civil  
4 damages, except that the benefits or annuities to the extent  
5 reasonably necessary for the support of the employee or appointee  
6 or any of his or her beneficiaries shall be exempt from such  
7 payment. Any order for payment of benefits or annuities shall not  
8 be stayed on the filing of any appeal of the conviction. If the  
9 conviction is reversed on final judgment, all benefits or annuities  
10 paid as civil damages shall be forfeited and returned to the  
11 employee or appointee. The changes made to this section by this  
12 legislative bill shall apply to persons convicted of or who have  
13 pled no contest to such a felony and who have been found liable for  
14 civil damages as a result of such felony prior to, on, or after the  
15 effective date of this act.

16           Sec. 2. Section 16-1019, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           16-1019 (1) The Except as provided in subsection (6) of  
19 this section, the right to any benefits under the retirement system  
20 and the assets of any fund of the retirement system shall not  
21 be assignable or subject to execution, garnishment, attachment, or  
22 the operation of any bankruptcy or insolvency laws, except that  
23 the retirement system may comply with the directions set forth  
24 in a qualified domestic relations order meeting the requirements  
25 of section 414(p) of the Internal Revenue Code. Any payment of  
26 benefits subject to such order shall take priority over any  
27 payment made pursuant to subsection (6) of this section. The

1 city or retirement committee may require appropriate releases from  
2 any person as a condition to complying with any such order.  
3 The retirement system shall not recognize any domestic relations  
4 order which alters or changes benefits, provides for a form of  
5 benefit not otherwise provided for by the retirement system,  
6 increases benefits not otherwise provided by the retirement system,  
7 or accelerates or defers the time of payment of benefits. No  
8 participant or beneficiary shall have any right to any specific  
9 portion of the assets of the retirement system.

10 (2) The retirement system shall be administered in a  
11 manner necessary to comply with the tax-qualification requirements  
12 applicable to government retirement plans under section 401(a) of  
13 the Internal Revenue Code, including section 401(a)(9) relating  
14 to the time and manner in which benefits are required to  
15 be distributed, section 401(a)(16) relating to compliance with  
16 the maximum limitation on the plan benefits or contributions  
17 under section 415, section 401(a)(17) which limits the amount of  
18 compensation which can be taken into account under a retirement  
19 plan, and section 401(a)(25) relating to the specification of  
20 actuarial assumptions. Any requirements for compliance with section  
21 401(a) of the Internal Revenue Code may be set forth in any  
22 trust or funding medium for the retirement system. This subsection  
23 shall be in full force and effect only so long as conformity with  
24 section 401(a) of the Internal Revenue Code is required for public  
25 retirement systems in order to secure the favorable income tax  
26 treatment extended to sponsors and beneficiaries of tax-qualified  
27 retirement plans.

1           (3) If the retirement committee determines that the  
2 retirement system has previously overpaid or underpaid a benefit  
3 payable under sections 16-1001 to 16-1019, it shall have the  
4 power to correct such error. In the event of an overpayment, the  
5 retirement system may, in addition to any other remedy that the  
6 retirement system may possess, offset future benefit payments by  
7 the amount of the prior overpayment, together with regular interest  
8 thereon.

9           (4) A police officer whose benefit payment is adjusted by  
10 the retirement committee pursuant to subsection (3) of this section  
11 may request a review by the city council of the adjustment made by  
12 the retirement committee.

13           (5) In order to provide the necessary amounts to pay  
14 for or fund a pension plan established under sections 16-1001 to  
15 16-1019, the mayor and council may make a levy which is within the  
16 levy restrictions of section 77-3442.

17           (6) If a member of the retirement system is convicted of  
18 or pleads no contest to a felony that is defined as assault, sexual  
19 assault, kidnapping, child abuse, false imprisonment, or theft by  
20 embezzlement and is found liable for civil damages as a result of  
21 such felony, following distribution of the member's benefits earned  
22 or the assets of any fund of the member from the retirement system,  
23 the court may order the payment of the member's benefits earned or  
24 the assets of any fund of the member under the retirement system  
25 for such civil damages, except that the benefits or assets to the  
26 extent reasonably necessary for the support of the member or any  
27 of his or her beneficiaries shall be exempt from such payment. Any

1 order for payment of benefits or assets shall not be stayed on  
2 the filing of any appeal of the conviction. If the conviction is  
3 reversed on final judgment, all benefits or assets paid as civil  
4 damages shall be forfeited and returned to the member. The changes  
5 made to this section by this legislative bill shall apply to  
6 persons convicted of or who have pled no contest to such a felony  
7 and who have been found liable for civil damages as a result of  
8 such felony prior to, on, or after the effective date of this act.

9           Sec. 3. Section 16-1038, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           16-1038 (1) The Except as provided in subsection (6) of  
12 this section, the right to any benefits under the retirement system  
13 and the assets of any fund of the retirement system shall not  
14 be assignable or subject to execution, garnishment, attachment, or  
15 the operation of any bankruptcy or insolvency laws, except that  
16 the retirement system may comply with the directions set forth  
17 in a qualified domestic relations order meeting the requirements  
18 of section 414(p) of the Internal Revenue Code. Any payment of  
19 benefits subject to such order shall take priority over any  
20 payment made pursuant to subsection (6) of this section. The  
21 city or retirement committee may require appropriate releases from  
22 any person as a condition to complying with any such order.  
23 The retirement system shall not recognize any domestic relations  
24 order which alters or changes benefits, provides for a form of  
25 benefit not otherwise provided for by the retirement system,  
26 increases benefits not otherwise provided by the retirement system,  
27 or accelerates or defers the time of payment of benefits. No

1 participant or beneficiary shall have any right to any specific  
2 portion of the assets of the retirement system.

3           (2) The retirement system shall be administered in a  
4 manner necessary to comply with the tax-qualification requirements  
5 applicable to government retirement plans under section 401(a) of  
6 the Internal Revenue Code, including section 401(a)(9) relating  
7 to the time and manner in which benefits are required to  
8 be distributed, section 401(a)(16) relating to compliance with  
9 the maximum limitation on the plan benefits or contributions  
10 under section 415, section 401(a)(17) which limits the amount of  
11 compensation which can be taken into account under a retirement  
12 plan, section 401(a)(25) relating to the specification of actuarial  
13 assumptions, and section 401(a)(31) relating to direct rollover  
14 distribution from qualified retirement plans. Any requirements for  
15 compliance with section 401(a) of the Internal Revenue Code may  
16 be set forth in any trust or funding medium for the retirement  
17 system. This subsection shall be in full force and effect only so  
18 long as conformity with section 401(a) of the Internal Revenue  
19 Code is required for public retirement systems in order to  
20 secure the favorable income tax treatment extended to sponsors  
21 and beneficiaries of tax-qualified retirement plans.

22           (3) If the retirement committee determines that the  
23 retirement system has previously overpaid or underpaid a benefit  
24 payable under sections 16-1020 to 16-1042, it shall have the  
25 power to correct such error. In the event of an overpayment, the  
26 retirement system may, in addition to any other remedy that the  
27 retirement system may possess, offset future benefit payments by

1 the amount of the prior overpayment, together with regular interest  
2 thereon.

3 (4) A firefighter whose benefit payment is adjusted by  
4 the retirement committee pursuant to subsection (3) of this section  
5 may request a review by the city council of the adjustment made by  
6 the retirement committee.

7 (5) In order to provide the necessary amounts to pay  
8 for or fund a pension plan established under sections 16-1020 to  
9 16-1042, the mayor and council may make a levy which is within the  
10 levy restrictions of section 77-3442.

11 (6) If a member of the retirement system is convicted of  
12 or pleads no contest to a felony that is defined as assault, sexual  
13 assault, kidnapping, child abuse, false imprisonment, or theft by  
14 embezzlement and is found liable for civil damages as a result of  
15 such felony, following distribution of the member's benefits earned  
16 or the assets of any fund of the member from the retirement system,  
17 the court may order the payment of the member's benefits earned or  
18 the assets of any fund of the member under the retirement system  
19 for such civil damages, except that the benefits or assets to the  
20 extent reasonably necessary for the support of the member or any  
21 his or her beneficiaries shall be exempt from such payment. Any  
22 order for payment of benefits or assets shall not be stayed on  
23 the filing of any appeal of the conviction. If the conviction is  
24 reversed on final judgment, all benefits or assets paid as civil  
25 damages shall be forfeited and returned to the member. The changes  
26 made to this section by this legislative bill shall apply to  
27 persons convicted of or who have pled no contest to such a felony

1 and who have been found liable for civil damages as a result of  
2 such felony prior to, on, or after the effective date of this act.

3           Sec. 4. Section 23-2301, Revised Statutes Supplement,  
4 2011, is amended to read:

5           23-2301 For purposes of the County 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;

26           (3) Annuity start date means the date upon which a  
27 member's annuity is first effective and shall be the first day of

1 the month following the member's termination or following the date  
2 the application is received by the board, whichever is later;

3 (4) Cash balance benefit means a member's retirement  
4 benefit that is equal to an amount based on annual employee  
5 contribution credits plus interest credits and, if vested, employer  
6 contribution credits plus interest credits and dividend amounts  
7 credited in accordance with subdivision (4)(c) of section 23-2317;

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

21 (b) Compensation in excess of the limitations set forth  
22 in section 401(a)(17) of the Internal Revenue Code shall be  
23 disregarded. For an employee who was a member of the retirement  
24 system before the first plan year beginning after December 31,  
25 1995, the limitation on compensation shall not be less than the  
26 amount which was allowed to be taken into account under the  
27 retirement system as in effect on July 1, 1993;

1           (6) Date of adoption of the retirement system by each  
2 county means the first day of the month next following the date of  
3 approval of the retirement system by the county board or January 1,  
4 1987, whichever is earlier;

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

7           (8) 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 23-2309 and, if vested, employer contributions and earnings  
11 pursuant to section 23-2310;

12           (9) 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 be of a long and indefinite duration;

16           (10) Employee means all persons or officers who are  
17 employed by a county of the State of Nebraska on a permanent basis,  
18 persons or officers employed by or serving in a municipal county  
19 formed by at least one county participating in the retirement  
20 system, persons employed as provided in section 2-1608, all elected  
21 officers of a county, and such other persons or officers as are  
22 classified from time to time as permanent employees by the county  
23 board of the county by which they are employed, except that  
24 employee does not include judges, employees or officers of any  
25 county having a population in excess of one hundred fifty thousand  
26 inhabitants, or, except as provided in section 23-2306, persons  
27 making contributions to the School Employees Retirement System of

1 the State of Nebraska;

2 (11) Employee contribution credit means an amount equal  
3 to the member contribution amount required by section 23-2307;

4 (12) Employer contribution credit means an amount equal  
5 to the employer contribution amount required by section 23-2308;

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

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

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

17 (16) Future service means service following the date of  
18 adoption of the retirement system;

19 (17) Guaranteed investment contract means an investment  
20 contract or account offering a return of principal invested plus  
21 interest at a specified rate. For investments made after July  
22 19, 1996, guaranteed investment contract does not include direct  
23 obligations of the United States or its instrumentalities, bonds,  
24 participation certificates or other obligations of the Federal  
25 National Mortgage Association, the Federal Home Loan Mortgage  
26 Corporation, or the Government National Mortgage Association,  
27 or collateralized mortgage obligations and other derivative

1 securities. This subdivision shall not be construed to require the  
2 liquidation of investment contracts or accounts entered into prior  
3 to July 19, 1996;

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

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

25 (20) Member cash balance account means an account equal  
26 to the sum of the employee cash balance account and, if vested,  
27 the employer cash balance account and dividend amounts credited in

1 accordance with subdivision (4) (c) of section 23-2317;

2 (21) One-year break in service means a plan year during  
3 which the member has not completed more than five hundred hours of  
4 service;

5 (22) Participation means qualifying for and making the  
6 required deposits to the retirement system during the course of a  
7 plan year;

8 (23) Part-time employee means an employee who is employed  
9 to work less than one-half of the regularly scheduled hours during  
10 each pay period;

11 (24) Plan year means the twelve-month period beginning on  
12 January 1 and ending on December 31;

13 (25) Prior service means service prior to the date of  
14 adoption of the retirement system;

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

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

21 (28) Retirement means qualifying for and accepting  
22 the retirement benefit granted under the act after terminating  
23 employment;

24 (29) Retirement board or board means the Public Employees  
25 Retirement Board;

26 (30) Retirement system means the Retirement System for  
27 Nebraska Counties;

1           (31) Service means the actual total length of employment  
2 as an employee and is not deemed to be interrupted by (a) temporary  
3 or seasonal suspension of service that does not terminate the  
4 employee's employment, (b) leave of absence authorized by the  
5 employer for a period not exceeding twelve months, (c) leave  
6 of absence because of disability, or (d) military service, when  
7 properly authorized by the retirement board. Service does not  
8 include any period of disability for which disability retirement  
9 benefits are received under section 23-2315;

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

22           (33) Termination of employment occurs on the date on  
23 which a county which is a member of the retirement system  
24 determines that its employer-employee relationship with an employee  
25 is dissolved. The county shall notify the board of the date on  
26 which such a termination has occurred. Termination of employment  
27 does not occur if an employee whose employer-employee relationship

1 with a county is dissolved enters into an employer-employee  
2 relationship with the same or another county which participates  
3 in the Retirement System for Nebraska Counties and there are less  
4 than one hundred twenty days between the date when the employee's  
5 employer-employee relationship ceased with the county and the date  
6 when the employer-employee relationship commenced with the same or  
7 another county which qualifies the employee for participation in  
8 the plan. It ~~shall be~~ is the responsibility of the ~~current~~ employer  
9 that is involved in the termination of employment to notify the  
10 board of such change in employment and provide the board with such  
11 information as the board deems necessary. If the board determines  
12 that termination of employment has not occurred and a ~~termination~~  
13 retirement benefit has been paid to a member of the retirement  
14 system pursuant to section 23-2319, the board shall require the  
15 member who has received such benefit to repay the benefit to the  
16 retirement system; and

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

20 Sec. 5. Section 23-2308, Revised Statutes Supplement,  
21 2011, is amended to read:

22 23-2308 (1) The County Employees Retirement Fund is  
23 created. The fund shall be administered by the board and shall  
24 consist of contributions and other such sums as provided in section  
25 23-2302. Any money in the fund available for investment shall be  
26 invested by the state investment officer pursuant to the Nebraska  
27 Capital Expansion Act and the Nebraska State Funds Investment Act.

1           (2) The county clerk shall pay to the board or an entity  
2 designated by the board an amount equal to two hundred fifty  
3 percent of the amounts deducted from the compensation of employees  
4 in accordance with the provisions of section 23-2307, which two  
5 hundred fifty percent equals the employees' contributions plus  
6 the county's contributions of one hundred fifty percent of the  
7 employees' contributions.

8           (3) The board may charge the county an administrative  
9 processing fee of twenty-five dollars if the reports of necessary  
10 information or payments made pursuant to this section are received  
11 later than the date on which the board requires that such  
12 information or money should be received. In addition, the board may  
13 charge the county a late fee of thirty-eight thousandths of one  
14 percent of the amount required to be submitted pursuant to this  
15 section for each day such amount has not been received or in an  
16 amount equal to the amount of any costs incurred by the member due  
17 to the late receipt of contributions, whichever is greater. The  
18 late fee may be used to make a member's account whole for any costs  
19 that may have been incurred by the member due to the late receipt  
20 of contributions.

21           The Department of Administrative Services may, for  
22 accounting purposes, create subfunds of the County Employees  
23 Retirement Fund to separately account for defined contribution and  
24 cash balance plan assets.

25           Sec. 6. Section 23-2308.01, Revised Statutes Supplement,  
26 2011, is amended to read:

27           23-2308.01 (1) It is the intent of the Legislature that,

1 in order to improve the competitiveness of the retirement plan  
2 for county employees, a cash balance benefit shall be added to  
3 the County Employees Retirement Act on and after January 1, 2003.  
4 Each member who is employed and participating in the retirement  
5 system prior to January 1, 2003, may either elect to continue  
6 participation in the defined contribution benefit as provided in  
7 the act prior to January 1, 2003, or elect to participate in the  
8 cash balance benefit as set forth in this section. The active  
9 member shall make ~~the~~ a one-time election prior to January 1,  
10 2003, or on or after ~~November 1, 2007, but before January 1, 2008~~  
11 September 1, 2012, through October 31, 2012. If no such election  
12 is made prior to January 1, 2003, or on or after ~~November 1, 2007,~~  
13 ~~but before January 1, 2008,~~ September 1, 2012, through October  
14 31, 2012, the member shall be treated as though he or she elected  
15 to continue participating in the defined contribution benefit as  
16 provided in the act prior to January 1, 2003. Members who elect  
17 to participate in the cash balance benefit on or after ~~November~~  
18 ~~1, 2007, but before January 1, 2008,~~ September 1, 2012, through  
19 October 31, 2012, shall commence participation in the cash balance  
20 benefit on January ~~1, 2008.~~ 2, 2013. Any member who made the  
21 election prior to January 1, 2003, the effective date of this act  
22 does not have to reelect the cash balance benefit on or after  
23 ~~November~~ September 1, 2012, through October 31, 2012. ~~2007, but~~  
24 ~~before January 1, 2008.~~ A member employed and participating in  
25 the retirement system prior to January 1, 2003, who terminates  
26 employment on or after January 1, 2003, and returns to employment  
27 prior to having a five-year break in service shall participate in

1 ~~the cash balance benefit as set forth in this section.~~

2 (2) For a member employed and participating in the  
3 retirement system beginning on and after January 1, 2003, or a  
4 member employed and participating in the retirement system on  
5 January 1, 2003, who, prior to ~~January 1, 2003,~~ the effective date  
6 of this act or on or after ~~November 1, 2007,~~ but before January  
7 1, 2008, September 1, 2012, through October 31, 2012, elects to  
8 convert his or her employee and employer accounts to the cash  
9 balance benefit:

10 (a) Except as provided in subdivision (2)(b) of section  
11 23-2319.01, the employee cash balance account within the County  
12 Employees Retirement Fund shall, at any time, be equal to the  
13 following:

14 (i) The initial employee account balance, if any,  
15 transferred from the defined contribution plan account described in  
16 section 23-2309; plus

17 (ii) Employee contribution credits deposited in  
18 accordance with section 23-2307; plus

19 (iii) Interest credits credited in accordance with  
20 subdivision (19) of section 23-2301; plus

21 (iv) Dividend amounts credited in accordance with  
22 subdivision (4)(c) of section 23-2317; and

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

25 (i) The initial employer account balance, if any,  
26 transferred from the defined contribution plan account described in  
27 section 23-2310; plus

1           (ii) Employer contribution credits deposited in  
2 accordance with section 23-2308; plus

3           (iii) Interest credits credited in accordance with  
4 subdivision (19) of section 23-2301; plus

5           (iv) Dividend amounts credited in accordance with  
6 subdivision (4)(c) of section 23-2317.

7           (3) In order to carry out the provisions of this section,  
8 the board may enter into administrative services agreements for  
9 accounting or record-keeping services. No agreement shall be  
10 entered into unless the board determines that it will result  
11 in administrative economy and will be in the best interests of the  
12 counties and their participating employees. The board may develop  
13 a schedule for the allocation of the administrative services  
14 agreements costs for accounting or record-keeping services and may  
15 assess the costs so that each member pays a reasonable fee as  
16 determined by the board.

17           Sec. 7. Section 23-2309.01, Revised Statutes Cumulative  
18 Supplement, 2010, is amended to read:

19           23-2309.01 (1) Each member employed and participating in  
20 the retirement system prior to January 1, 2003, who has elected  
21 not to participate in the cash balance benefit, shall be allowed  
22 to allocate all contributions to his or her employee account to  
23 various investment options. The investment options shall include,  
24 but not be limited to, the following:

25           (a) An investor select account which shall be invested  
26 under the direction of the state investment officer with an asset  
27 allocation and investment strategy substantially similar to the

1 investment allocations made by the state investment officer for  
2 the defined benefit plans under the retirement systems described  
3 in subdivision (1)(a) of section 84-1503. Investments shall most  
4 likely include domestic and international equities, fixed income  
5 investments, and real estate, as well as potentially additional  
6 asset classes;

7 (b) A stable return account which shall be invested by or  
8 under the direction of the state investment officer in one or more  
9 guaranteed investment contracts;

10 (c) An equities account which shall be invested by or  
11 under the direction of the state investment officer in equities;

12 (d) A balanced account which shall be invested by or  
13 under the direction of the state investment officer in equities and  
14 fixed income instruments;

15 (e) An index fund account which shall be invested by or  
16 under the direction of the state investment officer in a portfolio  
17 of common stocks designed to closely duplicate the total return of  
18 the Standard and Poor's division of The McGraw-Hill Companies, Inc.  
19 500 Index;

20 (f) A fixed income account which shall be invested by or  
21 under the direction of the state investment officer in fixed income  
22 instruments;

23 (g) A money market account which shall be invested by or  
24 under the direction of the state investment officer in short-term  
25 fixed income securities; and

26 (h) Beginning July 1, 2006, an age-based account which  
27 shall be invested under the direction of the state investment

1 officer with an asset allocation and investment strategy that  
2 changes based upon the age of the member. The board shall  
3 develop an account mechanism that changes the investments as  
4 the employee nears retirement age. The asset allocation and asset  
5 classes utilized in the investments shall move from aggressive, to  
6 moderate, and then to conservative as retirement age approaches.

7 If a member fails to select an option or combination of  
8 options, all of his or her funds shall be placed in the option  
9 described in subdivision (b) of this subsection. Each member shall  
10 be given a detailed current description of each investment option  
11 prior to making or revising his or her allocation.

12 (2) Members of the retirement system may allocate their  
13 contributions to the investment options in percentage increments as  
14 set by the board in any proportion, including full allocation to  
15 any one option. A member under subdivision ~~(1)~~ (1)(a) of section  
16 23-2321 or his or her beneficiary may transfer any portion of  
17 his or her funds among the options, except for restrictions on  
18 transfers to or from the stable return account pursuant to rule  
19 or regulation. The board shall adopt and promulgate rules and  
20 regulations for changes of a member's allocation of contributions  
21 to his or her accounts after his or her most recent allocation and  
22 for transfers from one investment account to another.

23 (3) The board shall develop a schedule for the allocation  
24 of administrative costs of maintaining the various investment  
25 options and shall assess the costs so that each member pays a  
26 reasonable fee as determined by the board.

27 (4) In order to carry out this section, the board

1 may enter into administrative services agreements for accounting  
2 or record-keeping services. No agreement shall be entered into  
3 unless the board determines that it will result in administrative  
4 economy and will be in the best interests of the county and its  
5 participating employees.

6 (5) The state, the board, the state investment officer,  
7 the members of the Nebraska Investment Council, or the county  
8 shall not be liable for any investment results resulting from  
9 the member's exercise of control over the assets in the employee  
10 account.

11 Sec. 8. Section 23-2310.05, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 23-2310.05 (1) Each member employed and participating in  
14 the retirement system prior to January 1, 2003, who has elected  
15 not to participate in the cash balance benefit, shall be allowed  
16 to allocate all contributions to his or her employer account to  
17 various investment options. Such investment options shall be the  
18 same as the investment options of the employee account as provided  
19 in subsection (1) of section 23-2309.01. If a member fails to  
20 select an option or combination of options, all of his or her funds  
21 in the employer account shall be placed in the balanced account  
22 option described in subdivision (1)(d) of section 23-2309.01.  
23 Each member shall be given a detailed current description of  
24 each investment option prior to making or revising his or her  
25 allocation.

26 (2) Each member of the retirement system may allocate  
27 contributions to his or her employer account to the investment

1 options in percentage increments as set by the board in any  
2 proportion, including full allocation to any one option. A member  
3 under subdivision ~~(1)~~ (1)(a) of section 23-2321 or his or her  
4 beneficiary may transfer any portion of his or her funds among the  
5 options. The board shall adopt and promulgate rules and regulations  
6 for changes of a member's allocation of contributions to his or her  
7 accounts after his or her most recent allocation and for transfers  
8 from one investment account to another.

9 (3) The board shall develop a schedule for the allocation  
10 of administrative costs of maintaining the various investment  
11 options and shall assess the costs so that each member pays a  
12 reasonable fee as determined by the board.

13 (4) In order to carry out the provisions of this section,  
14 the board may enter into administrative services agreements for  
15 accounting or record-keeping services. No agreement shall be  
16 entered into unless the board determines that it will result  
17 in administrative economy and will be in the best interests of the  
18 state and participating employees.

19 (5) The state, the board, the state investment officer,  
20 the members of the Nebraska Investment Council, or the county  
21 shall not be liable for any investment results resulting from  
22 the member's exercise of control over the assets in the employer  
23 account.

24 Sec. 9. Section 23-2317, Revised Statutes Cumulative  
25 Supplement, 2010, is amended to read:

26 23-2317 (1) The future service retirement benefit shall  
27 be an annuity, payable monthly with the first payment made no

1 earlier than the annuity start date, which shall be the actuarial  
2 equivalent of the retirement value as specified in section 23-2316  
3 based on factors determined by the board, except that gender shall  
4 not be a factor when determining the amount of such payments  
5 pursuant to subsection (2) of this section.

6           Except as provided in section 42-1107, at any time before  
7 the annuity start date, the retiring employee may choose to receive  
8 his or her annuity either in the form of an annuity as provided  
9 under subsection (4) of this section or any optional form that is  
10 determined by the board.

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

20           In any case, the amount of the monthly payment shall  
21 be such that the annuity chosen shall be the actuarial equivalent  
22 of the retirement value as specified in section 23-2316 except as  
23 provided in this section.

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

1 retirement benefit options.

2 (2) Except as provided in subsection (4) of this section,  
3 the monthly income payable to a member retiring on or after January  
4 1, 1984, shall be as follows:

5 He or she shall receive at retirement the amount which  
6 may be purchased by the accumulated contributions based on annuity  
7 rates in effect on the annuity start date which do not utilize  
8 gender as a factor, except that such amounts shall not be less  
9 than the retirement income which can be provided by the sum of  
10 the amounts derived pursuant to subdivisions (a) and (b) of this  
11 subsection as follows:

12 (a) The income provided by the accumulated contributions  
13 made prior to January 1, 1984, based on male annuity purchase rates  
14 in effect on the date of purchase; and

15 (b) The income provided by the accumulated contributions  
16 made on and after January 1, 1984, based on the annuity purchase  
17 rates in effect on the date of purchase which do not use gender as  
18 a factor.

19 (3) Any amount, in excess of contributions, which may be  
20 required in order to purchase the retirement income specified in  
21 subsection (2) of this section shall be withdrawn from the County  
22 Equal Retirement Benefit Fund.

23 (4) (a) The normal form of payment shall be a single life  
24 annuity with five-year certain, which is an annuity payable monthly  
25 during the remainder of the member's life with the provision that,  
26 in the event of his or her death before sixty monthly payments  
27 have been made, the monthly payments will be continued to his or

1 her estate or to the beneficiary he or she has designated until  
2 sixty monthly payments have been made in total. Such annuity shall  
3 be equal to the actuarial equivalent of the member cash balance  
4 account or the sum of the employee and employer accounts, whichever  
5 is applicable, as of the date of final account value. As a part  
6 of the annuity, the normal form of payment may include a two and  
7 one-half percent cost-of-living adjustment purchased by the member,  
8 if the member elects such a payment option.

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

13           For a member employed and participating in the retirement  
14 system prior to January 1, 2003, who has elected to participate  
15 in the cash balance benefit pursuant to section 23-2308.01, or  
16 for a member employed and participating in the retirement system  
17 beginning on and after January 1, 2003, the balance of his or her  
18 member cash balance account as of the date of final account value  
19 shall be converted to an annuity using an interest rate used in the  
20 actuarial valuation as recommended by the actuary and approved by  
21 the board.

22           For an employee who is a member prior to January 1, 2003,  
23 who has elected not to participate in the cash balance benefit  
24 ~~prior to January 1, 2003, or on or after November 1, 2007, but~~  
25 ~~before January 1, 2008,~~ pursuant to section 23-2308.01, and who,  
26 at the time of retirement, chooses the annuity option rather than  
27 the lump-sum option, his or her employee and employer accounts

1 as of the date of final account value shall be converted to an  
2 annuity using an interest rate that is equal to the lesser of  
3 (i) the Pension ~~Benefits Guarantee~~ Benefit Guaranty Corporation  
4 initial interest rate for valuing annuities for terminating plans  
5 as of the beginning of the year during which payment begins plus  
6 three-fourths of one percent or (ii) the interest rate used in the  
7 actuarial valuation as recommended by the actuary and approved by  
8 the board.

9 (b) For the calendar year beginning January 1, 2003, and  
10 each calendar year thereafter, the actuary for the board shall  
11 perform an actuarial valuation of the system using the entry  
12 age actuarial cost method. Under this method, the actuarially  
13 required funding rate is equal to the normal cost rate plus the  
14 contribution rate necessary to amortize the unfunded actuarial  
15 accrued liability on a level-payment basis. The normal cost under  
16 this method shall be determined for each individual member on  
17 a level percentage of salary basis. The normal cost amount is  
18 then summed for all members. The initial unfunded actual accrued  
19 liability as of January 1, 2003, if any, shall be amortized  
20 over a twenty-five-year period. During each subsequent actuarial  
21 valuation, changes in the unfunded actuarial accrued liability  
22 due to changes in benefits, actuarial assumptions, the asset  
23 valuation method, or actuarial gains or losses shall be measured  
24 and amortized over a twenty-five-year period beginning on the  
25 valuation date of such change. If the unfunded actuarial accrued  
26 liability under the entry age actuarial cost method is zero or  
27 less than zero on an actuarial valuation date, then all prior

1 unfunded actuarial accrued liabilities shall be considered fully  
2 funded and the unfunded actuarial accrued liability shall be  
3 reinitialized and amortized over a twenty-five-year period as  
4 of the actuarial valuation date. If the actuarially required  
5 contribution rate exceeds the rate of all contributions required  
6 pursuant to the County Employees Retirement Act, there shall be  
7 a supplemental appropriation sufficient to pay for the difference  
8 between the actuarially required contribution rate and the rate of  
9 all contributions required pursuant to the act.

10 (c) If the unfunded accrued actuarial liability under the  
11 entry age actuarial cost method is less than zero on an actuarial  
12 valuation date, and on the basis of all data in the possession  
13 of the retirement board, including such mortality and other tables  
14 as are recommended by the actuary engaged by the retirement board  
15 and adopted by the retirement board, the retirement board may  
16 elect to pay a dividend to all members participating in the  
17 cash balance option in an amount that would not increase the  
18 actuarial contribution rate above ninety percent of the actual  
19 contribution rate. Dividends shall be credited to the employee cash  
20 balance account and the employer cash balance account based on the  
21 account balances on the actuarial valuation date. In the event a  
22 dividend is granted and paid after the actuarial valuation date,  
23 interest for the period from the actuarial valuation date until the  
24 dividend is actually paid shall be paid on the dividend amount. The  
25 interest rate shall be the interest credit rate earned on regular  
26 contributions.

27 (5) At the option of the retiring member, any lump sum

1 or annuity provided under this section or section 23-2334 may be  
2 deferred to commence at any time, except that no benefit shall be  
3 deferred later than April 1 of the year following the year in which  
4 the employee has both attained at least seventy and one-half years  
5 of age and has terminated his or her employment with the county,  
6 except that for members participating in the defined contribution  
7 benefit, no distribution is required to be made for the plan  
8 year commencing January 1, 2009, through December 31, 2009. Such  
9 election by the retiring member may be made at any time prior to  
10 the commencement of the lump-sum or annuity payments.

11           Sec. 10. Section 23-2319.01, Revised Statutes Supplement,  
12 2011, is amended to read:

13           23-2319.01 (1) For a member who has terminated employment  
14 and is not vested, the balance of the member's employer account  
15 or employer cash balance account shall be forfeited. The forfeited  
16 account shall be credited to the County Employees Retirement Fund  
17 and shall first be used to meet the expense charges incurred  
18 by the retirement board in connection with administering the  
19 retirement system, which charges shall be credited to the County  
20 Employees Defined Contribution Retirement Expense Fund, if the  
21 member participated in the defined contribution option, or to  
22 the County Employees Cash Balance Retirement Expense Fund, if the  
23 member participated in the cash balance option, and the remainder,  
24 if any, shall then be used ~~to reduce the county contribution~~  
25 ~~which would otherwise be required to fund future service retirement~~  
26 ~~benefits or~~ to restore employer accounts or employer cash balance  
27 accounts. ~~No~~ Except as provided in subdivision (4)(c) of section

1 23-2317, no forfeited amounts shall be applied to increase the  
2 benefits any member would otherwise receive under the County  
3 Employees Retirement Act.

4 (2) (a) If a member ceases to be an employee due to  
5 the termination of his or her employment by the county and a  
6 grievance or other appeal of the termination is filed, transactions  
7 involving forfeiture of his or her employer account or employer  
8 cash balance account and, except as provided in subdivision (b)  
9 of this subsection, transactions for payment of benefits under  
10 sections 23-2315 and 23-2319 shall be suspended pending the final  
11 outcome of the grievance or other appeal.

12 (b) If a member elects to receive benefits payable under  
13 sections 23-2315 and 23-2319 after a grievance or appeal is filed,  
14 the member may receive an amount up to the balance of his or  
15 her employee account or member cash balance account or twenty-five  
16 thousand dollars payable from the employee account or member cash  
17 balance account, whichever is less.

18 (3) The County Employer Retirement Expense Fund is  
19 created. The fund shall be administered by the Public Employees  
20 Retirement Board. Prior to July 1, 2012, the County Employer  
21 Retirement Expense Fund shall be used to meet expenses of  
22 the retirement system whether such expenses are incurred in  
23 administering the member's employer account or in administering  
24 the member's employer cash balance account when the funds available  
25 in the County Employees Defined Contribution Retirement Expense  
26 Fund or County Employees Cash Balance Retirement Expense Fund  
27 make such use reasonably necessary. The ~~fund~~ County Employer

1 Retirement Expense Fund shall consist of any reduction in a county  
2 contribution which would otherwise be required to fund future  
3 service retirement benefits or to restore employer accounts or  
4 employer cash balance accounts referred to in subsection (1) of  
5 this section. ~~The fund shall be established and maintained separate~~  
6 ~~from any funds held in trust for the benefit of members under the~~  
7 ~~county employees retirement system.~~ Expenses On July 1, 2012, or as  
8 soon as practicable thereafter, any money in the County Employer  
9 Retirement Expense Fund shall be transferred by the State Treasurer  
10 to the County Employees Retirement Fund and credited to the cash  
11 balance benefit established in section 23-2308.01.

12 (4) Prior to July 1, 2012, expenses incurred as a result  
13 of a county depositing amounts into the fund County Employer  
14 Retirement Expense Fund shall be deducted prior to any additional  
15 expenses being allocated. Any remaining amount shall be allocated  
16 in accordance with ~~section 23-2319.02.~~ subsection (3) of this  
17 section. Any money in the ~~fund~~ County Employer Retirement Expense  
18 Fund available for investment shall be invested by the state  
19 investment officer pursuant to the Nebraska Capital Expansion Act  
20 and the Nebraska State Funds Investment Act.

21 Sec. 11. Section 23-2321, Revised Statutes Cumulative  
22 Supplement, 2010, is amended to read:

23 23-2321 (1) In the event of the death before his or her  
24 retirement date of any employee who is a member of the system,  
25 the death benefit shall be equal to ~~(1)~~ (a) for participants in  
26 the defined contribution benefit, the total of the employee account  
27 and the employer account and ~~(2)~~ (b) for participants in the cash

1 balance benefit, the benefit provided in section 23-2308.01. The  
2 death benefit shall be paid to the member's beneficiary, to an  
3 alternate payee pursuant to a qualified domestic relations order  
4 as provided in section 42-1107, or to the member's estate if there  
5 are no designated beneficiaries. If the beneficiary is not the  
6 member's surviving spouse, the death benefit shall be paid as a  
7 lump-sum payment or payments, except that the entire account must  
8 be distributed by the fifth anniversary of the member's death.  
9 If the sole primary beneficiary is the member's surviving spouse,  
10 the surviving spouse may elect to receive an annuity calculated  
11 as if the member retired and selected a one-hundred-percent joint  
12 and survivor annuity effective on the annuity purchase date. If  
13 the surviving spouse does not elect the annuity option within one  
14 hundred eighty days after the death of the member, the surviving  
15 spouse shall receive a lump-sum payment or payments, except that  
16 the entire account must be distributed by the fifth anniversary of  
17 the member's death.

18 (2) A lump sum death benefit paid to the member's  
19 beneficiary, other than the member's estate, that is an eligible  
20 distribution may be distributed in the form of a direct transfer  
21 to a retirement plan eligible to receive such transfer under the  
22 provisions of the Internal Revenue Code.

23 (3) For any member whose death occurs on or after January  
24 1, 2007, while performing qualified military service as defined  
25 in section 414(u) of the Internal Revenue Code, the member's  
26 beneficiary shall be entitled to any additional death benefit  
27 that would have been provided, other than the accrual of any

1 benefit relating to the period of qualified military service. The  
2 additional death benefit shall be determined as if the member  
3 had returned to employment with a participating county and such  
4 employment had terminated on the date of the member's death.

5           Sec. 12. Section 23-2322, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           23-2322 ~~All~~ (1) Except as provided in subsection (2)  
8 of this section, annuities or benefits which any person shall be  
9 entitled to receive under the County Employees Retirement Act shall  
10 not be subject to garnishment, attachment, levy, the operation  
11 of bankruptcy or insolvency laws, or any other process of law  
12 whatsoever and shall not be assignable except to the extent that  
13 such annuities or benefits are subject to a qualified domestic  
14 relations order under the Spousal Pension Rights Act. The payment  
15 of any annuities or benefits subject to such order shall take  
16 priority over any payment made pursuant to subsection (2) of this  
17 section.

18           (2) If a member of the retirement system is convicted of  
19 or pleads no contest to a felony that is defined as assault, sexual  
20 assault, kidnapping, child abuse, false imprisonment, or theft by  
21 embezzlement and is found liable for civil damages as a result  
22 of such felony, following distribution of the member's annuities  
23 or benefits from the retirement system, the court may order the  
24 payment of the member's annuities or benefits earned under the  
25 retirement system for such civil damages, except that the annuities  
26 or benefits to the extent reasonably necessary for the support of  
27 the member or any of his or her beneficiaries shall be exempt from

1 such payment. Any order for payment of annuities or benefits shall  
2 not be stayed on the filing of any appeal of the conviction. If the  
3 conviction is reversed on final judgment, all annuities or benefits  
4 paid as civil damages shall be forfeited and returned to the  
5 member. The changes made to this section by this legislative bill  
6 shall apply to persons convicted of or who have pled no contest to  
7 such a felony and who have been found liable for civil damages as  
8 a result of such felony prior to, on, or after the effective date  
9 of this act.

10           Sec. 13. Section 23-2323.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           23-2323.02 (1) For purposes of this section and section  
13 23-2323.03:

14           (a) Distributee means the member, the member's surviving  
15 spouse, or the member's former spouse who is an alternate payee  
16 under a qualified domestic relations order as defined in section  
17 414(p) of the Internal Revenue Code;

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

21           (c) Eligible retirement plan means (i) an individual  
22 retirement account described in section 408(a) of the Internal  
23 Revenue Code, (ii) an individual retirement annuity described in  
24 section 408(b) of the code, except for an endowment contract, (iii)  
25 a qualified plan described in section 401(a) of the code, (iv) an  
26 annuity plan described in section 403(a) or 403(b) of the code,  
27 (v) an individual retirement plan described in section 408A of the

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

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

15 (2) For distributions made to a distributee on or after  
16 January 1, 1993, a distributee may elect to have any portion of  
17 an eligible rollover distribution paid directly to an eligible  
18 retirement plan specified by the distributee.

19 (3) A member's surviving spouse or former spouse who  
20 is an alternate payee under a qualified domestic relations order  
21 and, on or after January 1, 2010, any designated beneficiary of  
22 a member who is not a surviving spouse or former spouse who is  
23 entitled to receive an eligible rollover distribution from the  
24 retirement system may, in accordance with such rules, regulations,  
25 and limitations as may be established by the board, elect to  
26 have such distribution made in the form of a direct transfer to  
27 a retirement plan eligible to receive such transfer under the

1 provisions of the Internal Revenue Code.

2 (4) An eligible rollover distribution on behalf of a  
3 designated beneficiary of a member who is not a surviving spouse  
4 or former spouse of the member may be transferred to an individual  
5 retirement account or annuity described in section 408(a) or  
6 section 408(b) of the Internal Revenue Code that is established  
7 for the purpose of receiving the distribution on behalf of the  
8 designated beneficiary and that will be treated as an inherited  
9 individual retirement account or individual retirement annuity  
10 described in section 408(d)(3)(C) of the Internal Revenue Code.

11 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
12 regulations for direct rollover procedures which are consistent  
13 with section 401(a)(31) of the Internal Revenue Code and which  
14 include, but are not limited to, the form and time of direct  
15 rollover distributions.

16 Sec. 14. Section 24-701, Revised Statutes Supplement,  
17 2011, is amended to read:

18 24-701 For purposes of the Judges Retirement Act, unless  
19 the context otherwise requires:

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

21 (2) Judge means and includes (a) all duly elected or  
22 appointed Chief Justices or judges of the Supreme Court and judges  
23 of the district courts of Nebraska who serve in such capacity on  
24 and after January 3, 1957, (b) (i) all duly appointed judges of the  
25 Nebraska Workmen's Compensation Court who served in such capacity  
26 on and after September 20, 1957, and prior to July 17, 1986,  
27 and (ii) judges of the Nebraska Workers' Compensation Court who

1 serve in such capacity on and after July 17, 1986, (c) judges of  
2 separate juvenile courts, (d) judges of the county courts of the  
3 respective counties who serve in such capacity on and after January  
4 5, 1961, (e) judges of the county court and clerk magistrates who  
5 were associate county judges and members of the fund at the time  
6 of their appointment as clerk magistrates, (f) judges of municipal  
7 courts established by Chapter 26, article 1, who served in such  
8 capacity on and after October 23, 1967, and prior to July 1, 1985,  
9 and (g) judges of the Court of Appeals;

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

17 (4) (a) Current service means the period of service (i)  
18 any judge of the Supreme Court or judge of the district court  
19 serves in such capacity from and after January 3, 1957, (ii) (A)  
20 any judge of the Nebraska Workmen's Compensation Court served in  
21 such capacity from and after September 20, 1957, and prior to July  
22 17, 1986, and (B) any judge of the Nebraska Workers' Compensation  
23 Court serves in such capacity on and after July 17, 1986, (iii)  
24 any county judge serves in such capacity from and after January  
25 5, 1961, (iv) any judge of a separate juvenile court serves in  
26 such capacity, (v) any judge of the municipal court served in such  
27 capacity subsequent to October 23, 1967, and prior to July 1, 1985,

1 (vi) any judge of the county court or associate county judge serves  
2 in such capacity subsequent to January 4, 1973, (vii) any clerk  
3 magistrate, who was an associate county judge and a member of the  
4 fund at the time of appointment as a clerk magistrate, serves in  
5 such capacity from and after July 1, 1986, and (viii) any judge of  
6 the Court of Appeals serves in such capacity on or after September  
7 6, 1991.

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

16 (5) Military service means active service of (a) any  
17 judge of the Supreme Court or judge of the district court in any  
18 of the armed forces of the United States during a war or national  
19 emergency prior or subsequent to September 18, 1955, if such  
20 service commenced while such judge was holding the office of judge,  
21 (b) any judge of the Nebraska Workmen's Compensation Court or the  
22 Nebraska Workers' Compensation Court in any of the armed forces  
23 of the United States during a war or national emergency prior or  
24 subsequent to September 20, 1957, if such service commenced while  
25 such judge was holding the office of judge, (c) any judge of the  
26 municipal court in any of the armed forces of the United States  
27 during a war or national emergency prior or subsequent to October

1 23, 1967, and prior to July 1, 1985, if such service commenced  
2 while such judge was holding the office of judge, (d) any judge  
3 of the county court or associate county judge in any of the armed  
4 forces of the United States during a war or national emergency  
5 prior or subsequent to January 4, 1973, if such service commenced  
6 while such judge was holding the office of judge, (e) any clerk  
7 magistrate, who was an associate county judge and a member of the  
8 fund at the time of appointment as a clerk magistrate, in any of  
9 the armed forces of the United States during a war or national  
10 emergency on or after July 1, 1986, if such service commenced while  
11 such clerk magistrate was holding the office of clerk magistrate,  
12 and (f) any judge of the Court of Appeals in any of the armed  
13 forces of the United States during a war or national emergency on  
14 or after September 6, 1991, if such service commenced while such  
15 judge was holding the office of judge. The board shall have the  
16 power to determine when a national emergency exists or has existed  
17 for the purpose of applying this definition and provision;

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

26 (7) (a) Compensation means the statutory salary of a judge  
27 or the salary being received by such judge pursuant to law.

1 Compensation does not include compensation for unused sick leave  
2 or unused vacation leave converted to cash payments, insurance  
3 premiums converted into cash payments, reimbursement for expenses  
4 incurred, fringe benefits, per diems, or bonuses for services  
5 not actually rendered, including, but not limited to, early  
6 retirement inducements, cash awards, and severance pay, except  
7 for retroactive salary payments paid pursuant to court order,  
8 arbitration, or litigation and grievance settlements. Compensation  
9 includes overtime pay, member retirement contributions, and amounts  
10 contributed by the member to plans under sections 125 and 457 of  
11 the Internal Revenue Code as defined in section 49-801.01 or any  
12 other section of the code which defers or excludes such amounts  
13 from income.

14 (b) Compensation in excess of the limitations set forth  
15 in section 401(a)(17) of the Internal Revenue Code as defined  
16 in section 49-801.01 shall be disregarded. For an employee who  
17 was a member of the retirement system before the first plan year  
18 beginning after December 31, 1995, the limitation on compensation  
19 shall not be less than the amount which was allowed to be taken  
20 into account under the retirement system as in effect on July 1,  
21 1993;

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

26 (9) Normal form annuity means a series of equal monthly  
27 payments payable at the end of each calendar month during the

1 life of a retired judge as provided in sections 24-707 and 24-710,  
2 except as provided in section 42-1107. The first payment shall  
3 include all amounts accrued since the effective date of the award  
4 of the annuity. The last payment shall be at the end of the  
5 calendar month in which such judge dies. If at the time of death  
6 the amount of annuity payments such judge has received is less  
7 than contributions to the fund made by such judge, plus regular  
8 interest, the difference shall be paid to the beneficiary or  
9 estate;

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

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

13 (12) Original member means a judge who first served as  
14 a judge prior to December 25, 1969, who does not elect to become  
15 a future member pursuant to subsection (8) of section 24-703 or  
16 section 24-710.01, and who was retired on or before December 31,  
17 1992;

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

23 (14) Final average compensation means the average monthly  
24 compensation for the three twelve-month periods of service as a  
25 judge in which compensation was the greatest or, in the event of  
26 a judge serving less than three twelve-month periods, the average  
27 monthly compensation for such judge's period of service;

1           (15) Regular interest means interest fixed at a rate  
2 equal to the daily treasury yield curve for one-year treasury  
3 securities, as published by the Secretary of the Treasury of the  
4 United States, that applies on July 1 of each year, which may be  
5 credited monthly, quarterly, semiannually, or annually as the board  
6 may direct;

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

9           (17) Actuarial equivalence means the equality in value of  
10 the aggregate amounts expected to be received under different forms  
11 of payment. The determinations are to be based on the 1994 Group  
12 Annuity Mortality Table reflecting sex-distinct factors blended  
13 using seventy-five percent of the male table and twenty-five  
14 percent of the female table. An interest rate of eight percent per  
15 annum shall be reflected in making these determinations;

16           (18) Current benefit means (a) until July 1, 2000, the  
17 initial benefit increased by all adjustments made pursuant to  
18 section 24-710.08 and (b) on or after July 1, 2000, the initial  
19 benefit increased by all adjustments made pursuant to the Judges  
20 Retirement Act;

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

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

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

27           (22) Surviving spouse means (a) the spouse married to

1 the member on the date of the member's death or (b) the spouse  
2 or former spouse of the member if survivorship rights are provided  
3 under a qualified domestic relations order filed with the board  
4 pursuant to the Spousal Pension Rights Act. The spouse or former  
5 spouse shall supersede the spouse married to the member on the  
6 date of the member's death as provided under a qualified domestic  
7 relations order. If the benefits payable to the spouse or former  
8 spouse under the qualified domestic relations order are less than  
9 the value of benefits entitled to the surviving spouse, the spouse  
10 married to the member on the date of the member's death shall be  
11 the surviving spouse for the balance of the benefits; and

12 (23) Termination of employment occurs on the date on  
13 which the State Court Administrator's office determines that the  
14 judge's employer-employee relationship with the State of Nebraska  
15 is dissolved. The State Court Administrator's office shall notify  
16 the board of the date on which such a termination has occurred.  
17 Termination of employment does not include ceasing employment as  
18 a judge if the judge returns to regular employment as a judge or  
19 is employed on a regular basis by another agency of the State of  
20 Nebraska and there are less than one hundred twenty days between  
21 the date when the judge's employer-employee relationship ceased  
22 and the date when the employer-employee relationship recommences.  
23 It is the responsibility of the employer that is involved in the  
24 termination of employment to notify the board of such change in  
25 employment and provide the board with such information as the  
26 board deems necessary. If the board determines that termination of  
27 employment has not occurred and a retirement benefit has been paid

1 to a member of the retirement system pursuant to section 24-710,  
2 the board shall require the member who has received such benefit to  
3 repay the benefit to the retirement system.

4           Sec. 15. Section 24-707, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           24-707 (1) In the event of the death of a judge prior  
7 to retirement, if such judge shall have had five or more years  
8 of creditable service, the surviving spouse of such judge shall  
9 at his or her option, exercised within twelve months after the  
10 date of death, be immediately entitled to receive an annuity which  
11 shall be equal to the amount that would have accrued to the member  
12 had he or she elected to have the retirement annuity paid as a  
13 one-hundred-percent joint and survivor annuity payable as long as  
14 either the member or the member's spouse should survive and had the  
15 member retired (a) on the date of death if his or her age at death  
16 is sixty-five years or more or (b) at age sixty-five years if his  
17 or her age at death is less than sixty-five years. If such option  
18 is not exercised by such surviving spouse within twelve months  
19 after the judge's death, if there is no surviving spouse, or if the  
20 judge has not served for five years, then the beneficiary, or the  
21 estate if the judge has not filed a statement with the board naming  
22 a beneficiary, shall be paid a lump sum equal to all contributions  
23 to the fund made by such judge plus regular interest.

24           (2) In the event of the death of a judge subsequent to  
25 retirement, if such judge has not filed a statement of intent with  
26 the board to elect to receive any other form of annuity which may  
27 be provided for by section 24-710 or elected to make contributions

1 and receive benefits as provided in section 24-703.03, the amount  
2 of annuities such judge has received under the provisions of the  
3 Judges Retirement Act shall be computed and, if such amount shall  
4 be less than the contributions to the fund made by such judge, plus  
5 regular interest, the difference shall be paid to the beneficiary  
6 or estate.

7 (3) Benefits to which the surviving spouse, beneficiary,  
8 or estate of a judge shall be entitled shall commence immediately  
9 upon the death of such judge.

10 (4) A lump sum death benefit paid to the member's  
11 beneficiary, other than the member's estate, that is an eligible  
12 distribution may be distributed in the form of a direct transfer  
13 to a retirement plan eligible to receive such transfer under the  
14 provisions of the Internal Revenue Code.

15 (5) For any member whose death occurs on or after January  
16 1, 2007, while performing qualified military service as defined  
17 in section 414(u) of the Internal Revenue Code, the member's  
18 beneficiary shall be entitled to any additional death benefit  
19 that would have been provided, other than the accrual of any  
20 benefit relating to the period of qualified military service. The  
21 additional death benefit shall be determined as if the member  
22 had returned to employment with the State of Nebraska and such  
23 employment had terminated on the date of the member's death.

24 Sec. 16. Section 24-710.02, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 24-710.02 All (1) Except as provided in subsection (2)  
27 of this section, all annuities or benefits which any person shall

1 be entitled to receive under the Judges Retirement Act shall  
2 not be subject to garnishment, attachment, levy, the operation  
3 of bankruptcy or insolvency laws, or any other process of law  
4 whatsoever and shall not be assignable except to the extent that  
5 such annuities or benefits are subject to a qualified domestic  
6 relations order under the Spousal Pension Rights Act. The payment  
7 of any annuities or benefits subject to such order shall take  
8 priority over any payment made pursuant to subsection (2) of this  
9 section.

10 (2) If a member of the retirement system is convicted  
11 of or pleads no contest to a felony that is defined as assault,  
12 sexual assault, kidnapping, child abuse, false imprisonment, or  
13 theft by embezzlement and is found liable for civil damages as a  
14 result of such felony, following the distribution of the member's  
15 annuities or benefits from the retirement system, the court may  
16 order the payment of the member's annuities or benefits earned  
17 under the retirement system for such civil damages, except that the  
18 annuities or benefits to the extent reasonably necessary for the  
19 support of the member or any of his or her beneficiaries shall be  
20 exempt from such payment. Any order for payment of annuities or  
21 benefits shall not be stayed on the filing of any appeal of the  
22 conviction. If the conviction is reversed on final judgment, all  
23 annuities or benefits paid as civil damages shall be forfeited and  
24 returned to the member. The changes made to this section by this  
25 legislative bill shall apply to persons convicted of or who have  
26 pled no contest to such a felony and who have been found liable for  
27 civil damages as a result of such felony prior to, on, or after the

1 effective date of this act.

2           Sec. 17. Section 24-710.05, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           24-710.05 (1) For purposes of this section and section  
5 24-710.06:

6           (a) Distributee means the member, the member's surviving  
7 spouse, or the member's former spouse who is an alternate payee  
8 under a qualified domestic relations order as defined in section  
9 414(p) of the Internal Revenue Code;

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

13           (c) Eligible retirement plan means (i) an individual  
14 retirement account described in section 408(a) of the Internal  
15 Revenue Code, (ii) an individual retirement annuity described in  
16 section 408(b) of the code, except for an endowment contract, (iii)  
17 a qualified plan described in section 401(a) of the code, (iv) an  
18 annuity plan described in section 403(a) or 403(b) of the code,  
19 (v) an individual retirement plan described in section 408A of the

20 code, and ~~(v)~~ (vi) a plan described in section 457(b) of the code  
21 and maintained by a governmental employer. For eligible rollover  
22 distributions to a surviving spouse, an eligible retirement plan  
23 means subdivisions (1)(c)(i) through ~~(iv)~~ (vi) of this section; and

24           (d) Eligible rollover distribution means any distribution  
25 to a distributee of all or any portion of the balance to the credit  
26 of the distributee in the plan, except such term shall not include  
27 any distribution which is one of a series of substantially equal

1 periodic payments, not less frequently than annually, made for the  
2 life of the distributee or joint lives of the distributee and the  
3 distributee's beneficiary or for the specified period of ten years  
4 or more and shall not include any distribution to the extent such  
5 distribution is required under section 401(a)(9) of the Internal  
6 Revenue Code.

7 (2) For distributions made to a distributee on or after  
8 January 1, 1993, a distributee may elect to have any portion of  
9 an eligible rollover distribution paid directly to an eligible  
10 retirement plan specified by the distributee.

11 (3) A member's surviving spouse or former spouse who  
12 is an alternate payee under a qualified domestic relations order  
13 and, on or after July 1, 2010, any designated beneficiary of a  
14 member who is not a surviving spouse or former spouse who is  
15 entitled to receive an eligible rollover distribution from the  
16 retirement system may, in accordance with such rules, regulations,  
17 and limitations as may be established by the board, elect to  
18 have such distribution made in the form of a direct transfer to  
19 a retirement plan eligible to receive such transfer under the  
20 provisions of the Internal Revenue Code.

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

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

3 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
4 regulations for direct rollover procedures which are consistent  
5 with section 401(a)(31) of the Internal Revenue Code and which  
6 include, but are not limited to, the form and time of direct  
7 rollover distributions.

8 Sec. 18. Section 48-1401, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 48-1401 (1) Any county, municipality, or other political  
11 subdivision, instrumentality, or agency of the State of Nebraska,  
12 except any agency subject to sections 84-1504 to 84-1506 or  
13 section 85-106, 85-320, or 85-606.01, may enter into an agreement  
14 to defer a portion of any individual's compensation derived  
15 from such county, municipality, or other political subdivision,  
16 instrumentality, or agency to a future period in time pursuant  
17 to section 457 of the Internal Revenue Code. Such deferred  
18 compensation plan shall be voluntary and shall be available to  
19 all regular employees and elected officials.

20 (2) The compensation to be deferred may never exceed  
21 the total compensation to be received by the individual from the  
22 employer or exceed the limits established by the Internal Revenue  
23 Code for such a plan.

24 (3) All compensation deferred under the plan, all  
25 property and rights purchased with the deferred compensation, and  
26 all investment income attributable to the deferred compensation,  
27 property, or rights shall be held in trust for the exclusive

1 benefit of participants and their beneficiaries by the county,  
2 municipality, or other political subdivision, instrumentality, or  
3 agency until such time as payments are made under the terms of the  
4 deferred compensation plan.

5 (4) The county, municipality, or other political  
6 subdivision, instrumentality, or agency shall designate its  
7 treasurer or an equivalent official, including the State Treasurer,  
8 to be the custodian of the funds and securities of the deferred  
9 compensation plan.

10 (5) The county, municipality, or other political  
11 subdivision, instrumentality, or agency may invest the compensation  
12 to be deferred under an agreement in or with: (a) Annuities; (b)  
13 mutual funds; (c) banks; (d) savings and loan associations; (e)  
14 trust companies qualified to act as fiduciaries in this state; (f)  
15 an organization established for the purpose of administering public  
16 employee deferred compensation retirement plans and authorized to  
17 do business in the State of Nebraska; or (g) investment advisers as  
18 defined in the federal Investment Advisers Act of 1940.

19 (6) The deferred compensation program shall exist  
20 and serve in addition to, and shall not be a part of, any  
21 existing retirement or pension system provided for state, county,  
22 municipal, or other political subdivision, instrumentality, or  
23 agency employees, or any other benefit program.

24 (7) Any compensation deferred under such a deferred  
25 compensation plan shall continue to be included as regular  
26 compensation for the purpose of computing the retirement, pension,  
27 or social security contributions made or benefits earned by any

1 employee.

2 (8) Any sum so deferred shall not be included in the  
3 computation of any federal or state taxes withheld on behalf of any  
4 such individual.

5 (9) The state, county, municipality, or other political  
6 subdivision, instrumentality, or agency shall not be responsible  
7 for any investment results entered into by the individual in the  
8 deferred compensation agreement.

9 ~~(10) All (10) (a) Except as provided in subdivision (b)~~  
10 of this subsection, all compensation deferred under the plan, all  
11 property and rights purchased with the deferred compensation, and  
12 all investment income attributable to the deferred compensation,  
13 property, or rights shall not be subject to garnishment,  
14 attachment, levy, the operation of bankruptcy or insolvency laws,  
15 or any other process of law whatsoever and shall not be assignable.

16 (b) If a participant in the deferred compensation plan  
17 is convicted of or pleads no contest to a felony that is  
18 defined as assault, sexual assault, kidnapping, child abuse, false  
19 imprisonment, or theft by embezzlement and is found liable for  
20 civil damages as a result of such felony, following distribution  
21 of the participant's compensation deferred under the plan, property  
22 and rights purchased with the deferred compensation, or investment  
23 income attributable to the deferred compensation, property, or  
24 rights from the plan, the court may order the payment of such  
25 compensation, property and rights, or investment income for such  
26 civil damages, except that the compensation, property and rights,  
27 or investment income to the extent reasonably necessary for the

1 support of the participant or any of his or her beneficiaries shall  
2 be exempt from such payment. Any order for payment of compensation,  
3 property and rights, or investment income shall not be stayed on  
4 the filing of any appeal of the conviction. If the conviction is  
5 reversed on final judgment, all compensation, property and rights,  
6 or investment income paid as civil damages shall be forfeited and  
7 returned to the participant. The changes made to this section by  
8 this legislative bill shall apply to persons convicted of or who  
9 have pled no contest to such a felony and who have been found  
10 liable for civil damages as a result of such felony prior to, on,  
11 or after the effective date of this act.

12           (11) Nothing contained in this section shall in any  
13 way limit, restrict, alter, amend, invalidate, or nullify any  
14 deferred compensation plan previously instituted by any county,  
15 municipality, or other political subdivision, instrumentality, or  
16 agency of the State of Nebraska, and any such plan is hereby  
17 authorized and approved.

18           (12) If a county has not established a deferred  
19 compensation plan pursuant to this section, each individual may  
20 require that the county enter into an agreement with the individual  
21 to defer a portion of such individual's compensation and place  
22 it under the management and supervision of the state deferred  
23 compensation plan created pursuant to sections 84-1504 to 84-1506.  
24 If such an agreement is made, the county shall designate the State  
25 Treasurer as custodian of such deferred compensation funds and  
26 such deferred compensation funds shall become a part of the trust  
27 administered by the Public Employees Retirement Board pursuant to

1 sections 84-1504 to 84-1506.

2 (13) For purposes of this section, individual means

3 (a) any person designated by the county, municipality, or other  
4 political subdivision, instrumentality, or agency of the State

5 of Nebraska, except any agency subject to sections 84-1504 to  
6 84-1506 or section 85-106, 85-320, or 85-606.01, as a permanent

7 part-time or full-time employee of the county, municipality,  
8 or other political subdivision, instrumentality, or agency and

9 (b) a person under contract providing services to the county,  
10 municipality, or other political subdivision, instrumentality,

11 or agency of the State of Nebraska, except any agency subject  
12 to sections 84-1504 to 84-1506 or section 85-106, 85-320, or

13 85-606.01, and who has entered into a contract with such county,  
14 municipality, political subdivision, instrumentality, or agency to

15 have compensation deferred prior to August 28, 1999.

16 Sec. 19. Section 79-902, Revised Statutes Supplement,  
17 2011, is amended to read:

18 79-902 For purposes of the School Employees Retirement  
19 Act, unless the context otherwise requires:

20 (1) Accumulated contributions means the sum of all  
21 amounts deducted from the compensation of a member and credited  
22 to his or her individual account in the School Retirement  
23 Fund together with regular interest thereon, compounded monthly,  
24 quarterly, semiannually, or annually;

25 (2) Beneficiary means any person in receipt of a school  
26 retirement allowance or other benefit provided by the act;

27 (3) Member means any person who has an account in the

1 School Retirement Fund;

2 (4) County school official means (a) until July 1, 2000,  
3 the county superintendent or district superintendent and any person  
4 serving in his or her office who is required by law to have  
5 a teacher's certificate and (b) on or after July 1, 2000, the  
6 county superintendent, county school administrator, or district  
7 superintendent and any person serving in his or her office who is  
8 required by law to have a teacher's certificate;

9 (5) Creditable service means prior service for which  
10 credit is granted under sections 79-926 to 79-929, service credit  
11 purchased under sections 79-933.03 to 79-933.06 and 79-933.08,  
12 and all service rendered while a contributing member of the  
13 retirement system. Creditable service includes working days, sick  
14 days, vacation days, holidays, and any other leave days for which  
15 the employee is paid regular wages as part of the employee's  
16 agreement with the employer. Creditable service does not include  
17 lump-sum payments to the employee upon termination or retirement  
18 in lieu of accrued benefits for such days, eligibility and vesting  
19 credit, nor service years for which member contributions are  
20 withdrawn and not repaid. Creditable service also does not include  
21 service rendered by a member for which the retirement board  
22 determines that the member was paid less in compensation than the  
23 minimum wage as provided in the Wage and Hour Act or service which  
24 the board determines was rendered with the intent to defraud the  
25 retirement system;

26 (6) Disability retirement allowance means the annuity  
27 paid to a person upon retirement for disability under section

1 79-952;

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

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

8 (9) Regular interest means interest fixed at a rate equal  
9 to the daily treasury yield curve for one-year treasury securities,  
10 as published by the Secretary of the Treasury of the United States,  
11 that applies on July 1 of each year, which may be credited monthly,  
12 quarterly, semiannually, or annually as the board may direct;

13 (10) School employee means a contributing member who  
14 earns service credit pursuant to section 79-927. For purposes of  
15 this section, contributing member means the following persons who  
16 receive compensation from a public school: (a) Regular employees;  
17 (b) regular employees having retired pursuant to the School  
18 Employees Retirement Act who subsequently provide compensated  
19 service on a regular basis in any capacity; and (c) regular  
20 employees hired by a public school on an ongoing basis to assume  
21 the duties of other regular employees who are temporarily absent.  
22 Substitute employees, and temporary employees, and employees who  
23 have not attained the age of eighteen years shall not be considered  
24 school employees;

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

1           (12) Public school means any and all schools offering  
2 instruction in elementary or high school grades, as defined in  
3 section 79-101, which schools are supported by public funds and are  
4 wholly under the control and management of the State of Nebraska  
5 or any subdivision thereof, including (a) schools or other entities  
6 established, maintained, and controlled by the school boards of  
7 local school districts, except Class V school districts, (b) any  
8 educational service unit, and (c) any other educational institution  
9 wholly supported by public funds, except schools under the control  
10 and management of the Board of Trustees of the Nebraska State  
11 Colleges, the Board of Regents of the University of Nebraska, or  
12 the community college boards of governors for any community college  
13 areas;

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

17           (14) Retirement board or board means the Public Employees  
18 Retirement Board;

19           (15) Retirement system means the School Employees  
20 Retirement System of the State of Nebraska;

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

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

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

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

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

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

1           (22) State school official means the Commissioner of  
2 Education and his or her professional staff who are required by law  
3 or by the State Department of Education to hold a certificate as  
4 such term is defined in section 79-807;

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

8           (24) Emeritus member means a person (a) who has entered  
9 retirement under the provisions of the act, including those persons  
10 who have retired since July 1, 1945, under any other regularly  
11 established retirement or pension system as contemplated by section  
12 79-916, (b) who has thereafter been reemployed in any capacity  
13 by a public school, a Class V school district, or a school  
14 under the control and management of the Board of Trustees of the  
15 Nebraska State Colleges, the Board of Regents of the University of  
16 Nebraska, or a community college board of governors or has become  
17 a state school official or county school official subsequent to  
18 such retirement, and (c) who has applied to the board for emeritus  
19 membership in the retirement system. The school district or agency  
20 shall certify to the retirement board on forms prescribed by the  
21 retirement board that the annuitant was reemployed, rendered a  
22 service, and was paid by the district or agency for such services;

23           (25) Actuarial equivalent means the equality in value of  
24 the aggregate amounts expected to be received under different forms  
25 of payment. The determinations shall be based on the 1994 Group  
26 Annuity Mortality Table reflecting sex-distinct factors blended  
27 using twenty-five percent of the male table and seventy-five

1 percent of the female table. An interest rate of eight percent  
2 per annum shall be reflected in making these determinations except  
3 when a lump-sum settlement is made to an estate. If the lump-sum  
4 settlement is made to an estate, the interest rate will be  
5 determined by the Moody's Triple A Bond Index as of the prior June  
6 30, rounded to the next lower quarter percent;

7 (26) Retirement date means (a) if the member has  
8 terminated employment, the first day of the month following the  
9 date upon which a member's request for retirement is received on  
10 a retirement application provided by the retirement system or (b)  
11 if the member has filed an application but has not yet terminated  
12 employment, the first day of the month following the date on which  
13 the member terminates employment. An application may be filed no  
14 more than ninety days prior to the effective date of the member's  
15 initial benefit;

16 (27) Disability retirement date means the first day of  
17 the month following the date upon which a member's request for  
18 disability retirement is received on a retirement application  
19 provided by the retirement system if the member has terminated  
20 employment in the school system and has complied with sections  
21 79-951 to 79-954 as such sections refer to disability retirement;

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

25 (29) Eligibility and vesting credit means credit for  
26 years, or a fraction of a year, of participation in a Nebraska  
27 government plan for purposes of determining eligibility for

1 benefits under the School Employees Retirement Act. Such credit  
2 shall not be included as years of creditable service in the benefit  
3 calculation;

4 (30) (a) Final average compensation means the sum of the  
5 member's total compensation during the three twelve-month periods  
6 of service as a school employee in which such compensation was the  
7 greatest divided by thirty-six.

8 (b) If a member has such compensation for less than  
9 thirty-six months, his or her final average compensation shall be  
10 determined by dividing his or her total compensation in all months  
11 by the total number of months of his or her creditable service  
12 therefor.

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

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

19 (32) Current benefit means ~~(a) until July 1, 2000, the~~  
20 ~~initial benefit increased by all adjustments made pursuant to~~  
21 ~~section 79-947.02 and (b) on or after July 1, 2000, the initial~~  
22 ~~benefit increased by all adjustments made pursuant to the School~~  
23 ~~Employees Retirement Act;~~

24 (33) Initial benefit means the retirement benefit  
25 calculated at the time of retirement;

26 (34) Surviving spouse means (a) the spouse married to  
27 the member on the date of the member's death or (b) the spouse

1 or former spouse of the member if survivorship rights are provided  
2 under a qualified domestic relations order filed with the board  
3 pursuant to the Spousal Pension Rights Act. The spouse or former  
4 spouse shall supersede the spouse married to the member on the  
5 date of the member's death as provided under a qualified domestic  
6 relations order. If the benefits payable to the spouse or former  
7 spouse under a qualified domestic relations order are less than  
8 the value of benefits entitled to the surviving spouse, the spouse  
9 married to the member on the date of the member's death shall be  
10 the surviving spouse for the balance of the benefits;

11 (35) (a) Compensation means gross wages or salaries  
12 payable to the member for personal services performed during the  
13 plan year and includes (i) overtime pay, (ii) member retirement  
14 contributions, (iii) retroactive salary payments paid pursuant to  
15 court order, arbitration, or litigation and grievance settlements,  
16 and (iv) amounts contributed by the member to plans under sections  
17 125, 403(b), and 457 of the Internal Revenue Code as defined in  
18 section 49-801.01 or any other section of the code which defers or  
19 excludes such amounts from income.

20 (b) Compensation does not include (i) fraudulently  
21 obtained amounts as determined by the retirement board, (ii)  
22 amounts for unused sick leave or unused vacation leave converted  
23 to cash payments, (iii) insurance premiums converted into cash  
24 payments, (iv) reimbursement for expenses incurred, (v) fringe  
25 benefits, (vi) per diems, (vii) bonuses for services not actually  
26 rendered, including, but not limited to, early retirement  
27 inducements, cash awards, and severance pay, or ~~(vii)~~ (viii)

1 beginning on September 4, 2005, employer contributions made for  
2 the purposes of separation payments made at retirement and early  
3 retirement inducements as provided for in section 79-514.

4 (c) Compensation in excess of the limitations set forth  
5 in section 401(a)(17) of the Internal Revenue Code as defined  
6 in section 49-801.01 shall be disregarded. For an employee who  
7 was a member of the retirement system before the first plan year  
8 beginning after December 31, 1995, the limitation on compensation  
9 shall not be less than the amount which was allowed to be taken  
10 into account under the retirement system as in effect on July 1,  
11 1993.

12 (d)(i) For purposes of section 79-934, in the  
13 determination of compensation for members on or after July 1,  
14 2005, that part of a member's compensation for the plan year  
15 which exceeds the member's compensation with the same employer  
16 for the preceding plan year by more than seven percent of the  
17 compensation base during the sixty months preceding the member's  
18 retirement shall be excluded unless (A) the member experienced a  
19 substantial change in employment position, (B) as verified by the  
20 school board, the excess compensation above seven percent occurred  
21 as the result of a collective-bargaining agreement between the  
22 employer and a recognized collective-bargaining unit or category  
23 of school employee, and the percentage increase in compensation  
24 above seven percent shall not be excluded for employees outside of  
25 a collective-bargaining unit or within the same category of school  
26 employee, or (C) the excess compensation occurred as the result  
27 of a districtwide permanent benefit change made by the employer

1 for a category of school employee in accordance with subdivision  
2 (35) (a) (iv) of this section.

3 (ii) For purposes of subdivision (35) (d) of this section:

4 (A) Category of school employee means either all  
5 employees of the employer who are administrators or certificated  
6 teachers, or all employees of the employer who are not  
7 administrators or certificated teachers, or both;

8 (B) Compensation base means (I) for current members  
9 employed with the same employer, the member's compensation for the  
10 plan year ending June 30, 2005, or (II) for members newly hired or  
11 hired by a separate employer on or after July 1, 2005, the member's  
12 compensation for the first full plan year following the member's  
13 date of hiring. Thereafter, the member's compensation base shall  
14 be increased each plan year by the lesser of seven percent of the  
15 member's preceding plan year's compensation base or the member's  
16 actual annual compensation increase during the preceding plan year;  
17 and

18 (C) Recognized collective-bargaining unit means a group  
19 of employees similarly situated with a similar community of  
20 interest appropriate for bargaining recognized as such by a school  
21 board.

22 (e) (i) In the determination of compensation for members  
23 on or after July 1, 2012, until July 1, 2013, that part of a  
24 member's compensation for the plan year which exceeds the member's  
25 compensation with the same employer for the preceding plan year by  
26 more than nine percent of the compensation base during the sixty  
27 months preceding the member's retirement shall be excluded.

1 (ii) For purposes of subdivision (35)(e) of this section:

2 (A) Category of school employee means either all  
3 employees of the employer who are administrators or certificated  
4 teachers, or all employees of the employer who are not  
5 administrators or certificated teachers, or both; and

6 (B) Compensation base means (I) for current members  
7 employed with the same employer, the member's compensation for the  
8 plan year ending June 30, 2012, or (II) for members newly hired or  
9 hired by a separate employer on or after July 1, 2012, the member's  
10 compensation for the first full plan year following the member's  
11 date of hiring. Thereafter, the member's compensation base shall  
12 be increased each plan year by the lesser of nine percent of the  
13 member's preceding plan year's compensation base or the member's  
14 actual annual compensation increase during the preceding plan year.

15 (f)(i) In the determination of compensation for members  
16 on or after July 1, 2013, that part of a member's compensation for  
17 the plan year which exceeds the member's compensation with the same  
18 employer for the preceding plan year by more than eight percent  
19 of the compensation base during the sixty months preceding the  
20 member's retirement shall be excluded.

21 (ii) For purposes of subdivision (35)(f) of this section:

22 (A) Category of school employee means either all  
23 employees of the employer who are administrators or certificated  
24 teachers, or all employees of the employer who are not  
25 administrators or certificated teachers, or both; and

26 (B) Compensation base means (I) for current members  
27 employed with the same employer, the member's compensation for the

1 plan year ending June 30, 2013, or (II) for members newly hired or  
2 hired by a separate employer on or after July 1, 2013, the member's  
3 compensation for the first full plan year following the member's  
4 date of hiring. Thereafter, the member's compensation base shall  
5 be increased each plan year by the lesser of eight percent of the  
6 member's preceding plan year's compensation base or the member's  
7 actual annual compensation increase during the preceding plan year;

8 (36) Termination of employment occurs on the date on  
9 which the member experiences a bona fide separation from service  
10 of employment with the member's current employer, the date of  
11 which separation is determined by the employer. The employer shall  
12 notify the board of the date on which such a termination has  
13 occurred. It is the responsibility of the current employer to  
14 notify the board of such change in employment and provide the board  
15 with such information as the board deems necessary. If the board  
16 determines that termination of employment has not occurred and a  
17 retirement benefit has been paid to a member of the retirement  
18 system pursuant to section 79-933, the board shall require the  
19 member who has received such benefit to repay the benefit to the  
20 retirement system. A member shall not be deemed to have terminated  
21 employment if the member subsequently provides service to any  
22 employer participating in the retirement system provided for in the  
23 School Employees Retirement Act within one hundred eighty calendar  
24 days after ceasing employment unless such service:

25 (a) Is bona fide unpaid voluntary service or substitute  
26 service, provided on an intermittent basis; or

27 (b) Is as provided in subsection (2) of section 79-920.

1           A member shall not be deemed to have terminated  
2 employment if the board determines that a purported termination was  
3 not a bona fide separation from service with the employer;

4           (37) Disability means an inability to engage in a  
5 substantially gainful activity by reason of any medically  
6 determinable physical or mental impairment which can be expected to  
7 result in death or be of a long and indefinite duration;

8           (38) Substitute employee means a person hired by a public  
9 school as a temporary employee to assume the duties of regular  
10 employees due to the temporary absence of the regular employees.  
11 Substitute employee does not mean a person hired as a regular  
12 employee on an ongoing basis to assume the duties of other regular  
13 employees who are temporarily absent;

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

17           (40) Regular employee means an employee hired by a public  
18 school or under contract in a regular full-time or part-time  
19 position who works a full-time or part-time schedule on an ongoing  
20 basis for fifteen or more hours per week. An employee hired as  
21 described in this subdivision to provide service for less than  
22 fifteen hours per week but who provides service for an average  
23 of fifteen hours or more per week in each calendar month of any  
24 three calendar months of a plan year shall immediately commence  
25 contributions and shall be deemed a regular employee; and

26           (41) Temporary employee means an employee hired by a  
27 public school who is not a regular employee and who is hired

1 to provide service for a limited period of time to accomplish a  
2 specific purpose or task. When such specific purpose or task is  
3 complete, the employment of such temporary employee shall terminate  
4 and in no case shall the temporary employment period exceed one  
5 year in duration.

6 Sec. 20. Section 79-906, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 79-906 (1) The director in charge of the retirement  
9 system shall keep a complete record of all members with respect  
10 to name, current address, age, contributions, and any other facts  
11 as may be necessary in the administration of the School Employees  
12 Retirement Act. The information in the records shall be provided  
13 by the employer in an accurate and verifiable form, as specified  
14 by the director. The director shall, from time to time, carry  
15 out testing procedures pursuant to section 84-1512 to verify the  
16 accuracy of such information. For the purpose of obtaining such  
17 facts and information, the director shall have access to the  
18 records of the various employers and state departments and agencies  
19 and the holder of the records shall comply with a request by  
20 the director for access by providing such facts and information  
21 to the director in a timely manner. A certified copy of a birth  
22 certificate or delayed birth certificate shall be prima facie  
23 evidence of the age of the person named in the certificate.

24 ~~(2) If a member's compensation for a plan year exceeds~~  
25 ~~the member's compensation with the same employer for the preceding~~  
26 ~~plan year by more than seven percent of the compensation base, then~~  
27 ~~the employer shall, within ninety days of the end of a plan year,~~

1 ~~provide information indicating to the director that the member's~~  
2 ~~compensation has exceeded seven percent of the compensation base.~~  
3 ~~Such information shall be provided in an accurate and verifiable~~  
4 ~~form as specified by the director.~~

5         ~~(3)~~ (2) The director shall develop and implement an  
6 employer education program using principles generally accepted by  
7 public employee retirement systems so that all employers have the  
8 knowledge and information necessary to prepare and file reports as  
9 the board requires.

10                 Sec. 21. Section 79-933.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12                 79-933.01 (1) For purposes of this section and section  
13 79-933.02:

14                 (a) Distributee means the member, the member's surviving  
15 spouse, or the member's former spouse who is an alternate payee  
16 under a qualified domestic relations order as defined in section  
17 414(p) of the Internal Revenue Code;

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

21                 (c) Eligible retirement plan means (i) an individual  
22 retirement account described in section 408(a) of the Internal  
23 Revenue Code, (ii) an individual retirement annuity described in  
24 section 408(b) of the code, except for an endowment contract, (iii)  
25 a qualified plan described in section 401(a) of the code, (iv) an  
26 annuity plan described in section 403(a) or 403(b) of the code,  
27 (v) an individual retirement plan described in section 408A of the

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

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

15 (2) For distributions made to a distributee on or after  
16 January 1, 1993, a distributee may elect to have any portion of  
17 an eligible rollover distribution paid directly to an eligible  
18 retirement plan specified by the distributee.

19 (3) A member's surviving spouse or former spouse who  
20 is an alternate payee under a qualified domestic relations order  
21 and, on or after July 1, 2010, any designated beneficiary of a  
22 member who is not a surviving spouse or former spouse who is  
23 entitled to receive an eligible rollover distribution from the  
24 retirement system may, in accordance with such rules, regulations,  
25 and limitations as may be established by the board, elect to  
26 have such distribution made in the form of a direct transfer to  
27 a retirement plan eligible to receive such transfer under the

1 provisions of the Internal Revenue Code.

2 (4) An eligible rollover distribution on behalf of a  
3 designated beneficiary of a member who is not a surviving spouse  
4 or former spouse of the member may be transferred to an individual  
5 retirement account or annuity described in section 408(a) or  
6 section 408(b) of the Internal Revenue Code that is established  
7 for the purpose of receiving the distribution on behalf of the  
8 designated beneficiary and that will be treated as an inherited  
9 individual retirement account or individual retirement annuity  
10 described in section 408(d)(3)(C) of the Internal Revenue Code.

11 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
12 regulations for direct rollover procedures which are consistent  
13 with section 401(a)(31) of the Internal Revenue Code and which  
14 include, but are not limited to, the form and time of direct  
15 rollover distributions.

16 Sec. 22. Section 79-948, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 79-948 ~~The~~ (1) Except as provided in subsection (2) of  
19 this section, the right of a person to an annuity, an allowance,  
20 or any optional benefit under the School Employees Retirement Act,  
21 any other right accrued or accruing to any person or persons under  
22 such act, the various funds and account created thereby, and all  
23 the money, investments, and income thereof shall be exempt from any  
24 state, county, municipal, or other local tax, shall not be subject  
25 to execution, garnishment, attachment, the operation of bankruptcy  
26 or insolvency laws, or any other process of law whatsoever, and  
27 shall not be assignable except to the extent that such annuity,

1 allowance, or benefit is subject to a qualified domestic relations  
2 order under the Spousal Pension Rights Act. The payment of any  
3 annuity, allowance, or benefit subject to such order shall take  
4 priority over any payment made pursuant to subsection (2) of this  
5 section.

6 (2) If a member of the retirement system is convicted of  
7 or pleads no contest to a felony that is defined as assault, sexual  
8 assault, kidnapping, child abuse, false imprisonment, or theft by  
9 embezzlement and is found liable for civil damages as a result  
10 of such felony, following distribution of the member's annuity,  
11 allowance, or optional benefit from the retirement system, the  
12 court may order the payment of such annuity, allowance, or optional  
13 benefit under the retirement system for such civil damages, except  
14 that the annuities, allowances, or optional benefits to the extent  
15 reasonably necessary for the support of the member or any of his  
16 or her beneficiaries shall be exempt from such payment. Any order  
17 for payment of annuities, allowances, or optional benefits shall  
18 not be stayed on the filing of any appeal of the conviction.  
19 If the conviction is reversed on final judgment, all annuities,  
20 allowances, or optional benefits paid as civil damages shall be  
21 forfeited and returned to the member. The changes made to this  
22 section by this legislative bill shall apply to persons convicted  
23 of or who have pled no contest to such a felony and who have been  
24 found liable for civil damages as a result of such felony prior to,  
25 on, or after the effective date of this act.

26 Sec. 23. Section 79-956, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1           79-956 (1) If a member dies before retirement, his  
2 or her accumulated contributions shall be paid to his or her  
3 estate, to an alternate payee pursuant to a qualified domestic  
4 relations order as provided in section 42-1107, or to the  
5 person he or she has nominated by designation duly executed  
6 and filed with the retirement board. Except for payment to  
7 an alternative payee pursuant to a qualified domestic relations  
8 order, if no legal representative or beneficiary applies for such  
9 accumulated contributions within five years following the date of  
10 the deceased member's death, the contributions shall be distributed  
11 in accordance with the Uniform Disposition of Unclaimed Property  
12 Act.

13           (2) When the deceased member has ~~not~~ less more than  
14 twenty years of creditable service regardless of age or dies on or  
15 after his or her sixty-fifth birthday and leaves a surviving spouse  
16 who has been designated as beneficiary and who, as of the date  
17 of the member's death, is the sole surviving primary beneficiary,  
18 such beneficiary may elect, within twelve months after the death of  
19 the member, to receive (a) a refund of the member's contribution  
20 account balance, including interest, plus an additional one hundred  
21 one percent of the member's contribution account balance, including  
22 interest, or (b) an annuity which shall be equal to the amount that  
23 would have accrued to the member had he or she elected to have the  
24 retirement annuity paid as a one-hundred-percent joint and survivor  
25 annuity payable as long as either the member or the member's spouse  
26 should survive and had the member retired ~~(a)~~ (i) on the date of  
27 death if his or her age at death is sixty-five years or more or ~~(b)~~

1 (ii) at age sixty-five years if his or her age at death is less  
2 than sixty-five years.

3 (3) When the deceased member who was a school employee on  
4 or after May 1, 2001, has not less than five years of creditable  
5 service and less than twenty years of creditable service and dies  
6 before his or her sixty-fifth birthday and leaves a surviving  
7 spouse who has been designated in writing as beneficiary and who,  
8 as of the date of the member's death, is the sole surviving  
9 primary beneficiary, such beneficiary may elect, within twelve  
10 months after the death of the member, to receive (a) a refund of  
11 the member's contribution account balance with interest plus an  
12 additional one hundred one percent of the member's contribution  
13 account balance with interest or (b) an annuity payable monthly  
14 for the surviving spouse's lifetime which shall be equal to the  
15 benefit amount that had accrued to the member at the date of the  
16 member's death, commencing when the member would have reached age  
17 sixty, or the member's age at death if greater, reduced by three  
18 percent for each year payments commence before the member would  
19 have reached age sixty-five, and adjusted for payment in the form  
20 of a one-hundred-percent joint and survivor annuity.

21 (4) If the requirements of subsection (2) or (3) of  
22 this section are not met, then the beneficiary or the estate,  
23 if the member has not filed a statement with the board naming a  
24 beneficiary, shall be paid a lump sum equal to all contributions  
25 to the fund made by such member plus regular interest, except that  
26 commencing on January 1, 2006, an application for benefits under  
27 subsection (2) or (3) of this section shall be deemed to have

1 been timely filed if the application is received by the retirement  
2 system within twelve months after the date of the death of the  
3 member.

4 (5) Benefits to which a surviving spouse, beneficiary, or  
5 estate of a member shall be entitled pursuant to this section shall  
6 commence immediately upon the death of such member.

7 (6) A lump sum death benefit paid to the member's  
8 beneficiary, other than the member's estate, that is an eligible  
9 distribution may be distributed in the form of a direct transfer  
10 to a retirement plan eligible to receive such transfer under the  
11 provisions of the Internal Revenue Code.

12 (7) For any member whose death occurs on or after January  
13 1, 2007, while performing qualified military service as defined  
14 in section 414(u) of the Internal Revenue Code, the member's  
15 beneficiary shall be entitled to any additional death benefit  
16 that would have been provided, other than the accrual of any  
17 benefit relating to the period of qualified military service. The  
18 additional death benefit shall be determined as if the member had  
19 returned to employment with the employer and such employment had  
20 terminated on the date of the member's death.

21 Sec. 24. Section 79-980, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 79-980 (1) At any time that the retirement system  
24 consists of only one Class V school district, the general  
25 administration of the retirement system is hereby vested in  
26 the board of education. The board shall appoint, by a majority  
27 of all its members, ten trustees to serve as executive officers

1 to administer the Class V School Employees Retirement Act. Such  
2 trustees shall consist of (a) the superintendent of schools, as  
3 ex officio trustee, (b) four members of the retirement system,  
4 two from the certificated staff, one from the classified staff,  
5 and one from the annuitants, (c) three members of the board of  
6 education, and (d) two trustees who are business persons qualified  
7 in financial affairs and who are not members of the retirement  
8 system. The trustees shall serve without compensation, but they  
9 shall be reimbursed from the funds of the retirement system for  
10 expenses that they may incur through service on the board of  
11 trustees as provided in sections 81-1174 to 81-1177. A trustee  
12 shall serve until a successor qualifies, except that trustees who  
13 are members of the retirement system or members of the board  
14 of education shall be disqualified as trustees immediately upon  
15 ceasing to be a member of the retirement system or of the board  
16 of education. Each trustee shall be entitled to one vote on the  
17 board of trustees, and six trustees shall constitute a quorum for  
18 the transaction of any business. The trustees who are appointed  
19 from the board of education and the membership shall be appointed  
20 for each fiscal year. The two trustees who are not members of the  
21 board of education or of the retirement system shall be appointed  
22 for three fiscal years each. The trustees and the administrator  
23 of the retirement system shall administer the retirement system  
24 in compliance with the tax-qualification requirements applicable to  
25 government retirement plans under section 401(a) of the Internal  
26 Revenue Code, as defined in section 49-801.01.

27 (2) At any time that the retirement system consists of

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

1 members of the board or of the retirement system shall be appointed  
2 for three fiscal years each. The trustees and the administrator  
3 of the retirement system shall administer the retirement system  
4 in compliance with the tax-qualification requirements applicable to  
5 government retirement plans under section 401(a) of the Internal  
6 Revenue Code, as defined in section 49-801.01, including: Section  
7 401(a)(9) of the Internal Revenue Code relating to the time and  
8 manner in which benefits are required to be distributed, including  
9 the incidental death benefit distribution requirement of section  
10 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(16)  
11 of the Internal Revenue Code relating to the specification of  
12 actuarial assumptions; section 401(a)(31) of the Internal Revenue  
13 Code relating to direct rollover distributions from eligible  
14 retirement plans; and section 401(a)(37) of the Internal Revenue  
15 Code relating to the death benefit of a member whose death occurs  
16 while performing qualified military service.

17           Sec. 25. Section 79-998, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           79-998 (1) The retirement system may accept as payment  
20 for additional service credit that is purchased pursuant to  
21 sections 79-990 to 79-992 an eligible rollover distribution from  
22 or on behalf of the member who is making payments for such  
23 service credit if the eligible rollover distribution does not  
24 exceed the amount of payment required for the service credit being  
25 purchased by the member. The eligible rollover distribution may  
26 be contributed to the retirement system by the member or directly  
27 transferred from the plan that is making the eligible rollover

1 distribution on behalf of the member. Contribution by a member  
2 pursuant to this section may only be made in the form of a cash  
3 contribution. For purposes of this section, an eligible rollover  
4 distribution means all or any portion of an amount that qualifies  
5 as an eligible rollover distribution under the Internal Revenue  
6 Code from:

7 ~~(1)~~ (a) A plan of another employer which is qualified  
8 under section 401(a) or 403(a) of the Internal Revenue Code;

9 ~~(2)~~ (b) An annuity contract or custodial account  
10 described in section 403(b) of the Internal Revenue Code;

11 ~~(3)~~ (c) An eligible deferred compensation plan under  
12 section 457(b) of the Internal Revenue Code which is maintained by  
13 a governmental employer described in section 457(e)(1)(A) of the  
14 Internal Revenue Code; or

15 ~~(4)~~ (d) An individual retirement account or annuity  
16 described in section 408(a) or section 408(b) of the Internal  
17 Revenue Code that is eligible to be rolled over to an employer plan  
18 under the Internal Revenue Code.

19 (2) The retirement system may accept as payment for  
20 service credit that is purchased pursuant to sections 79-990  
21 to 79-992 a direct trustee-to-trustee transfer from an eligible  
22 deferred compensation plan as described in section 457(e)(17) of  
23 the Internal Revenue Code on behalf of a member who is making  
24 payments for such service credit if the amount transferred from  
25 the eligible deferred compensation plan does not exceed the amount  
26 of payment required for the service credit being purchased and  
27 the purchase of such service credit qualifies as the purchase

1 of permissive service credit by the member as defined in section  
2 415(n)(3) of the Internal Revenue Code.

3 (3) The trustees may establish rules, regulations, and  
4 limitations on the eligible rollover distributions and direct  
5 trustee-to-trustee transfers that may be accepted by the retirement  
6 system pursuant to this section, including restrictions on the type  
7 of assets that may be transferred to the retirement system.

8 (4) Cash and other properties contributed or transferred  
9 to the system pursuant to this section shall be deposited and held  
10 as a commingled asset of the system and shall not be separately  
11 accounted for or invested for the member's benefit. Contributions  
12 or direct transfers made by or on behalf of any member pursuant to  
13 this section shall be treated as qualifying payments under sections  
14 79-990 to 79-992 and as employee contributions for all other  
15 purposes of the Class V School Employees Retirement Act except in  
16 determining federal and state tax treatment of distributions from  
17 the system.

18 (5) The system, the board, the trustees, and their  
19 respective members, officers, and employees shall have no  
20 responsibility or liability with respect to the federal and  
21 state income tax consequences of any contribution or transfer  
22 to the system pursuant to this section, and the trustees may  
23 require as a condition to the system's acceptance of any rollover  
24 contribution or transfer satisfactory evidence that the proposed  
25 contribution or transfer is a qualifying rollover contribution or  
26 trustee-to-trustee transfer under the Internal Revenue Code and  
27 reasonable releases or indemnifications from the member against any

1 and all liabilities which may in any way be connected with such  
2 contribution or transfer.

3 (6) Effective January 1, 1993, any member who is to  
4 receive an eligible rollover distribution, as defined in the  
5 Internal Revenue Code, from the system may, in accordance with  
6 such rules, regulations, and limitations as may be established by  
7 the trustees, elect to have such distribution made in the form of  
8 a direct transfer to a retirement plan eligible to receive such  
9 transfer under the provisions of the Internal Revenue Code. Any  
10 such election shall be made in the form and within the time periods  
11 established by the trustees.

12 (7) A member's surviving spouse or former spouse who  
13 is an alternate payee under a qualified domestic relations order  
14 and, on or after September 1, 2010, any designated beneficiary  
15 of a member who is not a surviving spouse or former spouse who  
16 is entitled to receive an eligible rollover distribution from  
17 the system may, in accordance with such rules, regulations, and  
18 limitations as may be established by the trustees, elect to  
19 have such distribution made in the form of a direct transfer to  
20 a retirement plan eligible to receive such transfer under the  
21 provisions of the Internal Revenue Code.

22 (8) An eligible rollover distribution on behalf of a  
23 designated beneficiary of a member who is not a surviving spouse  
24 or former spouse of the member may be transferred to an individual  
25 retirement account or annuity described in section 408(a) or  
26 section 408(b) of the Internal Revenue Code that is established  
27 for the purpose of receiving the distribution on behalf of the

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

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

6 Sec. 26. Section 79-9,104, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 79-9,104 (1) ~~All~~ Except as provided in subsection (4)  
9 of this section, all annuities and other benefits payable under  
10 the Class V School Employees Retirement Act and all accumulated  
11 credits of members of the retirement system shall not be assignable  
12 or subject to execution, garnishment, or attachment except to the  
13 extent that such annuity or benefit is subject to a qualified  
14 domestic relations order as such term is defined in and which meets  
15 the requirements of section 414(p) of the Internal Revenue Code.  
16 The payment of any annuity or benefit subject to such order shall  
17 take priority over any payment made pursuant to subsection (4) of  
18 this section. Payments under such a qualified domestic relations  
19 order shall be made only after the administrator of the retirement  
20 system receives written notice of such order and such additional  
21 information and documentation as the administrator may require.

22 (2) In lieu of the assignment of a member's future  
23 annuity or benefit to the member's spouse or former spouse, the  
24 retirement system shall permit the spouse or former spouse of  
25 a member to receive, pursuant to a qualified domestic relations  
26 order, a single sum payment of a specified percentage of the  
27 member's accumulated contributions on the condition that upon the

1 payment of such amount the spouse or former spouse shall have  
2 no further interest in the retirement system or in the remaining  
3 benefit of the member under the retirement system.

4 (3) A member's interest and benefits under the retirement  
5 system shall be reduced, either at termination of employment,  
6 retirement, disability, or death, by the actuarial value of the  
7 benefit assigned or paid to the member's spouse, former spouse,  
8 or other dependents under a qualified domestic relations order,  
9 as determined by the plan actuary on the basis of the actuarial  
10 assumptions then recommended by the actuary pursuant to section  
11 79-984.

12 (4) If a member of the retirement system is convicted of  
13 or pleads no contest to a felony that is defined as assault, sexual  
14 assault, kidnapping, child abuse, false imprisonment, or theft by  
15 embezzlement and is found liable for civil damages as a result  
16 of such felony, following distribution of the member's annuities  
17 or benefits from the retirement system, the court may order the  
18 payment of the member's annuities or benefits earned under the  
19 retirement system for such civil damages, except that the annuities  
20 or benefits to the extent reasonably necessary for the support of  
21 the member or any of his or her beneficiaries shall be exempt from  
22 such payment. Any order for payment of annuities or benefits shall  
23 not be stayed on the filing of any appeal of the conviction. If the  
24 conviction is reversed on final judgment, all annuities or benefits  
25 paid as civil damages shall be forfeited and returned to the  
26 member. The changes made to this section by this legislative bill  
27 shall apply to persons convicted of or who have pled no contest to

1 such a felony and who have been found liable for civil damages as  
2 a result of such felony prior to, on, or after the effective date  
3 of this act.

4           Sec. 27. Section 79-9,106, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           79-9,106 (1) Upon the death of a member who has not yet  
7 retired and who has twenty years or more of creditable service, the  
8 member's primary beneficiary shall receive a survivorship annuity  
9 in accordance with subdivision (1) of section 79-9,101 if the  
10 primary beneficiary is (a) the member's spouse or (b) one other  
11 designated beneficiary whose attained age in the calendar year  
12 of the member's death is no more than ten years less than the  
13 attained age of the member in such calendar year. The amount of  
14 such actuarially equivalent annuity shall be calculated using the  
15 attained ages of the member and the beneficiary and be based  
16 on the annuity earned to the date of the member's death without  
17 reduction due to any early commencement of benefits. Within sixty  
18 days from the date of the member's death, if the member has not  
19 previously filed with the administrator of the retirement system  
20 a form requiring that only the survivorship annuity be paid,  
21 the beneficiary may request to receive in a lump sum an amount  
22 equal to the member's accumulated contributions. If prior to the  
23 member's death, the member files with the administrator of the  
24 retirement system a form requiring that the beneficiary receive  
25 a lump-sum settlement in lieu of the survivorship annuity, the  
26 beneficiary shall receive, in lieu of the survivorship annuity, a  
27 lump-sum settlement in an amount equal to the member's accumulated

1 contributions notwithstanding any other provision of this section.

2 (2) Upon the death of a member who has not yet retired  
3 and who has less than twenty years of creditable service or upon  
4 the death of a member who has not yet retired and who has twenty  
5 years or more of creditable service but whose beneficiary does not  
6 meet the criteria in subsection (1) of this section, the member's  
7 beneficiary or, if no beneficiary has been named, the member's  
8 estate shall receive in a lump sum an amount equal to the member's  
9 accumulated contributions.

10 (3) A lump sum death benefit paid to the member's  
11 beneficiary, other than the member's estate, that is an eligible  
12 distribution may be distributed in the form of a direct transfer  
13 to a retirement plan eligible to receive such transfer under the  
14 provisions of the Internal Revenue Code.

15 (4) For any member whose death occurs on or after January  
16 1, 2007, while performing qualified military service as defined  
17 in section 414(u) of the Internal Revenue Code, the member's  
18 beneficiary shall be entitled to any additional death benefit  
19 that would have been provided, other than the accrual of any  
20 benefit relating to the period of qualified military service. The  
21 additional death benefit shall be determined as if the member had  
22 returned to employment with the school district and such employment  
23 had terminated on the date of the member's death.

24 Sec. 28. Section 81-2014, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 81-2014 For purposes of the Nebraska State Patrol  
27 Retirement Act:

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

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

11           (3) (a) Compensation means gross wages or salaries payable  
12 to the member for personal services performed during the plan  
13 year. Compensation does not include insurance premiums converted  
14 into cash payments, reimbursement for expenses incurred, fringe  
15 benefits, per diems, or bonuses for services not actually rendered,  
16 including, but not limited to, early retirement inducements,  
17 cash awards, and severance pay, except for retroactive salary  
18 payments paid pursuant to court order, arbitration, or litigation  
19 and grievance settlements. For any officer employed after  
20 January 4, 1979, compensation does not include compensation for  
21 unused sick leave or unused vacation leave converted to cash  
22 payments. Compensation includes overtime pay, member retirement  
23 contributions, and amounts contributed by the member to plans under  
24 sections 125 and 457 of the Internal Revenue Code as defined in  
25 section 49-801.01 or any other section of the code which defers or  
26 excludes such amounts from income.

27           (b) Compensation in excess of the limitations set forth

1 in section 401(a)(17) of the Internal Revenue Code as defined  
2 in section 49-801.01 shall be disregarded. For an employee who  
3 was a member of the retirement system before the first plan year  
4 beginning after December 31, 1995, the limitation on compensation  
5 shall not be less than the amount which was allowed to be taken  
6 into account under the retirement system as in effect on July 1,  
7 1993;

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

15 (5) Current benefit means ~~(a) until July 1, 2000, the~~  
16 ~~initial benefit increased by all adjustments made pursuant to~~  
17 ~~section 81-2027.04 and (b) on or after July 1, 2000, the initial~~  
18 ~~benefit increased by all adjustments made pursuant to the Nebraska~~  
19 ~~State Patrol Retirement Act;~~

20 (6) DROP means the deferred retirement option plan as  
21 provided in section 81-2041;

22 (7) DROP period means the amount of time the member  
23 elects to participate in DROP which shall be for a period not to  
24 exceed five years from and after the date of the member's DROP  
25 election;

26 (8) Eligibility and vesting credit means credit for  
27 years, or a fraction of a year, of participation in a Nebraska

1 government plan for purposes of determining eligibility for  
2 benefits under the Nebraska State Patrol Retirement Act. Such  
3 credit shall be used toward the vesting percentage pursuant to  
4 subsection (2) of section 81-2031 but shall not be included as  
5 years of service in the benefit calculation;

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

8 (10) Officer means an officer provided for in sections  
9 81-2001 to 81-2009;

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

12 (12) Regular interest means interest fixed at a rate  
13 equal to the daily treasury yield curve for one-year treasury  
14 securities, as published by the Secretary of the Treasury of the  
15 United States, that applies on July 1 of each year, which may be  
16 credited monthly, quarterly, semiannually, or annually as the board  
17 may direct;

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

20 (14) Service means employment as a member of the Nebraska  
21 State Patrol and shall not be deemed to be interrupted by (a)  
22 temporary or seasonal suspension of service that does not terminate  
23 the employee's employment, (b) leave of absence authorized by  
24 the employer for a period not exceeding twelve months, (c) leave  
25 of absence because of disability, or (d) military service, when  
26 properly authorized by the board. Service does not include any  
27 period of disability for which disability retirement benefits are

1 received under subsection (1) of section 81-2025;

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

16 (16) Termination of employment occurs on the date on  
17 which the Nebraska State Patrol determines that the officer's  
18 employer-employee relationship with the patrol is dissolved. The  
19 Nebraska State Patrol shall notify the board of the date on which  
20 such a termination has occurred. Termination of employment does  
21 not include ceasing employment with the Nebraska State Patrol  
22 if the officer returns to regular employment with the Nebraska  
23 State Patrol or another agency of the State of Nebraska and  
24 there are less than one hundred twenty days between the date when  
25 the employee's employer-employee relationship ceased and the date  
26 when the employer-employee relationship commenced with the Nebraska  
27 State Patrol or another state agency. Termination of employment

1 does not occur upon an officer's participation in DROP pursuant  
2 to section 81-2041. It is the responsibility of the employer that  
3 is involved in the termination of employment to notify the board  
4 of such change in employment and provide the board with such  
5 information as the board deems necessary. If the board determines  
6 that termination of employment has not occurred and a retirement  
7 benefit has been paid to a member of the retirement system pursuant  
8 to section 81-2026, the board shall require the member who has  
9 received such benefit to repay the benefit to the retirement  
10 system.

11           Sec. 29. Section 81-2026, Revised Statutes Supplement,  
12 2011, is amended to read:

13           81-2026 (1) (a) Any officer qualified for an annuity as  
14 provided in section 81-2025 for reasons other than disability  
15 shall be entitled to receive a monthly annuity for the remainder  
16 of the officer's life. The annuity payments shall continue until  
17 the end of the calendar month in which the officer dies. The  
18 amount of the annuity shall be a percentage of the officer's  
19 final average monthly compensation. For retirement on or after the  
20 fifty-fifth birthday of the member or on or after the fiftieth  
21 birthday of a member who has been in the employ of the state for  
22 twenty-five years, as calculated in section 81-2033, the percentage  
23 shall be three percent multiplied by the number of years of  
24 creditable service, as calculated in section 81-2033, except that  
25 the percentage shall never be greater than seventy-five percent.

26           (b) For retirement pursuant to subsection (2) of section  
27 81-2025 on or after the fiftieth birthday of the member but prior

1 to the fifty-fifth birthday of the member who has been in the  
2 employ of the state for less than twenty-five years, as calculated  
3 in section 81-2033, the annuity which would apply if the member  
4 were age fifty-five at the date of retirement shall be reduced  
5 by five-ninths of one percent for each month by which the early  
6 retirement date precedes age fifty-five or for each month by which  
7 the early retirement date precedes the date upon which the member  
8 has served for twenty-five years, whichever is earlier. Any officer  
9 who has completed thirty years of creditable service with the  
10 Nebraska State Patrol shall have retirement benefits computed as if  
11 the officer had reached age fifty-five.

12 (c) For purposes of this computation, final average  
13 monthly compensation shall mean the sum of the officer's total  
14 compensation during the three twelve-month periods of service as  
15 an officer in which compensation was the greatest divided by  
16 thirty-six, and for any officer employed on or before January  
17 4, 1979, the officer's total compensation shall include payments  
18 received for unused vacation and sick leave accumulated during the  
19 final three years of service.

20 (2) Any officer qualified for an annuity as provided  
21 in section 81-2025 for reasons of disability shall be entitled  
22 to receive a monthly annuity for the remainder of the period  
23 of disablement as provided in sections 81-2028 to 81-2030. The  
24 amount of the annuity shall be fifty percent of the officer's  
25 monthly compensation at the date of disablement if the officer  
26 has completed seventeen or fewer years of creditable service. If  
27 the officer has completed more than seventeen years of creditable

1 service, the amount of the annuity shall be three percent of the  
2 final monthly compensation at the date of disablement multiplied  
3 by the total years of creditable service but not to exceed  
4 seventy-five percent of the final average monthly compensation as  
5 defined in subsection (1) of this section. The date of disablement  
6 shall be the date on which the benefits as provided in section  
7 81-2028 have been exhausted.

8 (3) Upon the death of an officer after retirement for  
9 reasons other than disability, benefits shall be provided as a  
10 percentage of the amount of the officer's annuity, calculated as  
11 follows:

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

17 (b) If there is a surviving spouse and the surviving  
18 spouse has in his or her care a dependent child or children of the  
19 officer under nineteen years of age and there is no other dependent  
20 child or children of the officer not in the care of the surviving  
21 spouse under nineteen years of age, the benefit shall be equal  
22 to one hundred percent of the officer's annuity. When there is no  
23 remaining dependent child of the officer under nineteen years of  
24 age, the benefit shall be seventy-five percent of the amount of the  
25 officer's annuity to the surviving spouse for the remainder of the  
26 surviving spouse's life;

27 (c) If there is a surviving spouse and the surviving

1 spouse has in his or her care a dependent child or children of the  
2 officer under nineteen years of age or there is another dependent  
3 child or children of the officer under nineteen years of age not in  
4 the care of the surviving spouse, the benefit shall be twenty-five  
5 percent of the amount of the officer's annuity to the surviving  
6 spouse and seventy-five percent of the amount of the officer's  
7 annuity to the dependent children of the officer under nineteen  
8 years of age to be divided equally among such dependent children  
9 but in no case shall the benefit received by a surviving spouse  
10 and dependent children residing with such spouse be less than fifty  
11 percent of the amount of the officer's annuity. At such time as  
12 any dependent child of the officer attains nineteen years of age,  
13 the benefit shall be divided equally among the remaining dependent  
14 children of the officer who have not yet attained nineteen years  
15 of age. When there is no remaining dependent child of the officer  
16 under nineteen years of age, the benefit shall be seventy-five  
17 percent of the amount of the officer's annuity to the surviving  
18 spouse for the remainder of the surviving spouse's life;

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

1           (e) If there is no surviving spouse or no dependent child  
2 or children of the officer under nineteen years of age, the amount  
3 of benefit such officer has received under the Nebraska State  
4 Patrol Retirement Act shall be computed. If such amount is less  
5 than the contributions to the State Patrol Retirement Fund made by  
6 such officer, plus regular interest, the difference shall be paid  
7 to the officer's designated beneficiary or estate.

8           (4) Upon the death of an officer after retirement for  
9 reasons of disability, benefits shall be provided as if the officer  
10 had retired for reasons other than disability.

11           (5) Upon the death of an officer before retirement,  
12 benefits shall be provided as if the officer had retired for  
13 reasons of disability on the date of such officer's death,  
14 calculated as follows:

15           (a) If there is a surviving spouse but no dependent  
16 child or children of the 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 officer's annuity for the remainder of  
19 the surviving spouse's life;

20           (b) If there is a surviving spouse and the surviving  
21 spouse has in his or her care a dependent child or children of the  
22 officer under nineteen years of age and there is no other dependent  
23 child or children of the officer not in the care of the surviving  
24 spouse under nineteen years of age, the benefit shall be equal  
25 to one hundred percent of the officer's annuity. When there is no  
26 remaining dependent child of the officer under nineteen years of  
27 age, the benefit shall be seventy-five percent of the amount of the

1 officer's annuity to the surviving spouse for the remainder of the  
2 surviving spouse's life;

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

22 (d) If there is no surviving spouse and a dependent child  
23 or children of the officer under nineteen years of age, the benefit  
24 shall be equal to seventy-five percent of the officer's annuity  
25 to the dependent children of the officer under nineteen years of  
26 age to be divided equally among such dependent children. At such  
27 time as any dependent child of the officer attains nineteen years

1 of age, the benefit shall be divided equally among the remaining  
2 dependent children of the officer who have not yet attained  
3 nineteen years of age; and

4 (e) If no benefits are paid to a surviving spouse or  
5 dependent child or children of the officer, benefits will be paid  
6 as described in subsection (1) of section 81-2031.

7 (6) A lump sum death benefit paid to the member's  
8 beneficiary, other than the member's estate, that is an eligible  
9 distribution may be distributed in the form of a direct transfer  
10 to a retirement plan eligible to receive such transfer under the  
11 provisions of the Internal Revenue Code.

12 (7) For any member whose death occurs on or after January  
13 1, 2007, while performing qualified military service as defined  
14 in section 414(u) of the Internal Revenue Code, the member's  
15 beneficiary shall be entitled to any additional death benefit  
16 that would have been provided, other than the accrual of any  
17 benefit relating to the period of qualified military service. The  
18 additional death benefit shall be determined as if the member had  
19 returned to employment with the Nebraska State Patrol and such  
20 employment had terminated on the date of the member's death.

21 ~~(6)~~ (8) Any changes made to this section by Laws 2004,  
22 LB 1097, shall apply only to retirements, disabilities, and deaths  
23 occurring on or after July 16, 2004.

24 Sec. 30. Section 81-2031.03, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 81-2031.03 (1) For purposes of this section and section  
27 81-2031.04:

1           (a) Distributee means the member, the member's surviving  
2 spouse, or the member's former spouse who is an alternate payee  
3 under a qualified domestic relations order as defined in section  
4 414(p) of the Internal Revenue Code;

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

8           (c) Eligible retirement plan means (i) an individual  
9 retirement account described in section 408(a) of the Internal  
10 Revenue Code, (ii) an individual retirement annuity described in  
11 section 408(b) of the code, except for an endowment contract, (iii)  
12 a qualified plan described in section 401(a) of the code, (iv) an  
13 annuity plan described in section 403(a) or 403(b) of the code,  
14 (v) an individual retirement plan described in section 408A of the  
15 code, and ~~(v)~~ (vi) a plan described in section 457(b) of the code  
16 and maintained by a governmental employer. For eligible rollover  
17 distributions to a surviving spouse, an eligible retirement plan  
18 means subdivisions (1)(c)(i) through ~~(iv)~~ (vi) of this section; and

19           (d) Eligible rollover distribution means any distribution  
20 to a distributee of all or any portion of the balance to the credit  
21 of the distributee in the plan, except such term shall not include  
22 any distribution which is one of a series of substantially equal  
23 periodic payments, not less frequently than annually, made for the  
24 life of the distributee or joint lives of the distributee and the  
25 distributee's beneficiary or for the specified period of ten years  
26 or more and shall not include any distribution to the extent such  
27 distribution is required under section 401(a)(9) of the Internal

1 Revenue Code.

2 (2) For distributions made to a distributee on or after  
3 January 1, 1993, a distributee may elect to have any portion of  
4 an eligible rollover distribution paid directly to an eligible  
5 retirement plan specified by the distributee.

6 (3) A member's surviving spouse or former spouse who  
7 is an alternate payee under a qualified domestic relations order  
8 and, on or after July 1, 2010, any designated beneficiary of a  
9 member who is not a surviving spouse or former spouse who is  
10 entitled to receive an eligible rollover distribution from the  
11 retirement system may, in accordance with such rules, regulations,  
12 and limitations as may be established by the board, elect to  
13 have such distribution made in the form of a direct transfer to  
14 a retirement plan eligible to receive such transfer under the  
15 provisions of the Internal Revenue Code.

16 (4) An eligible rollover distribution on behalf of a  
17 designated beneficiary of a member who is not a surviving spouse  
18 or former spouse of the member may be transferred to an individual  
19 retirement account or annuity described in section 408(a) or  
20 section 408(b) of the Internal Revenue Code that is established  
21 for the purpose of receiving the distribution on behalf of the  
22 designated beneficiary and that will be treated as an inherited  
23 individual retirement account or individual retirement annuity  
24 described in section 408(d)(3)(C) of the Internal Revenue Code.

25 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
26 regulations for direct rollover procedures which are consistent  
27 with section 401(a)(31) of the Internal Revenue Code and which

1 include, but are not limited to, the form and time of direct  
2 rollover distributions.

3 Sec. 31. Section 81-2032, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 81-2032 ~~All~~ (1) Except as provided in subsection (2) of  
6 this section, all annuities or benefits which any person shall  
7 be entitled to receive under sections 81-2014 to 81-2036 shall  
8 not be subject to garnishment, attachment, levy, the operation  
9 of bankruptcy or insolvency laws, or any other process of law  
10 whatsoever and shall not be assignable except to the extent that  
11 such annuities or benefits are subject to a qualified domestic  
12 relations order under the Spousal Pension Rights Act. The payment  
13 of any annuities or benefits subject to such order shall take  
14 priority over any payment made pursuant to subsection (2) of this  
15 section.

16 (2) If a member of the retirement system is convicted  
17 of or pleads no contest to a felony that is defined as assault,  
18 sexual assault, kidnapping, child abuse, false imprisonment, or  
19 theft by embezzlement and is found liable for civil damages as a  
20 result of such felony, following the distribution of the member's  
21 annuities or benefits from the retirement system, the court may  
22 order the payment of the member's annuities or benefits earned  
23 under the retirement system for such civil damages, except that the  
24 annuities or benefits to the extent reasonably necessary for the  
25 support of the member or any of his or her beneficiaries shall be  
26 exempt from such payment. Any order for payment of annuities or  
27 benefits shall not be stayed on the filing of any appeal of the

1 conviction. If the conviction is reversed on final judgment, all  
2 annuities or benefits paid as civil damages shall be forfeited and  
3 returned to the member. The changes made to this section by this  
4 legislative bill shall apply to persons convicted of or who have  
5 pled no contest to such a felony and who have been found liable for  
6 civil damages as a result of such felony prior to, on, or after the  
7 effective date of this act.

8           Sec. 32. Section 81-2041, Revised Statutes Supplement,  
9 2011, is amended to read:

10           81-2041 (1) Any member who meets the participation  
11 requirements of subsection (2) of this section may participate  
12 in DROP. DROP provides that subsequent to attaining normal age and  
13 service retirement eligibility, a member may voluntarily choose to  
14 participate in DROP upon its adoption which, for purposes of this  
15 section, shall be the earlier of September 1, 2008, or the first  
16 of the month following a favorable letter determination by the  
17 Internal Revenue Service. If the member chooses to participate in  
18 DROP, the member shall be deemed to have retired but shall not be  
19 deemed to be terminated, but and the member may continue in active  
20 employment for up to a five-year period. During the DROP period,  
21 the member's retirement benefit payments shall be deposited into  
22 the DROP account for the benefit of the member until the member  
23 actually retires from active employment at or before the expiration  
24 of the DROP period. Thereafter, future retirement benefit payments  
25 shall be made directly to the member, and the member shall have  
26 access to all funds in the DROP account designated for the benefit  
27 of the member.

1                   (2) To participate in the DROP program, a member shall  
2 meet the following requirements:

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

9                   (b) A member who elects to enter DROP shall be entitled  
10 to receive regular age and service retirement benefits in  
11 accordance with section 81-2026. A member is entitled to remain in  
12 DROP for a maximum of five years subsequent to the date of the  
13 member's DROP election. A member may separate from service and  
14 thereby exit DROP at any time during the DROP period. On or before  
15 the completion of the DROP period, the member must separate from  
16 active employment and exit DROP. During the DROP period, a member's  
17 retirement benefit shall be payable to the DROP account vendor  
18 designated in the member's name. Amounts transferred or paid to  
19 a participating member's DROP account shall not constitute annual  
20 additions under section 415 of the Internal Revenue Code;

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

1 the date of election and shall be payable as if the employee  
2 retired on that date and separated from active employment. Upon  
3 the death of a member during the DROP period, monthly benefits  
4 shall be provided as a percentage of the amount of the member's  
5 annuity as set forth in subsection (3) of section 81-2026 based  
6 upon the annuity benefit calculation made at commencement of the  
7 DROP period. In addition, the balance of the DROP account, if any,  
8 shall be provided to the beneficiary or beneficiaries of the member  
9 in accordance with subsection (6) of section 81-2026 or, if no  
10 beneficiary is provided, to the estate of the member. Upon the  
11 disability of a member during the DROP period, the member shall  
12 be deemed to have completed the DROP period, shall begin receiving  
13 the annuity benefit as calculated at the commencement of the DROP  
14 period, and shall be paid the balance of the DROP account, if any;

15 (d) No member shall be allowed to continue making the  
16 required contributions while the member is enrolled in DROP;

17 (e) During the DROP period, the Nebraska State Patrol  
18 shall not be assessed the amount required under subsection (2) of  
19 section 81-2017 nor shall such amount be credited to the State  
20 Patrol Retirement Fund;

21 (f) The member shall be paid the balance of the DROP  
22 account upon the member's separation from active employment or  
23 at the expiration of the DROP period thereby ending the member's  
24 participation in DROP. If a member has not voluntarily separated  
25 from active employment on or before the completion of the DROP  
26 period, the member's retirement benefit shall be paid directly  
27 to the member thereby ending the member's active employment. The

1 member's DROP account shall consist of accrued retirement benefits  
2 and interest on such benefits;

3 (g) 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~~ borne by the participating  
12 DROP member. The retirement system, the state, the board, and  
13 the state investment officer shall not be responsible for any  
14 investment results under the DROP agreement. Transfers between  
15 investment options shall be in accordance with the rules and  
16 regulations of DROP. A DROP account shall be established for each  
17 participating DROP member. Such DROP account shall be adjusted no  
18 less frequently than annually for the member's retirement benefit  
19 distributions and net investment earnings and losses;

20 (h) If the DROP account is subject to administrative or  
21 other fees or charges, such fees or charges shall be charged to the  
22 participating DROP member's DROP account; and

23 (i) Cost-of-living adjustments as provided for in section  
24 81-2027.08 shall not be applied to retirement benefits during the  
25 DROP period.

26 Sec. 33. Section 84-1301, Revised Statutes Supplement,  
27 2011, is amended to read:

1           84-1301 For purposes of the State Employees Retirement  
2 Act, unless the context otherwise requires:

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

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

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

26           (4) Cash balance benefit means a member's retirement  
27 benefit that is equal to an amount based on annual employee

1 contribution credits plus interest credits and, if vested, employer  
2 contribution credits plus interest credits and dividend amounts  
3 credited in accordance with subdivision (4)(c) of section 84-1319;

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

17 (b) Compensation in excess of the limitations set forth  
18 in section 401(a)(17) of the Internal Revenue Code shall be  
19 disregarded. For an employee who was a member of the retirement  
20 system before the first plan year beginning after December 31,  
21 1995, the limitation on compensation shall not be less than the  
22 amount which was allowed to be taken into account under the  
23 retirement system as in effect on July 1, 1993;

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

26 (7) Defined contribution benefit means a member's  
27 retirement benefit from a money purchase plan in which member

1 benefits equal annual contributions and earnings pursuant to  
2 section 84-1310 and, if vested, employer contributions and earnings  
3 pursuant to section 84-1311;

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

8 (9) Employee means any employee of the State Board of  
9 Agriculture who is a member of the state retirement system on  
10 July 1, 1982, and any person or officer employed by the State of  
11 Nebraska whose compensation is paid out of state funds or funds  
12 controlled or administered by a state department through any of  
13 its executive or administrative officers when acting exclusively in  
14 their respective official, executive, or administrative capacities.  
15 Employee does not include (a) judges as defined in section 24-701,  
16 (b) members of the Nebraska State Patrol, except for those members  
17 of the Nebraska State Patrol who elected pursuant to section  
18 60-1304 to remain members of the State Employees Retirement System  
19 of the State of Nebraska, (c) employees of the University of  
20 Nebraska, (d) employees of the state colleges, (e) employees  
21 of community colleges, (f) employees of the Department of Labor  
22 employed prior to July 1, 1984, and paid from funds provided  
23 pursuant to Title III of the federal Social Security Act or  
24 funds from other federal sources, except that if the contributory  
25 retirement plan or contract let pursuant to section 48-609 is  
26 terminated, such employees shall become employees for purposes  
27 of the State Employees Retirement Act on the first day of the

1 first pay period following the termination of such contributory  
2 retirement plan or contract, (g) employees of the State Board of  
3 Agriculture who are not members of the state retirement system  
4 on July 1, 1982, (h) the Nebraska National Guard air and army  
5 technicians, (i) persons eligible for membership under the School  
6 Employees Retirement System of the State of Nebraska who have  
7 not elected to become members of the retirement system pursuant  
8 to section 79-920 or been made members of the system pursuant  
9 to such section, except that those persons so eligible and who  
10 as of September 2, 1973, are contributing to the State Employees  
11 Retirement System of the State of Nebraska shall continue as  
12 members of such system, or (j) employees of the Coordinating  
13 Commission for Postsecondary Education who are eligible for and  
14 have elected to become members of a qualified retirement program  
15 approved by the commission which is commensurate with retirement  
16 programs at the University of Nebraska. Any individual appointed  
17 by the Governor may elect not to become a member of the State  
18 Employees Retirement System of the State of Nebraska;

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

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

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

1 after the member's termination;

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

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

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

9 (16) Guaranteed investment contract means an investment  
10 contract or account offering a return of principal invested plus  
11 interest at a specified rate. For investments made after July  
12 19, 1996, guaranteed investment contract does not include direct  
13 obligations of the United States or its instrumentalities, bonds,  
14 participation certificates or other obligations of the Federal  
15 National Mortgage Association, the Federal Home Loan Mortgage  
16 Corporation, or the Government National Mortgage Association,  
17 or collateralized mortgage obligations and other derivative  
18 securities. This subdivision shall not be construed to require the  
19 liquidation of investment contracts or accounts entered into prior  
20 to July 19, 1996;

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

26 (18) Interest credits means the amounts credited to the  
27 employee cash balance account and the employer cash balance account

1 at the end of each day. Such interest credit for each account  
2 shall be determined by applying the daily portion of the interest  
3 credit rate to the account balance at the end of the previous day.  
4 Such interest credits shall continue to be credited to the employee  
5 cash balance account and the employer cash balance account after  
6 a member ceases to be an employee, except that no such credit  
7 shall be made with respect to the employee cash balance account  
8 and the employer cash balance account for any day beginning on  
9 or after the member's date of final account value. If benefits  
10 payable to the member's surviving spouse or beneficiary are delayed  
11 after the member's death, interest credits shall continue to be  
12 credited to the employee cash balance account and the employer  
13 cash balance account until such surviving spouse or beneficiary  
14 commences receipt of a distribution from the plan;

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

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

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

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

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

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

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

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

10           (27) Retirement means qualifying for and accepting the  
11 retirement benefit granted under the State Employees Retirement Act  
12 after terminating employment;

13           (28) Retirement board or board means the Public Employees  
14 Retirement Board;

15           (29) Retirement system means the State Employees  
16 Retirement System of the State of Nebraska;

17           (30) Service means the actual total length of employment  
18 as an employee and shall not be deemed to be interrupted by (a)  
19 temporary or seasonal suspension of service that does not terminate  
20 the employee's employment, (b) leave of absence authorized by  
21 the employer for a period not exceeding twelve months, (c) leave  
22 of absence because of disability, or (d) military service, when  
23 properly authorized by the retirement board. Service does not  
24 include any period of disability for which disability retirement  
25 benefits are received under section 84-1317;

26           (31) State department means any department, bureau,  
27 commission, or other division of state government not otherwise

1 specifically defined or exempted in the act, the employees and  
2 officers of which are not already covered by a retirement plan;

3 (32) Surviving spouse means (a) the spouse married to  
4 the member on the date of the member's death or (b) the spouse  
5 or former spouse of the member if survivorship rights are provided  
6 under a qualified domestic relations order filed with the board  
7 pursuant to the Spousal Pension Rights Act. The spouse or former  
8 spouse shall supersede the spouse married to the member on the  
9 date of the member's death as provided under a qualified domestic  
10 relations order. If the benefits payable to the spouse or former  
11 spouse under a qualified domestic relations order are less than  
12 the value of benefits entitled to the surviving spouse, the spouse  
13 married to the member on the date of the member's death shall be  
14 the surviving spouse for the balance of the benefits;

15 (33) Termination of employment occurs on the date on  
16 which the agency which employs the member determines that the  
17 member's employer-employee relationship with the State of Nebraska  
18 is dissolved. The agency which employs the member shall notify  
19 the board of the date on which such a termination has occurred.  
20 Termination of employment does not occur if an employee whose  
21 employer-employee relationship with the State of Nebraska is  
22 dissolved enters into an employer-employee relationship with the  
23 same or another agency of the State of Nebraska and there are less  
24 than one hundred twenty days between the date when the employee's  
25 employer-employee relationship ceased with the state and the date  
26 when the employer-employee relationship commenced with the same or  
27 another agency. It ~~shall be~~ is the responsibility of the ~~current~~

1 employer that is involved in the termination of employment to  
2 notify the board of such change in employment and provide the  
3 board with such information as the board deems necessary. If the  
4 board determines that termination of employment has not occurred  
5 and a ~~termination~~ retirement benefit has been paid to a member  
6 of the retirement system pursuant to section 84-1321, the board  
7 shall require the member who has received such benefit to repay the  
8 benefit to the retirement system; and

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

12 Sec. 34. Section 84-1309, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 84-1309 (1) There is hereby established in the state  
15 treasury a special fund to be known as the State Employees  
16 Retirement Fund to consist of such funds as the Legislature shall  
17 from time to time appropriate. The Director of Administrative  
18 Services shall credit an amount each month to the State Employees  
19 Retirement Fund equal to one hundred fifty-six percent of the  
20 amounts deducted, in accordance with section 84-1308, from the  
21 compensation of employees who are paid from funds appropriated from  
22 the General Fund.

23 (2) The Director of Administrative Services shall credit  
24 an amount each month to the State Employees Retirement Fund from  
25 the funds of each department with at least one employee who is a  
26 member of the retirement system for a sum equal to one hundred  
27 fifty-six percent of the amounts deducted, in accordance with

1 section 84-1308, from the compensation of employees who are paid  
2 from any funds other than funds appropriated from the General Fund.

3 (3) The Director of Administrative Services shall credit  
4 an amount each month to the State Employees Retirement Fund for  
5 prior service benefits. After receiving the annual report required  
6 by section 84-1315, the Legislature may make such adjustments in  
7 the funding of prior service benefits as necessary to keep the plan  
8 sound. The contribution for prior service purposes shall cease when  
9 the prior service obligation is properly funded.

10 (4) The Department of Administrative Services may,  
11 for accounting purposes, create subfunds of the State Employees  
12 Retirement Fund to separately account for defined contribution and  
13 cash balance plan assets.

14 ~~(4)~~ (5) The State Treasurer shall be the custodian of  
15 the funds and securities of the retirement system and may deposit  
16 the funds and securities in any financial institution approved by  
17 the Nebraska Investment Council. The State Treasurer shall transmit  
18 monthly to the board a detailed statement showing all credits  
19 to and disbursements from the fund. He or she shall disburse  
20 money from the fund only on warrants issued by the Director of  
21 Administrative Services upon vouchers signed by a person authorized  
22 by the retirement board.

23 Sec. 35. Section 84-1309.02, Revised Statutes Supplement,  
24 2011, is amended to read:

25 84-1309.02 (1) It is the intent of the Legislature that,  
26 in order to improve the competitiveness of the retirement plan for  
27 state employees, a cash balance benefit shall be added to the State

1 Employees Retirement Act on and after January 1, 2003. Each member  
2 who is employed and participating in the retirement system prior  
3 to January 1, 2003, may either elect to continue participation  
4 in the defined contribution benefit as provided in the act prior  
5 to January 1, 2003, or elect to participate in the cash balance  
6 benefit as set forth in this section. The active member shall  
7 make ~~the~~ a one-time election prior to January 1, 2003, or on or  
8 after ~~November 1, 2007, but before January 1, 2008~~ September 1,  
9 2012, through October 31, 2012. If no such election is made prior  
10 to January 1, 2003, or on or after ~~November 1, 2007, but before~~  
11 ~~January 1, 2008,~~ September 1, 2012, through October 31, 2012, the  
12 member shall be treated as though he or she elected to continue  
13 participating in the defined contribution benefit as provided in  
14 the act prior to January 1, 2003. Members who elect to participate  
15 in the cash balance benefit on or after ~~November 1, 2007, but~~  
16 ~~before January 1, 2008,~~ September 1, 2012, through October 31,  
17 2012, shall commence participation in the cash balance benefit on  
18 January ~~1, 2008.~~ 2, 2013. Any member who made the election prior to  
19 January ~~1, 2003,~~ the effective date of this act does not have to  
20 reelect the cash balance benefit on or after ~~November~~ September 1,  
21 2012, through October 31, 2012. ~~2007, but before January 1, 2008.~~ A  
22 member employed and participating in the retirement system prior to  
23 January ~~1, 2003,~~ who terminates employment on or after January ~~1,~~  
24 ~~2003,~~ and returns to employment prior to having a five-year break  
25 in service shall participate in the cash balance benefit as set  
26 forth in this section.

27 (2) For a member employed and participating in the

1 retirement system beginning on and after January 1, 2003, or a  
2 member employed and participating in the retirement system on  
3 January 1, 2003, who, prior to ~~January 1, 2003,~~ the effective date  
4 of this act or on or after ~~November 1, 2007,~~ but before January  
5 ~~1, 2008,~~ September 1, 2012, through October 31, 2012, elects to  
6 convert his or her employee and employer accounts to the cash  
7 balance benefit:

8 (a) Except as provided in subdivision (2)(b) of section  
9 84-1321.01, the employee cash balance account within the State  
10 Employees Retirement Fund shall, at any time, be equal to the  
11 following:

12 (i) The initial employee account balance, if any,  
13 transferred from the defined contribution plan account described in  
14 section 84-1310; plus

15 (ii) Employee contribution credits deposited in  
16 accordance with section 84-1308; plus

17 (iii) Interest credits credited in accordance with  
18 subdivision (18) of section 84-1301; plus

19 (iv) Dividend amounts credited in accordance with  
20 subdivision (4)(c) of section 84-1319; and

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

23 (i) The initial employer account balance, if any,  
24 transferred from the defined contribution plan account described in  
25 section 84-1311; plus

26 (ii) Employer contribution credits deposited in  
27 accordance with section 84-1309; plus

1 (iii) Interest credits credited in accordance with  
2 subdivision (18) of section 84-1301; plus

3 (iv) Dividend amounts credited in accordance with  
4 subdivision (4)(c) of section 84-1319.

5 (3) In order to carry out the provisions of this section,  
6 the board may enter into administrative services agreements for  
7 accounting or record-keeping services. No agreement shall be  
8 entered into unless the board determines that it will result  
9 in administrative economy and will be in the best interests of  
10 the state and its participating employees. The board may develop  
11 a schedule for the allocation of the administrative services  
12 agreements costs for accounting or record-keeping services and may  
13 assess the costs so that each member pays a reasonable fee as  
14 determined by the board.

15 Sec. 36. Section 84-1310.01, Revised Statutes Cumulative  
16 Supplement, 2010, is amended to read:

17 84-1310.01 (1) Each member employed and participating in  
18 the retirement system prior to January 1, 2003, who has elected  
19 not to participate in the cash balance benefit, shall be allowed  
20 to allocate all contributions to his or her employee account to  
21 various investment options. Such investment options shall include,  
22 but not be limited to, the following:

23 (a) An investor select account which shall be invested  
24 under the direction of the state investment officer with an asset  
25 allocation and investment strategy substantially similar to the  
26 investment allocations made by the state investment officer for  
27 the defined benefit plans under the retirement systems described

1 in subdivision (1)(a) of section 84-1503. Investments shall most  
2 likely include domestic and international equities, fixed income  
3 investments, and real estate, as well as potentially additional  
4 asset classes;

5 (b) A stable return account which shall be invested by or  
6 under the direction of the state investment officer in one or more  
7 guaranteed investment contracts;

8 (c) An equities account which shall be invested by or  
9 under the direction of the state investment officer in equities;

10 (d) A balanced account which shall be invested by or  
11 under the direction of the state investment officer in equities and  
12 fixed income instruments;

13 (e) An index fund account which shall be invested by or  
14 under the direction of the state investment officer in a portfolio  
15 of common stocks designed to closely duplicate the total return of  
16 the Standard and Poor's division of The McGraw-Hill Companies, Inc.  
17 500 Index;

18 (f) A fixed income account which shall be invested by or  
19 under the direction of the state investment officer in fixed income  
20 instruments;

21 (g) A money market account which shall be invested by or  
22 under the direction of the state investment officer in short-term  
23 fixed income securities; and

24 (h) Beginning on July 1, 2006, an age-based account which  
25 shall be invested under the direction of the state investment  
26 officer with an asset allocation and investment strategy that  
27 changes based upon the age of the member. The board shall

1 develop an account mechanism that changes the investments as  
2 the employee nears retirement age. The asset allocation and asset  
3 classes utilized in the investments shall move from aggressive, to  
4 moderate, and then to conservative as retirement age approaches.

5 If a member fails to select an option or combination of  
6 options, all of his or her funds shall be placed in the option  
7 described in subdivision (b) of this subsection. Each member shall  
8 be given a detailed current description of each investment option  
9 prior to making or revising his or her allocation.

10 (2) Members of the retirement system may allocate their  
11 contributions to the investment options in percentage increments as  
12 set by the board in any proportion, including full allocation to  
13 any one option. A member under subdivision ~~(1)~~ (1)(a) of section  
14 84-1323 or his or her beneficiary may transfer any portion of  
15 his or her funds among the options, except for restrictions on  
16 transfers to or from the stable return account pursuant to rule  
17 or regulation. The board shall adopt and promulgate rules and  
18 regulations for changes of a member's allocation of contributions  
19 to his or her accounts after his or her most recent allocation and  
20 for transfers from one investment account to another.

21 (3) The board shall develop a schedule for the allocation  
22 of administrative costs of maintaining the various investment  
23 options and shall assess the costs so that each member pays a  
24 reasonable fee as determined by the board.

25 (4) In order to carry out the provisions of this section,  
26 the board may enter into administrative services agreements for  
27 accounting or record-keeping services. No agreement shall be

1 entered into unless the board determines that it will result  
2 in administrative economy and will be in the best interests of the  
3 state and its participating employees.

4 (5) The state, the board, the state investment officer,  
5 the members of the Nebraska Investment Council, or the agency  
6 shall not be liable for any investment results resulting from  
7 the member's exercise of control over the assets in the employee  
8 account.

9 Sec. 37. Section 84-1311.03, Revised Statutes Cumulative  
10 Supplement, 2010, is amended to read:

11 84-1311.03 (1) Each member employed and participating in  
12 the retirement system prior to January 1, 2003, who has elected  
13 not to participate in the cash balance benefit, shall be allowed  
14 to allocate all contributions to his or her employer account to  
15 various investment options. Such investment options shall be the  
16 same as the investment options of the employee account as provided  
17 in subsection (1) of section 84-1310.01. If a member fails to  
18 select an option or combination of options, all of his or her funds  
19 in the employer account shall be placed in the balanced account  
20 option described in subdivision (1)(d) of section 84-1310.01.  
21 Each member shall be given a detailed current description of  
22 each investment option prior to making or revising his or her  
23 allocation.

24 (2) Each member of the retirement system may allocate  
25 contributions to his or her employer account to the investment  
26 options in percentage increments as set by the board in any  
27 proportion, including full allocation to any one option. A member

1 under subdivision ~~(1)~~ (1)(a) of section 84-1323 or his or her  
2 beneficiary may transfer any portion of his or her funds among the  
3 options. The board shall adopt and promulgate rules and regulations  
4 for changes of a member's allocation of contributions to his or her  
5 accounts after his or her most recent allocation and for transfers  
6 from one investment account to another.

7 (3) The board shall develop a schedule for the allocation  
8 of administrative costs of maintaining the various investment  
9 options and shall assess the costs so that each member pays a  
10 reasonable fee as determined by the board.

11 (4) In order to carry out the provisions of this section,  
12 the board may enter into administrative services agreements for  
13 accounting or record-keeping services. No agreement shall be  
14 entered into unless the board determines that it will result  
15 in administrative economy and will be in the best interests of the  
16 state and its participating employees.

17 (5) The state, the board, the state investment officer,  
18 the members of the Nebraska Investment Council, or the agency  
19 shall not be liable for any investment results resulting from  
20 the member's exercise of control over the assets in the employer  
21 account.

22 Sec. 38. Section 84-1312, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 84-1312 (1) For purposes of this section and section  
25 84-1313:

26 (a) Distributee means the member, the member's surviving  
27 spouse, or the member's former spouse who is an alternate payee

1 under a qualified domestic relations order as defined in section  
2 414(p) of the Internal Revenue Code;

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

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

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

27 (2) For distributions made to a distributee on or after

1 January 1, 1993, a distributee may elect to have any portion of  
2 an eligible rollover distribution paid directly to an eligible  
3 retirement plan specified by the distributee.

4 (3) A member's surviving spouse or former spouse who  
5 is an alternate payee under a qualified domestic relations order  
6 and, on or after January 1, 2010, any designated beneficiary of  
7 a member who is not a surviving spouse or former spouse who is  
8 entitled to receive an eligible rollover distribution from the  
9 retirement system may, in accordance with such rules, regulations,  
10 and limitations as may be established by the board, elect to  
11 have such distribution made in the form of a direct transfer to  
12 a retirement plan eligible to receive such transfer under the  
13 provisions of the Internal Revenue Code.

14 (4) An eligible rollover distribution on behalf of a  
15 designated beneficiary of a member who is not a surviving spouse  
16 or former spouse of the member may be transferred to an individual  
17 retirement account or annuity described in section 408(a) or  
18 section 408(b) of the Internal Revenue Code that is established  
19 for the purpose of receiving the distribution on behalf of the  
20 designated beneficiary and that will be treated as an inherited  
21 individual retirement account or individual retirement annuity  
22 described in section 408(d)(3)(C) of the Internal Revenue Code.

23 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
24 regulations for direct rollover procedures which are consistent  
25 with section 401(a)(31) of the Internal Revenue Code and which  
26 include, but are not limited to, the form and time of direct  
27 rollover distributions.

1           Sec. 39. Section 84-1319, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           84-1319 (1) The future service retirement benefit shall  
4 be an annuity, payable monthly with the first payment made no  
5 earlier than the annuity start date, which shall be the actuarial  
6 equivalent of the retirement value as specified in section 84-1318  
7 based on factors determined by the board, except that gender shall  
8 not be a factor when determining the amount of such payments except  
9 as provided in this section.

10           Except as provided in section 42-1107, at any time before  
11 the annuity start date, the retiring employee may choose to receive  
12 his or her annuity either in the form of an annuity as provided  
13 under subsection (4) of this section or any optional form that is  
14 determined acceptable by the board.

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

24           In any case, the amount of the monthly payment shall  
25 be such that the annuity chosen shall be the actuarial equivalent  
26 of the retirement value as specified in section 84-1318 except as  
27 provided in this section.

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

6           (2) Except as provided in subsection (4) of this section,  
7 the monthly annuity income payable to a member retiring on or after  
8 January 1, 1984, shall be as follows:

9           He or she shall receive at retirement the amount which  
10 may be purchased by the accumulated contributions based on annuity  
11 rates in effect on the annuity start date which do not utilize  
12 gender as a factor, except that such amounts shall not be less  
13 than the retirement income which can be provided by the sum of  
14 the amounts derived pursuant to subdivisions (a) and (b) of this  
15 subsection as follows:

16           (a) The income provided by the accumulated contributions  
17 made prior to January 1, 1984, based on male annuity purchase rates  
18 in effect on the date of purchase; and

19           (b) The income provided by the accumulated contributions  
20 made on and after January 1, 1984, based on the annuity purchase  
21 rates in effect on the date of purchase which do not use gender as  
22 a factor.

23           (3) Any amounts, in excess of contributions, which may be  
24 required in order to purchase the retirement income specified in  
25 subsection (2) of this section shall be withdrawn from the State  
26 Equal Retirement Benefit Fund.

27           (4) (a) The normal form of payment shall be a single life

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

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

17           For a member employed and participating in the retirement  
18 system prior to January 1, 2003, who has elected to participate  
19 in the cash balance benefit pursuant to section 84-1309.02, or  
20 for a member employed and participating in the retirement system  
21 beginning on and after January 1, 2003, the balance of his or her  
22 member cash balance account as of the date of final account value  
23 shall be converted to an annuity using an interest rate used in the  
24 actuarial valuation as recommended by the actuary and approved by  
25 the board.

26           For an employee who is a member prior to January 1, 2003,  
27 who has elected not to participate in the cash balance benefit

1 ~~prior to January 1, 2003, or on or after November 1, 2007, but~~  
2 ~~before January 1, 2008,~~ pursuant to section 84-1309.02, and who,  
3 at the time of retirement, chooses the annuity option rather than  
4 the lump-sum option, his or her employee and employer accounts  
5 as of the date of final account value shall be converted to an  
6 annuity using an interest rate that is equal to the lesser of  
7 (i) the Pension ~~Benefits Guarantee~~ Benefit Guaranty Corporation  
8 initial interest rate for valuing annuities for terminating plans  
9 as of the beginning of the year during which payment begins plus  
10 three-fourths of one percent or (ii) the interest rate used in the  
11 actuarial valuation as recommended by the actuary and approved by  
12 the board.

13 (b) For the calendar year beginning January 1, 2003, and  
14 each calendar year thereafter, the actuary for the board shall  
15 perform an actuarial valuation of the system using the entry  
16 age actuarial cost method. Under this method, the actuarially  
17 required funding rate is equal to the normal cost rate plus the  
18 contribution rate necessary to amortize the unfunded actuarial  
19 accrued liability on a level-payment basis. The normal cost under  
20 this method shall be determined for each individual member on  
21 a level percentage of salary basis. The normal cost amount is  
22 then summed for all members. The initial unfunded actual accrued  
23 liability as of January 1, 2003, if any, shall be amortized  
24 over a twenty-five-year period. During each subsequent actuarial  
25 valuation, changes in the unfunded actuarial accrued liability  
26 due to changes in benefits, actuarial assumptions, the asset  
27 valuation method, or actuarial gains or losses shall be measured

1 and amortized over a twenty-five-year period beginning on the  
2 valuation date of such change. If the unfunded actuarial accrued  
3 liability under the entry age actuarial cost method is zero or  
4 less than zero on an actuarial valuation date, then all prior  
5 unfunded actuarial accrued liabilities shall be considered fully  
6 funded and the unfunded actuarial accrued liability shall be  
7 reinitialized and amortized over a twenty-five-year period as  
8 of the actuarial valuation date. If the actuarially required  
9 contribution rate exceeds the rate of all contributions required  
10 pursuant to the State Employees Retirement Act, there shall be  
11 a supplemental appropriation sufficient to pay for the difference  
12 between the actuarially required contribution rate and the rate of  
13 all contributions required pursuant to the act.

14 (c) If the unfunded accrued actuarial liability under the  
15 entry age actuarial cost method is less than zero on an actuarial  
16 valuation date, and on the basis of all data in the possession  
17 of the retirement board, including such mortality and other tables  
18 as are recommended by the actuary engaged by the retirement board  
19 and adopted by the retirement board, the retirement board may  
20 elect to pay a dividend to all members participating in the  
21 cash balance option in an amount that would not increase the  
22 actuarial contribution rate above ninety percent of the actual  
23 contribution rate. Dividends shall be credited to the employee cash  
24 balance account and the employer cash balance account based on the  
25 account balances on the actuarial valuation date. In the event a  
26 dividend is granted and paid after the actuarial valuation date,  
27 interest for the period from the actuarial valuation date until the

1 dividend is actually paid shall be paid on the dividend amount. The  
2 interest rate shall be the interest credit rate earned on regular  
3 contributions.

4 (5) At the option of the retiring member, any lump sum  
5 or annuity provided under this section or section 84-1320 may be  
6 deferred to commence at any time, except that no benefit shall be  
7 deferred later than April 1 of the year following the year in which  
8 the employee has both attained at least seventy and one-half years  
9 of age and has terminated his or her employment with the state,  
10 except that for members participating in the defined contribution  
11 benefit, no distribution is required to be made for the plan  
12 year commencing January 1, 2009, through December 31, 2009. Such  
13 election by the retiring member may be made at any time prior to  
14 the commencement of the lump-sum or annuity payments.

15 Sec. 40. Section 84-1321.01, Revised Statutes Supplement,  
16 2011, is amended to read:

17 84-1321.01 (1) For a member who has terminated employment  
18 and is not vested, the balance of the member's employer account  
19 or employer cash balance account shall be forfeited. The forfeited  
20 account shall be credited to the State Employees Retirement Fund  
21 and shall first be used to meet the expense charges incurred  
22 by the retirement board in connection with administering the  
23 retirement system, which charges shall be credited to the State  
24 Employees Defined Contribution Retirement Expense Fund, if the  
25 member participated in the defined contribution option, or to the  
26 State Employees Cash Balance Retirement Expense Fund, if the member  
27 participated in the cash balance option, and the remainder, if any,

1 shall then be used to ~~reduce the state contribution which would~~  
2 ~~otherwise be required to fund future service retirement benefits~~  
3 ~~or~~ to restore employer accounts or employer cash balance accounts.  
4 ~~No Except as provided in subdivision (4) (c) of section 84-1319, no~~  
5 forfeited amounts shall be applied to increase the benefits any  
6 member would otherwise receive under the State Employees Retirement  
7 Act.

8 (2) (a) If a member ceases to be an employee due to  
9 the termination of his or her employment by the state and a  
10 grievance or other appeal of the termination is filed, transactions  
11 involving forfeiture of his or her employer account or employer  
12 cash balance account and, except as provided in subdivision (b)  
13 of this subsection, transactions for payment of benefits under  
14 sections 84-1317 and 84-1321 shall be suspended pending the final  
15 outcome of the grievance or other appeal.

16 (b) If a member elects to receive benefits payable under  
17 sections 84-1317 and 84-1321 after a grievance or appeal is filed,  
18 the member may receive an amount up to the balance of his or  
19 her employee account or member cash balance account or twenty-five  
20 thousand dollars payable from the employee account or member cash  
21 balance account, whichever is less.

22 (3) The State Employer Retirement Expense Fund is  
23 created. The fund shall be administered by the Public Employees  
24 Retirement Board. ~~The fund shall be established and maintained~~  
25 ~~separate from any funds held in trust for the benefit of members~~  
26 ~~under the retirement system. The Prior to July 1, 2012, the fund~~  
27 shall be used to meet expenses of the State Employees Retirement

1 System of the State of Nebraska whether such expenses are incurred  
2 in administering the member's employer account or in administering  
3 the member's employer cash balance account when the funds available  
4 in the State Employees Defined Contribution Retirement Expense  
5 Fund or State Employees Cash Balance Retirement Expense Fund make  
6 such use reasonably necessary. On July 1, 2012, or as soon as  
7 practicable thereafter, any money in the State Employer Retirement  
8 Expense Fund shall be transferred by the State Treasurer to the  
9 State Employees Retirement Fund and credited to the cash balance  
10 benefit established in section 84-1309.02.

11 (4) The Prior to July 1, 2012, the director of the  
12 Nebraska Public Employees Retirement Systems shall certify to  
13 the Accounting Administrator of the Department of Administrative  
14 Services when accumulated employer account forfeiture funds are  
15 available to reduce the state contribution which would otherwise be  
16 required to fund future service retirement benefits or to restore  
17 employer accounts or employer cash balance accounts referred to  
18 in subsection (1) of this section. Following such certification,  
19 the Accounting Administrator shall transfer the amount reduced  
20 from the state contribution from the Imprest Payroll Distributive  
21 Fund to the State Employer Retirement Expense Fund. Expenses  
22 incurred as a result of the state depositing amounts into the State  
23 Employer Retirement Expense Fund shall be deducted prior to any  
24 additional expenses being allocated. Any remaining amount shall be  
25 allocated in accordance with subsection (3) of this section. Any  
26 money in the ~~fund~~ State Employer Retirement Expense Fund available  
27 for investment shall be invested by the state investment officer

1 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
2 State Funds Investment Act.

3 Sec. 41. Section 84-1323, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5 84-1323 (1) In the event of the death before his or her  
6 retirement date of any employee who is a member of the system,  
7 the death benefit shall be equal to ~~(1)~~ (a) for participants in  
8 the defined contribution benefit, the total of the employee account  
9 and the employer account and ~~(2)~~ (b) for participants in the cash  
10 balance benefit, the benefit provided in section 84-1309.02. The  
11 death benefit shall be paid to the member's beneficiary, to an  
12 alternate payee pursuant to a qualified domestic relations order  
13 as provided in section 42-1107, or to the member's estate if there  
14 are no designated beneficiaries. If the beneficiary is not the  
15 member's surviving spouse, the death benefit shall be paid as a  
16 lump-sum payment or payments, except that the entire account must  
17 be distributed by the fifth anniversary of the member's death.  
18 If the sole primary beneficiary is the member's surviving spouse,  
19 the surviving spouse may elect to receive an annuity calculated  
20 as if the member retired and selected a one-hundred-percent joint  
21 and survivor annuity effective on the annuity purchase date. If  
22 the surviving spouse does not elect the annuity option within one  
23 hundred eighty days after the death of the member, the surviving  
24 spouse shall receive a lump-sum payment or payments, except that  
25 the entire account must be distributed by the fifth anniversary of  
26 the member's death.

27 (2) A lump sum death benefit paid to the member's

1 beneficiary, other than the member's estate, that is an eligible  
2 distribution may be distributed in the form of a direct transfer  
3 to a retirement plan eligible to receive such transfer under the  
4 provisions of the Internal Revenue Code.

5 (3) For any member whose death occurs on or after January  
6 1, 2007, while performing qualified military service as defined  
7 in section 414(u) of the Internal Revenue Code, the member's  
8 beneficiary shall be entitled to any additional death benefit  
9 that would have been provided, other than the accrual of any  
10 benefit relating to the period of qualified military service. The  
11 additional death benefit shall be determined as if the member  
12 had returned to employment with the State of Nebraska and such  
13 employment had terminated on the date of the member's death.

14 Sec. 42. Section 84-1324, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 84-1324 All (1) Except as provided in subsection (2) of  
17 this section, all annuities or benefits which any person shall be  
18 entitled to receive under the State Employees Retirement Act shall  
19 not be subject to garnishment, attachment, levy, the operation  
20 of bankruptcy or insolvency laws, or any other process of law  
21 whatsoever and shall not be assignable except to the extent that  
22 such annuities or benefits are subject to a qualified domestic  
23 relations order under the Spousal Pension Rights Act. The payment  
24 of any annuities or benefits subject to such order shall take  
25 priority over any payment made pursuant to subsection (2) of this  
26 section.

27 (2) If a member of the retirement system is convicted

1 of or pleads no contest to a felony that is defined as assault,  
2 sexual assault, kidnapping, child abuse, false imprisonment, or  
3 theft by embezzlement and is found liable for civil damages as a  
4 result of such felony, following the distribution of the member's  
5 annuities or benefits from the retirement system, the court may  
6 order the payment of the member's annuities or benefits earned  
7 under the retirement system for such civil damages, except that the  
8 annuities or benefits to the extent reasonably necessary for the  
9 support of the member or any of his or her beneficiaries shall be  
10 exempt from such payment. Any order for payment of annuities or  
11 benefits shall not be stayed on the filing of any appeal of the  
12 conviction. If the conviction is reversed on final judgment, all  
13 annuities or benefits paid as civil damages shall be forfeited and  
14 returned to the member. The changes made to this section by this  
15 legislative bill shall apply to persons convicted of or who have  
16 pled no contest to such a felony and who have been found liable for  
17 civil damages as a result of such felony prior to, on, or after the  
18 effective date of this act.

19           Sec. 43. Section 84-1503, Revised Statutes Supplement,  
20 2011, is amended to read:

21           84-1503 (1) It shall be the duty of the Public Employees  
22 Retirement Board:

23           (a) To administer the retirement systems provided for in  
24 the County Employees Retirement Act, the Judges Retirement Act,  
25 the Nebraska State Patrol Retirement Act, the School Employees  
26 Retirement Act, and the State Employees Retirement Act. The agency  
27 for the administration of the retirement systems and under the

1 direction of the board shall be known and may be cited as the  
2 Nebraska Public Employees Retirement Systems;

3 (b) To appoint a director to administer the systems under  
4 the direction of the board. The appointment shall be subject to  
5 the approval of the Governor and a majority of the Legislature.  
6 The director shall be qualified by training and have at least five  
7 years of experience in the administration of a qualified public  
8 or private employee retirement plan. The director shall not be a  
9 member of the board. The salary of the director shall be set by the  
10 board. The director shall serve without term and may be removed by  
11 the board;

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

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

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

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

25 (g) To adopt and implement procedures for reporting  
26 information by employers, as well as testing and monitoring  
27 procedures in order to verify the accuracy of such information.

1 The information necessary to determine membership shall be provided  
2 by the employer. The board shall adopt and promulgate rules  
3 and regulations and prescribe such forms necessary to carry out  
4 this subdivision. Nothing in this subdivision shall be construed  
5 to require the board to conduct onsite audits of political  
6 subdivisions for compliance with statutes, rules, and regulations  
7 governing the retirement systems listed in subdivision (1)(a) of  
8 this section regarding membership and contributions; and

9 (h) To prescribe and furnish forms for the public  
10 retirement system plan reports required to be filed pursuant to  
11 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,  
12 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and  
13 79-987.

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

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

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

25 (c) To adopt and promulgate rules and regulations for the  
26 management of the board;

27 (d) To keep a complete record of all proceedings taken at

1 any meeting of the board;

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

25 (f) To direct the State Treasurer to transfer funds, as  
26 an expense of the retirement systems, to the Legislative Council  
27 Retirement Study Fund. Such transfer shall occur beginning on or

1 after July 1, 2005, and at intervals of not less than five years  
2 and not more than fifteen years and shall be in such amounts as the  
3 Legislature shall direct;

4 (g) To adopt and promulgate rules and regulations to  
5 carry out the provisions of each retirement system described in  
6 subdivision (1)(a) of this section, which ~~shall include,~~ includes,  
7 but is not ~~be~~ limited to, the crediting of military service, direct  
8 rollover distributions, and the acceptance of rollovers;

9 (h) To obtain, by a competitive, formal, and sealed  
10 bidding process through the materiel division of the Department  
11 of Administrative Services, auditing services for a separate  
12 compliance audit of the retirement systems to be completed by  
13 December 31, 2012, and from time to time thereafter at the request  
14 of the Nebraska Retirement Systems Committee of the Legislature, to  
15 be completed not more than every four years but not less than every  
16 ten years. The compliance audit shall be in addition to the annual  
17 audit conducted by the Auditor of Public Accounts. The compliance  
18 audit shall include, but not be limited to, an examination of  
19 records, files, and other documents and an evaluation of all  
20 policies and procedures to determine compliance with all state and  
21 federal laws. A copy of the compliance audit shall be given to the  
22 Governor, the board, and the Nebraska Retirement Systems Committee  
23 of the Legislature and shall be presented to the committee at a  
24 public hearing;

25 (i) To adopt and promulgate rules and regulations for  
26 the adjustment of contributions or benefits, which ~~shall include,~~  
27 includes, but is not ~~be~~ limited to: (i) The procedures for

1 refunding contributions, adjusting future contributions or benefit  
2 payments, and requiring additional contributions or repayment of  
3 benefits; (ii) the process for a member, member's beneficiary,  
4 employee, or employer to dispute an adjustment to contributions  
5 or benefits; ~~and~~ (iii) establishing materiality and de minimus  
6 amounts for agency transactions, adjustments, and inactive account  
7 closures; and (iv) notice provided to all affected persons. All  
8 ~~notices~~ Following an adjustment, a timely notice shall be sent  
9 ~~prior to an~~ that describes the adjustment and shall describe the  
10 process for disputing an adjustment to contributions or benefits;  
11 and

12 (j) To administer all retirement system plans in a manner  
13 which will maintain each plan's status as a qualified plan pursuant  
14 to the Internal Revenue Code, as defined in section 49-801.01,  
15 including: Section 401(a)(9) of the Internal Revenue Code relating  
16 to the time and manner in which benefits are required to be  
17 distributed, including the incidental death benefit distribution  
18 requirement of section 401(a)(9)(G) of the Internal Revenue Code;  
19 section 401(a)(16) of the Internal Revenue Code relating to the  
20 specification of actuarial assumptions; section 401(a)(31) of the  
21 Internal Revenue Code relating to direct rollover distributions  
22 from eligible retirement plans; and section 401(a)(37) of the  
23 Internal Revenue Code relating to the death benefit of a member  
24 whose death occurs while performing qualified military service. The  
25 board shall adopt and promulgate rules and regulations necessary  
26 or appropriate to maintain such status including, but not limited  
27 to, rules or regulations which restrict discretionary or optional

1 contributions to a plan or which limit distributions from a plan.

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

13 Sec. 44. Section 84-1505, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 84-1505 (1) All compensation deferred under the plan, all  
16 property and rights purchased with the deferred compensation, and  
17 all investment income attributable to the deferred compensation,  
18 property, or rights shall be held in trust for the exclusive  
19 benefit of participants and their beneficiaries by the State of  
20 Nebraska until such time as payments shall be paid under the terms  
21 of the deferred compensation plan. All such assets held in trust  
22 shall be invested by the state investment officer pursuant to  
23 the Nebraska Capital Expansion Act and the Nebraska State Funds  
24 Investment Act.

25 (2) The State Treasurer shall be the custodian of the  
26 funds and securities of the deferred compensation plan and may  
27 deposit the funds and securities in any financial institution

1 approved by the Nebraska Investment Council. All disbursements  
2 therefrom shall be paid by him or her only upon vouchers duly  
3 authorized by the retirement board. The State Treasurer shall  
4 furnish annually to the retirement board a sworn statement of the  
5 amount of the funds in his or her custody belonging to the deferred  
6 compensation plan, which statement shall be as of the calendar year  
7 ending December 31 of each year.

8 (3) All Except as provided in subsection (4) of this  
9 section, all compensation deferred under the plan, all property and  
10 rights purchased with the deferred compensation, and all investment  
11 income attributable to the deferred compensation, property, or  
12 rights shall not be subject to garnishment, attachment, levy, the  
13 operation of bankruptcy or insolvency laws, or any other process of  
14 law whatsoever and shall not be assignable.

15 (4) If a participant in the deferred compensation plan  
16 is convicted of or pleads no contest to a felony that is  
17 defined as assault, sexual assault, kidnapping, child abuse, false  
18 imprisonment, or theft by embezzlement and is found liable for  
19 civil damages as a result of such felony, following distribution  
20 of the participant's compensation deferred under the plan, property  
21 and rights purchased with the deferred compensation, or investment  
22 income attributable to the deferred compensation, property, or  
23 rights from the plan, the court may order the payment of such  
24 compensation, property and rights, or investment income for such  
25 civil damages, except that the compensation, property and rights,  
26 or investment income to the extent reasonably necessary for the  
27 support of the participant or any of his or her beneficiaries shall

1 be exempt from such payment. Any order for payment of compensation,  
2 property and rights, or investment income shall not be stayed on  
3 the filing of any appeal of the conviction. If the conviction is  
4 reversed on final judgment, all compensation, property and rights,  
5 or investment income paid as civil damages shall be forfeited and  
6 returned to the participant. The changes made to this section by  
7 this legislative bill shall apply to persons convicted of or who  
8 have pled no contest to such a felony and who have been found  
9 liable for civil damages as a result of such felony prior to, on,  
10 or after the effective date of this act.

11           Sec. 45. If any section in this act or any part of any  
12 section is declared invalid or unconstitutional, the declaration  
13 shall not affect the validity or constitutionality of the remaining  
14 portions.

15           Sec. 46. Original sections 16-1019, 16-1038, 23-2322,  
16 23-2323.02, 24-707, 24-710.02, 24-710.05, 48-1401, 79-906,  
17 79-933.01, 79-948, 79-956, 79-980, 79-998, 79-9,104, 79-9,106,  
18 81-2014, 81-2031.03, 81-2032, 84-1309, 84-1312, 84-1324, and  
19 84-1505, Reissue Revised Statutes of Nebraska, sections 23-2309.01,  
20 23-2310.05, 23-2317, 23-2321, 84-1310.01, 84-1311.03, 84-1319, and  
21 84-1323, Revised Statutes Cumulative Supplement, 2010, and sections  
22 14-2111, 23-2301, 23-2308, 23-2308.01, 23-2319.01, 24-701, 79-902,  
23 81-2026, 81-2041, 84-1301, 84-1309.02, 84-1321.01, and 84-1503,  
24 Revised Statutes Supplement, 2011, are repealed.

25           Sec. 47. The following section is outright repealed:  
26 Section 23-2319.02, Revised Statutes Cumulative Supplement, 2010.

27           Sec. 48. Since an emergency exists, this act takes effect

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1 when passed and approved according to law.