

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 916**

Final Reading

Introduced by Nebraska Retirement Systems Committee: Nordquist, 7,  
Chairperson; Heidemann, 1; Karpisek, 32; Lambert, 2;  
Louden, 49; Mello, 5.

Read first time January 10, 2012

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 16-1019,  
2 16-1038, 23-2322, 23-2323.02, 24-707, 24-710.02,  
3 24-710.05, 48-1401, 79-906, 79-933.01, 79-948, 79-956,  
4 79-980, 79-998, 79-9,104, 79-9,106, 81-2014, 81-2031.03,  
5 81-2032, 84-1309, 84-1312, 84-1324, and 84-1505, Reissue  
6 Revised Statutes of Nebraska, sections 23-2309.01,  
7 23-2310.05, 23-2317, 23-2321, 84-1310.01, 84-1311.03,  
8 84-1319, and 84-1323, Revised Statutes Cumulative  
9 Supplement, 2010, and sections 14-2111, 23-2301, 23-2308,  
10 23-2308.01, 23-2319.01, 24-701, 79-902, 81-2026, 81-2041,  
11 84-1301, 84-1309.02, 84-1321.01, and 84-1503, Revised  
12 Statutes Supplement, 2011; to provide for the use of  
13 retirement benefits to pay civil damages for utilities  
14 district employees and appointees, police officers,  
15 firefighters, county employees, judges, participants in

1 deferred compensation plans, school employees, officers  
2 of the Nebraska State Patrol, and state employees as  
3 prescribed; to exempt per diems from the definition of  
4 compensation; to require an employer to provide certain  
5 termination of employment information to the Public  
6 Employees Retirement Board; to require repayment of  
7 retirement benefits as prescribed; to authorize creation  
8 of subfunds; to provide for a cash balance benefit  
9 election for certain county and state employees; to  
10 change provisions relating to county and state employer  
11 funds; to eliminate certain reporting requirements for  
12 school retirement systems as prescribed; to clarify  
13 provisions relating to tax-qualification requirements; to  
14 change provisions relating to rollover distributions and  
15 death benefits; to exclude any person under the age of  
16 eighteen years from the definition of school employee; to  
17 redefine termination of employment; to provide duties for  
18 the Public Employees Retirement Board relating to the  
19 determination of de minimus amounts and tax-qualification  
20 requirements; to harmonize provisions; to provide  
21 severability; to repeal the original sections; to  
22 outright repeal section 23-2319.02, Revised Statutes  
23 Cumulative Supplement, 2010; and to declare an emergency.  
24 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 14-2111, Revised Statutes Supplement,  
2 2011, is amended to read:

3           14-2111 (1) The board of directors of any metropolitan  
4 utilities district may also provide benefits for, insurance of, and  
5 annuities for the present and future employees and appointees of the  
6 district covering accident, disease, death, total and permanent  
7 disability, and retirement, all or any of them, under such terms and  
8 conditions as the board may deem proper and expedient from time to  
9 time. Any retirement plan adopted by the board of directors shall be  
10 upon some contributory basis requiring contributions by both the  
11 district and the employee or appointee, except that the district may  
12 pay the entire cost of the fund necessary to cover service rendered  
13 prior to the adoption of any new retirement plan. Any retirement plan  
14 shall take into consideration the benefits provided for employees and  
15 appointees of metropolitan utilities districts under the Social  
16 Security Act, and any benefits provided under a contributory  
17 retirement plan shall be supplemental to the benefits provided under  
18 the Social Security Act as defined in section 68-602 if the employees  
19 entitled to vote in a referendum vote in favor of old age and  
20 survivors' insurance coverage. To effectuate any plan adopted  
21 pursuant to this authority, the board of directors of the district is  
22 empowered to establish and maintain reserves and funds, provide for  
23 insurance premiums and costs, and make such delegation as may be  
24 necessary to carry into execution the general powers granted by this  
25 section. ~~Payments—~~Except as provided in subsection (4) of this

1 section, payments made to employees and appointees, under the  
2 authority in this section, shall be exempt from attachment or other  
3 legal process and shall not be assignable.

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

23 (3)(a) Beginning December 31, 1998, and each December 31  
24 thereafter, the chairperson of the board shall file with the Public  
25 Employees Retirement Board an annual report on each retirement plan

1 established pursuant to this section and section 401(a) of the  
2 Internal Revenue Code and shall submit copies of such report to the  
3 Auditor of Public Accounts. The Auditor of Public Accounts may  
4 prepare a review of such report pursuant to section 84-304.02 but is  
5 not required to do so. The annual report shall be in a form  
6 prescribed by the Public Employees Retirement Board and shall contain  
7 the following information for each such retirement plan:

8 (i) The number of persons participating in the retirement  
9 plan;

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

11 (iii) Plan assets and liabilities;

12 (iv) The names and positions of persons administering the  
13 plan;

14 (v) The names and positions of persons investing plan  
15 assets;

16 (vi) The form and nature of investments;

17 (vii) For each defined contribution plan, a full  
18 description of investment policies and options available to plan  
19 participants; and

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

25 If a plan contains no current active participants, the

1 chairperson may file in place of such report a statement with the  
2 Public Employees Retirement Board indicating the number of retirees  
3 still drawing benefits, and the sources and amount of funding for  
4 such benefits.

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

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

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

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

17           16-1019 (1) ~~The~~ Except as provided in subsection (6) of  
18 this section, the right to any benefits under the retirement system  
19 and the assets of any fund of the retirement system shall not be  
20 assignable or subject to execution, garnishment, attachment, or the  
21 operation of any bankruptcy or insolvency laws, except that the  
22 retirement system may comply with the directions set forth in a  
23 qualified domestic relations order meeting the requirements of  
24 section 414(p) of the Internal Revenue Code. Any payment of benefits  
25 subject to such order shall take priority over any payment made

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

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



1 favorable income tax treatment extended to sponsors and beneficiaries  
2 of tax-qualified retirement plans.

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

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

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

18 (6) 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 of  
22 such felony, following distribution of the member's benefits or the  
23 assets of any fund of the member from the retirement system, the  
24 court may order the payment of the member's benefits or the assets of  
25 any fund of the member under the retirement system for such civil

1 damages, except that the benefits or assets to the extent reasonably  
2 necessary for the support of the member or any of his or her  
3 beneficiaries shall be exempt from such payment. Any order for  
4 payment of benefits or assets shall not be stayed on the filing of  
5 any appeal of the conviction. If the conviction is reversed on final  
6 judgment, all benefits or assets paid as civil damages shall be  
7 forfeited and returned to the member. The changes made to this  
8 section by this legislative bill shall apply to persons convicted of  
9 or who 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, or  
11 after the effective date of this act.

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

14           16-1038 (1) ~~The~~ Except as provided in subsection (6) of  
15 this section, the right to any benefits under the retirement system  
16 and the assets of any fund of the retirement system shall not be  
17 assignable or subject to execution, garnishment, attachment, or the  
18 operation of any bankruptcy or insolvency laws, except that the  
19 retirement system may comply with the directions set forth in a  
20 qualified domestic relations order meeting the requirements of  
21 section 414(p) of the Internal Revenue Code. Any payment of benefits  
22 subject to such order shall take priority over any payment made  
23 pursuant to subsection (6) of this section. The city or retirement  
24 committee may require appropriate releases from any person as a  
25 condition to complying with any such order. The retirement system

1 shall not recognize any domestic relations order which alters or  
2 changes benefits, provides for a form of benefit not otherwise  
3 provided for by the retirement system, increases benefits not  
4 otherwise provided by the retirement system, or accelerates or defers  
5 the time of payment of benefits. No participant or beneficiary shall  
6 have any right to any specific portion of the assets of the  
7 retirement system.

8           (2) The retirement system shall be administered in a  
9 manner necessary to comply with the tax-qualification requirements  
10 applicable to government retirement plans under section 401(a) of the  
11 Internal Revenue Code, including section 401(a)(9) relating to the  
12 time and manner in which benefits are required to be distributed,  
13 section 401(a)(16) relating to compliance with the maximum limitation  
14 on the plan benefits or contributions under section 415, section  
15 401(a)(17) which limits the amount of compensation which can be taken  
16 into account under a retirement plan, section 401(a)(25) relating to  
17 the specification of actuarial assumptions, and section 401(a)(31)  
18 relating to direct rollover distribution from qualified retirement  
19 plans. Any requirements for compliance with section 401(a) of the  
20 Internal Revenue Code may be set forth in any trust or funding medium  
21 for the retirement system. This subsection shall be in full force and  
22 effect only so long as conformity with section 401(a) of the Internal  
23 Revenue Code is required for public retirement systems in order to  
24 secure the favorable income tax treatment extended to sponsors and  
25 beneficiaries of tax-qualified 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 16-1020 to 16-1042, it shall have the power to  
4 correct such error. In the event of an overpayment, the retirement  
5 system may, in addition to any other remedy that the retirement  
6 system may possess, offset future benefit payments by the amount of  
7 the prior overpayment, together with regular interest thereon.

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

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

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

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

10           Sec. 4. Section 23-2301, Revised Statutes Supplement,  
11 2011, is amended to read:

12           23-2301 For purposes of the County Employees Retirement  
13 Act, unless the context otherwise requires:

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

23           (2) Annuity means equal monthly payments provided by the  
24 retirement system to a member or beneficiary under forms determined  
25 by the board beginning the first day of the month after an annuity

1 election is received in the office of the Nebraska Public Employees  
2 Retirement Systems or the first day of the month after the employee's  
3 termination of employment, whichever is later. The last payment shall  
4 be at the end of the calendar month in which the member dies or in  
5 accordance with the payment option chosen by the member;

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

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

15 (5)(a) Compensation means gross wages or salaries payable  
16 to the member for personal services performed during the plan year.  
17 Compensation does not include insurance premiums converted into cash  
18 payments, reimbursement for expenses incurred, fringe benefits, per  
19 diems, or bonuses for services not actually rendered, including, but  
20 not limited to, early retirement inducements, cash awards, and  
21 severance pay, except for retroactive salary payments paid pursuant  
22 to court order, arbitration, or litigation and grievance settlements.  
23 Compensation includes overtime pay, member retirement contributions,  
24 and amounts contributed by the member to plans under sections 125,  
25 403(b), and 457 of the Internal Revenue Code or any other section of

1 the code which defers or excludes such amounts from income.

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

9 (6) Date of adoption of the retirement system by each  
10 county means the first day of the month next following the date of  
11 approval of the retirement system by the county board or January 1,  
12 1987, whichever is earlier;

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

15 (8) Defined contribution benefit means a member's  
16 retirement benefit from a money purchase plan in which member  
17 benefits equal annual contributions and earnings pursuant to section  
18 23-2309 and, if vested, employer contributions and earnings pursuant  
19 to section 23-2310;

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

24 (10) Employee means all persons or officers who are  
25 employed by a county of the State of Nebraska on a permanent basis,

1 persons or officers employed by or serving in a municipal county  
2 formed by at least one county participating in the retirement system,  
3 persons employed as provided in section 2-1608, all elected officers  
4 of a county, and such other persons or officers as are classified  
5 from time to time as permanent employees by the county board of the  
6 county by which they are employed, except that employee does not  
7 include judges, employees or officers of any county having a  
8 population in excess of one hundred fifty thousand inhabitants, or,  
9 except as provided in section 23-2306, persons making contributions  
10 to the School Employees Retirement System of the State of Nebraska;

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

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

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

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

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



1                   (16) Future service means service following the date of  
2 adoption of the retirement system;

3                   (17) Guaranteed investment contract means an investment  
4 contract or account offering a return of principal invested plus  
5 interest at a specified rate. For investments made after July 19,  
6 1996, guaranteed investment contract does not include direct  
7 obligations of the United States or its instrumentalities, bonds,  
8 participation certificates or other obligations of the Federal  
9 National Mortgage Association, the Federal Home Loan Mortgage  
10 Corporation, or the Government National Mortgage Association, or  
11 collateralized mortgage obligations and other derivative securities.  
12 This subdivision shall not be construed to require the liquidation of  
13 investment contracts or accounts entered into prior to July 19, 1996;

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

19                   (19) Interest credits means the amounts credited to the  
20 employee cash balance account and the employer cash balance account  
21 at the end of each day. Such interest credit for each account shall  
22 be determined by applying the daily portion of the interest credit  
23 rate to the account balance at the end of the previous day. Such  
24 interest credits shall continue to be credited to the employee cash  
25 balance account and the employer cash balance account after a member

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

10 (20) Member cash balance account means an account equal  
11 to the sum of the employee cash balance account and, if vested, the  
12 employer cash balance account and dividend amounts credited in  
13 accordance with subdivision (4)(c) of section 23-2317;

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

17 (22) Participation means qualifying for and making the  
18 required deposits to the retirement system during the course of a  
19 plan year;

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

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

25 (25) Prior service means service prior to the date of

1 adoption of the retirement system;

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

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

8 (28) Retirement means qualifying for and accepting the  
9 retirement benefit granted under the act after terminating  
10 employment;

11 (29) Retirement board or board means the Public Employees  
12 Retirement Board;

13 (30) Retirement system means the Retirement System for  
14 Nebraska Counties;

15 (31) Service means the actual total length of employment  
16 as an employee and is not deemed to be interrupted by (a) temporary  
17 or seasonal suspension of service that does not terminate the  
18 employee's employment, (b) leave of absence authorized by the  
19 employer for a period not exceeding twelve months, (c) leave of  
20 absence because of disability, or (d) military service, when properly  
21 authorized by the retirement board. Service does not include any  
22 period of disability for which disability retirement benefits are  
23 received under section 23-2315;

24 (32) Surviving spouse means (a) the spouse married to the  
25 member on the date of the member's death or (b) the spouse or former

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

11 (33) Termination of employment occurs on the date on  
12 which a county which is a member of the retirement system determines  
13 that its employer-employee relationship with an employee is  
14 dissolved. The county shall notify the board of the date on which  
15 such a termination has occurred. Termination of employment does not  
16 occur if an employee whose employer-employee relationship with a  
17 county is dissolved enters into an employer-employee relationship  
18 with the same or another county which participates in the Retirement  
19 System for Nebraska Counties and there are less than one hundred  
20 twenty days between the date when the employee's employer-employee  
21 relationship ceased with the county and the date when the employer-  
22 employee relationship commenced with the same or another county which  
23 qualifies the employee for participation in the plan. It ~~shall be~~ is  
24 the responsibility of the ~~current~~ employer that is involved in the  
25 termination of employment to notify the board of such change in

1 employment and provide the board with such information as the board  
2 deems necessary. If the board determines that termination of  
3 employment has not occurred and a ~~termination~~retirement benefit has  
4 been paid to a member of the retirement system pursuant to section  
5 23-2319, the board shall require the member who has received such  
6 benefit to repay the benefit to the retirement system; and

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

10 Sec. 5. Section 23-2308, Revised Statutes Supplement,  
11 2011, is amended to read:

12 23-2308 (1) The County Employees Retirement Fund is  
13 created. The fund shall be administered by the board and shall  
14 consist of contributions and other such sums as provided in section  
15 23-2302. Any money in the fund available for investment shall be  
16 invested by the state investment officer pursuant to the Nebraska  
17 Capital Expansion Act and the Nebraska State Funds Investment Act.

18 (2) The county clerk shall pay to the board or an entity  
19 designated by the board an amount equal to two hundred fifty percent  
20 of the amounts deducted from the compensation of employees in  
21 accordance with the provisions of section 23-2307, which two hundred  
22 fifty percent equals the employees' contributions plus the county's  
23 contributions of one hundred fifty percent of the employees'  
24 contributions.

25 (3) The board may charge the county an administrative

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

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

16 Sec. 6. Section 23-2308.01, Revised Statutes Supplement,  
17 2011, is amended to read:

18 23-2308.01 (1) It is the intent of the Legislature that,  
19 in order to improve the competitiveness of the retirement plan for  
20 county employees, a cash balance benefit shall be added to the County  
21 Employees Retirement Act on and after January 1, 2003. Each member  
22 who is employed and participating in the retirement system prior to  
23 January 1, 2003, may either elect to continue participation in the  
24 defined contribution benefit as provided in the act prior to January  
25 1, 2003, or elect to participate in the cash balance benefit as set

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

1 this act does not have to make another election of the cash balance  
2 benefit beginning September 1, 2012, through October 31, 2012.

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

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

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

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

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

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

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



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

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

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

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

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

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

22           23-2309.01 (1) Each member employed and participating in  
23 the retirement system prior to January 1, 2003, who has elected not  
24 to participate in the cash balance benefit, shall be allowed to  
25 allocate all contributions to his or her employee account to various

1 investment options. The investment options shall include, but not be  
2 limited to, the following:

3 (a) An investor select account which shall be invested  
4 under the direction of the state investment officer with an asset  
5 allocation and investment strategy substantially similar to the  
6 investment allocations made by the state investment officer for the  
7 defined benefit plans under the retirement systems described in  
8 subdivision (1)(a) of section 84-1503. Investments shall most likely  
9 include domestic and international equities, fixed income  
10 investments, and real estate, as well as potentially additional asset  
11 classes;

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

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

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

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

25 (f) A fixed income account which shall be invested by or

1 under the direction of the state investment officer in fixed income  
2 instruments;

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

6 (h) Beginning July 1, 2006, an age-based account which  
7 shall be invested under the direction of the state investment officer  
8 with an asset allocation and investment strategy that changes based  
9 upon the age of the member. The board shall develop an account  
10 mechanism that changes the investments as the employee nears  
11 retirement age. The asset allocation and asset classes utilized in  
12 the investments shall move from aggressive, to moderate, and then to  
13 conservative as retirement age approaches.

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

19 (2) Members of the retirement system may allocate their  
20 contributions to the investment options in percentage increments as  
21 set by the board in any proportion, including full allocation to any  
22 one option. A member under subdivision ~~(1)~~(1)(a) of section 23-2321  
23 or his or her beneficiary may transfer any portion of his or her  
24 funds among the options, except for restrictions on transfers to or  
25 from the stable return account pursuant to rule or regulation. The

1 board shall adopt and promulgate rules and regulations for changes of  
2 a member's allocation of contributions to his or her accounts after  
3 his or her most recent allocation and for transfers from one  
4 investment account to another.

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

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

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

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

21 23-2310.05 (1) Each member employed and participating in  
22 the retirement system prior to January 1, 2003, who has elected not  
23 to participate in the cash balance benefit, shall be allowed to  
24 allocate all contributions to his or her employer account to various  
25 investment options. Such investment options shall be the same as the

1 investment options of the employee account as provided in subsection  
2 (1) of section 23-2309.01. If a member fails to select an option or  
3 combination of options, all of his or her funds in the employer  
4 account shall be placed in the balanced account option described in  
5 subdivision (1)(d) of section 23-2309.01. Each member shall be given  
6 a detailed current description of each investment option prior to  
7 making or revising his or her allocation.

8 (2) Each member of the retirement system may allocate  
9 contributions to his or her employer account to the investment  
10 options in percentage increments as set by the board in any  
11 proportion, including full allocation to any one option. A member  
12 under subdivision ~~(1)~~ (1)(a) of section 23-2321 or his or her  
13 beneficiary may transfer any portion of his or her funds among the  
14 options. The board shall adopt and promulgate rules and regulations  
15 for changes of a member's allocation of contributions to his or her  
16 accounts after his or her most recent allocation and for transfers  
17 from one investment account to another.

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

22 (4) In order to carry out the provisions of this section,  
23 the board may enter into administrative services agreements for  
24 accounting or record-keeping services. No agreement shall be entered  
25 into unless the board determines that it will result in

1 administrative economy and will be in the best interests of the state  
2 and participating employees.

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

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

9 23-2317 (1) The future service retirement benefit shall  
10 be an annuity, payable monthly with the first payment made no earlier  
11 than the annuity start date, which shall be the actuarial equivalent  
12 of the retirement value as specified in section 23-2316 based on  
13 factors determined by the board, except that gender shall not be a  
14 factor when determining the amount of such payments pursuant to  
15 subsection (2) of this section.

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

21 Except as provided in section 42-1107, in lieu of the  
22 future service retirement annuity, a retiring employee may receive a  
23 benefit not to exceed the amount in his or her employer and employee  
24 accounts as of the date of final account value payable in a lump sum  
25 and, if the employee chooses not to receive the entire amount in such

1 accounts, an annuity equal to the actuarial equivalent of the  
2 remainder of the retirement value, and the employee may choose any  
3 form of such annuity as provided for by the board.

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

8 The board shall provide to any county employee who is  
9 eligible for retirement, prior to his or her selecting any of the  
10 retirement options provided by this section, information on the  
11 federal and state income tax consequences of the various annuity or  
12 retirement benefit options.

13 (2) Except as provided in subsection (4) of this section,  
14 the monthly income payable to a member retiring on or after January  
15 1, 1984, shall be as follows:

16 He or she shall receive at retirement the amount which  
17 may be purchased by the accumulated contributions based on annuity  
18 rates in effect on the annuity start date which do not utilize gender  
19 as a factor, except that such amounts shall not be less than the  
20 retirement income which can be provided by the sum of the amounts  
21 derived pursuant to subdivisions (a) and (b) of this subsection as  
22 follows:

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

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

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

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

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



1           For a member employed and participating in the retirement  
2 system prior to January 1, 2003, who has elected to participate in  
3 the cash balance benefit pursuant to section 23-2308.01, or for a  
4 member employed and participating in the retirement system beginning  
5 on and after January 1, 2003, the balance of his or her member cash  
6 balance account as of the date of final account value shall be  
7 converted to an annuity using an interest rate used in the actuarial  
8 valuation as recommended by the actuary and approved by the board.

9           For an employee who is a member prior to January 1, 2003,  
10 who has elected not to participate in the cash balance benefit ~~prior~~  
11 ~~to January 1, 2003, or on or after November 1, 2007, but before~~  
12 ~~January 1, 2008,~~ pursuant to section 23-2308.01, and who, at the time  
13 of retirement, chooses the annuity option rather than the lump-sum  
14 option, his or her employee and employer accounts as of the date of  
15 final account value shall be converted to an annuity using an  
16 interest rate that is equal to the lesser of (i) the Pension ~~Benefits~~  
17 ~~Guarantee~~ Benefit Guaranty Corporation initial interest rate for  
18 valuing annuities for terminating plans as of the beginning of the  
19 year during which payment begins plus three-fourths of one percent or  
20 (ii) the interest rate used in the actuarial valuation as recommended  
21 by the actuary and approved by the board.

22           (b) For the calendar year beginning January 1, 2003, and  
23 each calendar year thereafter, the actuary for the board shall  
24 perform an actuarial valuation of the system using the entry age  
25 actuarial cost method. Under this method, the actuarially required

1 funding rate is equal to the normal cost rate plus the contribution  
2 rate necessary to amortize the unfunded actuarial accrued liability  
3 on a level-payment basis. The normal cost under this method shall be  
4 determined for each individual member on a level percentage of salary  
5 basis. The normal cost amount is then summed for all members. The  
6 initial unfunded actual accrued liability as of January 1, 2003, if  
7 any, shall be amortized over a twenty-five-year period. During each  
8 subsequent actuarial valuation, changes in the unfunded actuarial  
9 accrued liability due to changes in benefits, actuarial assumptions,  
10 the asset valuation method, or actuarial gains or losses shall be  
11 measured and amortized over a twenty-five-year period beginning on  
12 the valuation date of such change. If the unfunded actuarial accrued  
13 liability under the entry age actuarial cost method is zero or less  
14 than zero on an actuarial valuation date, then all prior unfunded  
15 actuarial accrued liabilities shall be considered fully funded and  
16 the unfunded actuarial accrued liability shall be reinitialized and  
17 amortized over a twenty-five-year period as of the actuarial  
18 valuation date. If the actuarially required contribution rate exceeds  
19 the rate of all contributions required pursuant to the County  
20 Employees Retirement Act, there shall be a supplemental appropriation  
21 sufficient to pay for the difference between the actuarially required  
22 contribution rate and the rate of all contributions required pursuant  
23 to the act.

24 (c) If the unfunded accrued actuarial liability under the  
25 entry age actuarial cost method is less than zero on an actuarial

1 valuation date, and on the basis of all data in the possession of the  
2 retirement board, including such mortality and other tables as are  
3 recommended by the actuary engaged by the retirement board and  
4 adopted by the retirement board, the retirement board may elect to  
5 pay a dividend to all members participating in the cash balance  
6 option in an amount that would not increase the actuarial  
7 contribution rate above ninety percent of the actual contribution  
8 rate. Dividends shall be credited to the employee cash balance  
9 account and the employer cash balance account based on the account  
10 balances on the actuarial valuation date. In the event a dividend is  
11 granted and paid after the actuarial valuation date, interest for the  
12 period from the actuarial valuation date until the dividend is  
13 actually paid shall be paid on the dividend amount. The interest rate  
14 shall be the interest credit rate earned on regular contributions.

15 (5) At the option of the retiring member, any lump sum or  
16 annuity provided under this section or section 23-2334 may be  
17 deferred to commence at any time, except that no benefit shall be  
18 deferred later than April 1 of the year following the year in which  
19 the employee has both attained at least seventy and one-half years of  
20 age and has terminated his or her employment with the county, except  
21 that for members participating in the defined contribution benefit,  
22 no distribution is required to be made for the plan year commencing  
23 January 1, 2009, through December 31, 2009. Such election by the  
24 retiring member may be made at any time prior to the commencement of  
25 the lump-sum or annuity payments.

1                   Sec. 10. Section 23-2319.01, Revised Statutes Supplement,  
2 2011, is amended to read:

3                   23-2319.01 (1) For a member who has terminated employment  
4 and is not vested, the balance of the member's employer account or  
5 employer cash balance account shall be forfeited. The forfeited  
6 account shall be credited to the County Employees Retirement Fund and  
7 shall first be used to meet the expense charges incurred by the  
8 retirement board in connection with administering the retirement  
9 system, which charges shall be credited to the County Employees  
10 Defined Contribution Retirement Expense Fund, if the member  
11 participated in the defined contribution option, or to the County  
12 Employees Cash Balance Retirement Expense Fund, if the member  
13 participated in the cash balance option, and the remainder, if any,  
14 shall then be used ~~to reduce the county contribution which would~~  
15 ~~otherwise be required to fund future service retirement benefits or~~  
16 to restore employer accounts or employer cash balance accounts. ~~No~~  
17 Except as provided in subdivision (4)(c) of section 23-2317, no  
18 forfeited amounts shall be applied to increase the benefits any  
19 member would otherwise receive under the County Employees Retirement  
20 Act.

21                   (2)(a) If a member ceases to be an employee due to the  
22 termination of his or her employment by the county and a grievance or  
23 other appeal of the termination is filed, transactions involving  
24 forfeiture of his or her employer account or employer cash balance  
25 account and, except as provided in subdivision (b) of this

1 subsection, transactions for payment of benefits under sections  
2 23-2315 and 23-2319 shall be suspended pending the final outcome of  
3 the grievance or other appeal.

4 (b) If a member elects to receive benefits payable under  
5 sections 23-2315 and 23-2319 after a grievance or appeal is filed,  
6 the member may receive an amount up to the balance of his or her  
7 employee account or member cash balance account or twenty-five  
8 thousand dollars payable from the employee account or member cash  
9 balance account, whichever is less.

10 (3) The County Employer Retirement Expense Fund is  
11 created. The fund shall be administered by the Public Employees  
12 Retirement Board. Prior to July 1, 2012, the County Employer  
13 Retirement Expense Fund shall be used to meet expenses of the  
14 retirement system whether such expenses are incurred in administering  
15 the member's employer account or in administering the member's  
16 employer cash balance account when the funds available in the County  
17 Employees Defined Contribution Retirement Expense Fund or County  
18 Employees Cash Balance Retirement Expense Fund make such use  
19 reasonably necessary. The fund—County Employer Retirement Expense  
20 Fund shall consist of any reduction in a county contribution which  
21 would otherwise be required to fund future service retirement  
22 benefits or to restore employer accounts or employer cash balance  
23 accounts referred to in subsection (1) of this section. ~~The fund~~  
24 ~~shall be established and maintained separate from any funds held in~~  
25 ~~trust for the benefit of members under the county employees~~

1 ~~retirement system. Expenses~~ On July 1, 2012, or as soon as  
2 practicable thereafter, any money in the County Employer Retirement  
3 Expense Fund shall be transferred by the State Treasurer to the  
4 County Employees Retirement Fund and credited to the cash balance  
5 benefit established in section 23-2308.01.

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

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

17 23-2321 (1) In the event of the death before his or her  
18 retirement date of any employee who is a member of the system, the  
19 death benefit shall be equal to ~~(1)~~ (a) for participants in the  
20 defined contribution benefit, the total of the employee account and  
21 the employer account and ~~(2)~~ (b) for participants in the cash balance  
22 benefit, the benefit provided in section 23-2308.01. The death  
23 benefit shall be paid to the member's beneficiary, to an alternate  
24 payee pursuant to a qualified domestic relations order as provided in  
25 section 42-1107, or to the member's estate if there are no designated

1 beneficiaries. If the beneficiary is not the member's surviving  
2 spouse, the death benefit shall be paid as a lump-sum payment or  
3 payments, except that the entire account must be distributed by the  
4 fifth anniversary of the member's death. If the sole primary  
5 beneficiary is the member's surviving spouse, the surviving spouse  
6 may elect to receive an annuity calculated as if the member retired  
7 and selected a one-hundred-percent joint and survivor annuity  
8 effective on the annuity purchase date. If the surviving spouse does  
9 not elect the annuity option within one hundred eighty days after the  
10 death of the member, the surviving spouse shall receive a lump-sum  
11 payment or payments, except that the entire account must be  
12 distributed by the fifth anniversary of the member's death.

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

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

1 of the member's death.

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

4           23-2322 All—(1) Except as provided in subsection (2) of  
5 this section, annuities or benefits which any person shall be  
6 entitled to receive under the County Employees Retirement Act shall  
7 not be subject to garnishment, attachment, levy, the operation of  
8 bankruptcy or insolvency laws, or any other process of law whatsoever  
9 and shall not be assignable except to the extent that such annuities  
10 or benefits are subject to a qualified domestic relations order under  
11 the Spousal Pension Rights Act. The payment of any annuities or  
12 benefits subject to such order shall take priority over any payment  
13 made pursuant to subsection (2) of this section.

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



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

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

9           23-2323.02 (1) For purposes of this section and section  
10 23-2323.03:

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

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

18           (c) Eligible retirement plan means (i) an individual  
19 retirement account described in section 408(a) of the Internal  
20 Revenue Code, (ii) an individual retirement annuity described in  
21 section 408(b) of the code, except for an endowment contract, (iii) a  
22 qualified plan described in section 401(a) of the code, (iv) an  
23 annuity plan described in section 403(a) or 403(b) of the code, (v)  
24 except for purposes of section 23-2323.03, an individual retirement  
25 plan described in section 408A of the code, and ~~(v)~~—(vi) a plan

1 described in section 457(b) of the code and maintained by a  
2 governmental employer. For eligible rollover distributions to a  
3 surviving spouse, an eligible retirement plan means subdivisions (1)  
4 (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 or  
12 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 an  
17 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 is  
20 an alternate payee under a qualified domestic relations order and, on  
21 or after January 1, 2010, any designated beneficiary of a member who  
22 is not a surviving spouse or former spouse who is entitled to receive  
23 an eligible rollover distribution from the retirement system may, in  
24 accordance with such rules, regulations, and limitations as may be  
25 established by the board, elect to have such distribution made in the

1 form of a direct transfer to a retirement plan eligible to receive  
2 such transfer under the provisions of the Internal Revenue Code.

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

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

17 Sec. 14. Section 24-701, Revised Statutes Supplement,  
18 2011, is amended to read:

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

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

22 (2) Judge means and includes (a) all duly elected or  
23 appointed Chief Justices or judges of the Supreme Court and judges of  
24 the district courts of Nebraska who serve in such capacity on and  
25 after January 3, 1957, (b)(i) all duly appointed judges of the

1 Nebraska Workmen's Compensation Court who served in such capacity on  
2 and after September 20, 1957, and prior to July 17, 1986, and (ii)  
3 judges of the Nebraska Workers' Compensation Court who serve in such  
4 capacity on and after July 17, 1986, (c) judges of separate juvenile  
5 courts, (d) judges of the county courts of the respective counties  
6 who serve in such capacity on and after January 5, 1961, (e) judges  
7 of the county court and clerk magistrates who were associate county  
8 judges and members of the fund at the time of their appointment as  
9 clerk magistrates, (f) judges of municipal courts established by  
10 Chapter 26, article 1, who served in such capacity on and after  
11 October 23, 1967, and prior to July 1, 1985, and (g) judges of the  
12 Court of Appeals;

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

20 (4)(a) Current service means the period of service (i)  
21 any judge of the Supreme Court or judge of the district court serves  
22 in such capacity from and after January 3, 1957, (ii)(A) any judge of  
23 the Nebraska Workmen's Compensation Court served in such capacity  
24 from and after September 20, 1957, and prior to July 17, 1986, and  
25 (B) any judge of the Nebraska Workers' Compensation Court serves in

1 such capacity on and after July 17, 1986, (iii) any county judge  
2 serves in such capacity from and after January 5, 1961, (iv) any  
3 judge of a separate juvenile court serves in such capacity, (v) any  
4 judge of the municipal court served in such capacity subsequent to  
5 October 23, 1967, and prior to July 1, 1985, (vi) any judge of the  
6 county court or associate county judge serves in such capacity  
7 subsequent to January 4, 1973, (vii) any clerk magistrate, who was an  
8 associate county judge and a member of the fund at the time of  
9 appointment as a clerk magistrate, serves in such capacity from and  
10 after July 1, 1986, and (viii) any judge of the Court of Appeals  
11 serves in such capacity on or after September 6, 1991.

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

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

1 Workers' Compensation Court in any of the armed forces of the United  
2 States during a war or national emergency prior or subsequent to  
3 September 20, 1957, if such service commenced while such judge was  
4 holding the office of judge, (c) any judge of the municipal court in  
5 any of the armed forces of the United States during a war or national  
6 emergency prior or subsequent to October 23, 1967, and prior to July  
7 1, 1985, if such service commenced while such judge was holding the  
8 office of judge, (d) any judge of the county court or associate  
9 county judge in any of the armed forces of the United States during a  
10 war or national emergency prior or subsequent to January 4, 1973, if  
11 such service commenced while such judge was holding the office of  
12 judge, (e) any clerk magistrate, who was an associate county judge  
13 and a member of the fund at the time of appointment as a clerk  
14 magistrate, in any of the armed forces of the United States during a  
15 war or national emergency on or after July 1, 1986, if such service  
16 commenced while such clerk magistrate was holding the office of clerk  
17 magistrate, and (f) any judge of the Court of Appeals in any of the  
18 armed forces of the United States during a war or national emergency  
19 on or after September 6, 1991, if such service commenced while such  
20 judge was holding the office of judge. The board shall have the power  
21 to determine when a national emergency exists or has existed for the  
22 purpose of applying this definition and provision;

23 (6) Creditable service means the total number of years  
24 served as a judge, including prior service, military service, and  
25 current service, computed to the nearest one-twelfth year. For

1 current service prior to the time that the member has contributed the  
2 required percentage of salary until the maximum benefit as limited by  
3 section 24-710 has been earned, creditable service does not include  
4 current service for which member contributions are not made or are  
5 withdrawn and not repaid;

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

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

1 the retirement system as in effect on July 1, 1993;

2 (8) Beneficiary means a person so designated by a judge  
3 in the last designation of beneficiary on file with the board or, if  
4 no designated person survives or if no designation is on file, the  
5 estate of such judge;

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

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

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

19 (12) Original member means a judge who first served as a  
20 judge prior to December 25, 1969, who does not elect to become a  
21 future member pursuant to subsection (8) of section 24-703 or section  
22 24-710.01, and who was retired on or before December 31, 1992;

23 (13) Future member means a judge who first served as a  
24 judge on or after December 25, 1969, or means a judge who first  
25 served as a judge prior to December 25, 1969, who elects to become a



1 future member on or before June 30, 1970, as provided in subsection  
2 (8) of section 24-703 or section 24-710.01;

3 (14) Final average compensation means the average monthly  
4 compensation for the three twelve-month periods of service as a judge  
5 in which compensation was the greatest or, in the event of a judge  
6 serving less than three twelve-month periods, the average monthly  
7 compensation for such judge's period of service;

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

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

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

23 (18) Current benefit means ~~(a) until July 1, 2000, the~~  
24 ~~initial benefit increased by all adjustments made pursuant to section~~  
25 ~~24-710.08 and (b) on or after July 1, 2000, the initial benefit~~

1 increased by all adjustments made pursuant to the Judges Retirement  
2 Act;

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

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

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

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

21 (23) Termination of employment occurs on the date on  
22 which the State Court Administrator's office determines that the  
23 judge's employer-employee relationship with the State of Nebraska is  
24 dissolved. The State Court Administrator's office shall notify the  
25 board of the date on which such a termination has occurred.

1 Termination of employment does not include ceasing employment as a  
2 judge if the judge returns to regular employment as a judge or is  
3 employed on a regular basis by another agency of the State of  
4 Nebraska and there are less than one hundred twenty days between the  
5 date when the judge's employer-employee relationship ceased and the  
6 date when the employer-employee relationship recommences. It is the  
7 responsibility of the employer that is involved in the termination of  
8 employment to notify the board of such change in employment and  
9 provide the board with such information as the board deems necessary.  
10 If the board determines that termination of employment has not  
11 occurred and a retirement benefit has been paid to a member of the  
12 retirement system pursuant to section 24-710, the board shall require  
13 the member who has received such benefit to repay the benefit to the  
14 retirement system.

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

17           24-707 (1) In the event of the death of a judge prior to  
18 retirement, if such judge shall have had five or more years of  
19 creditable service, the surviving spouse of such judge shall at his  
20 or her option, exercised within twelve months after the date of  
21 death, be immediately entitled to receive an annuity which shall be  
22 equal to the amount that would have accrued to the member had he or  
23 she elected to have the retirement annuity paid as a one-hundred-  
24 percent joint and survivor annuity payable as long as either the  
25 member or the member's spouse should survive and had the member

1 retired (a) on the date of death if his or her age at death is sixty-  
2 five years or more or (b) at age sixty-five years if his or her age  
3 at death is less than sixty-five years. If such option is not  
4 exercised by such surviving spouse within twelve months after the  
5 judge's death, if there is no surviving spouse, or if the judge has  
6 not served for five years, then the beneficiary, or the estate if the  
7 judge has not filed a statement with the board naming a beneficiary,  
8 shall be paid a lump sum equal to all contributions to the fund made  
9 by such judge plus regular interest.

10 (2) In the event of the death of a judge subsequent to  
11 retirement, if such judge has not filed a statement of intent with  
12 the board to elect to receive any other form of annuity which may be  
13 provided for by section 24-710 or elected to make contributions and  
14 receive benefits as provided in section 24-703.03, the amount of  
15 annuities such judge has received under the provisions of the Judges  
16 Retirement Act shall be computed and, if such amount shall be less  
17 than the contributions to the fund made by such judge, plus regular  
18 interest, the difference shall be paid to the beneficiary or estate.

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

22 (4) A lump-sum death benefit paid to the member's  
23 beneficiary, other than the member's estate, that is an eligible  
24 distribution may be distributed in the form of a direct transfer to a  
25 retirement plan eligible to receive such transfer under the

1 provisions of the Internal Revenue Code.

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

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

13 24-710.02 All-(1) Except as provided in subsection (2) of  
14 this section, all annuities or benefits which any person shall be  
15 entitled to receive under the Judges Retirement Act shall not be  
16 subject to garnishment, attachment, levy, the operation of bankruptcy  
17 or insolvency laws, or any other process of law whatsoever and shall  
18 not be assignable except to the extent that such annuities or  
19 benefits are subject to a qualified domestic relations order under  
20 the Spousal Pension Rights Act. The payment of any annuities or  
21 benefits subject to such order shall take priority over any payment  
22 made pursuant to subsection (2) of this section.

23 (2) If a member of the retirement system is convicted of  
24 or pleads no contest to a felony that is defined as assault, sexual  
25 assault, kidnapping, child abuse, false imprisonment, or theft by

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

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

18           24-710.05 (1) For purposes of this section and section  
19 24-710.06:

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

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

1 distributee;

2 (c) Eligible retirement plan means (i) an individual  
3 retirement account described in section 408(a) of the Internal  
4 Revenue Code, (ii) an individual retirement annuity described in  
5 section 408(b) of the code, except for an endowment contract, (iii) a  
6 qualified plan described in section 401(a) of the code, (iv) an  
7 annuity plan described in section 403(a) or 403(b) of the code, (v)  
8 except for purposes of section 24-710.06, an individual retirement  
9 plan described in section 408A of the code, and ~~(v)~~-(vi) a plan  
10 described in section 457(b) of the code and maintained by a  
11 governmental employer. For eligible rollover distributions to a  
12 surviving spouse, an eligible retirement plan means subdivisions (1)  
13 (c)(i) through ~~(iv)~~-(vi) of this section; and

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

24 (2) For distributions made to a distributee on or after  
25 January 1, 1993, a distributee may elect to have any portion of an

1 eligible rollover distribution paid directly to an eligible  
2 retirement plan specified by the distributee.

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

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

21 ~~(3)~~ (5) The board shall adopt and promulgate rules and  
22 regulations for direct rollover procedures which are consistent with  
23 section 401(a)(31) of the Internal Revenue Code and which include,  
24 but are not limited to, the form and time of direct rollover  
25 distributions.



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

3           48-1401 (1) Any county, municipality, or other political  
4 subdivision, instrumentality, or agency of the State of Nebraska,  
5 except any agency subject to sections 84-1504 to 84-1506 or section  
6 85-106, 85-320, or 85-606.01, may enter into an agreement to defer a  
7 portion of any individual's compensation derived from such county,  
8 municipality, or other political subdivision, instrumentality, or  
9 agency to a future period in time pursuant to section 457 of the  
10 Internal Revenue Code. Such deferred compensation plan shall be  
11 voluntary and shall be available to all regular employees and elected  
12 officials.

13           (2) The compensation to be deferred may never exceed the  
14 total compensation to be received by the individual from the employer  
15 or exceed the limits established by the Internal Revenue Code for  
16 such a plan.

17           (3) All compensation deferred under the plan, all  
18 property and rights purchased with the deferred compensation, and all  
19 investment income attributable to the deferred compensation,  
20 property, or rights shall be held in trust for the exclusive benefit  
21 of participants and their beneficiaries by the county, municipality,  
22 or other political subdivision, instrumentality, or agency until such  
23 time as payments are made under the terms of the deferred  
24 compensation plan.

25           (4) The county, municipality, or other political

1 subdivision, instrumentality, or agency shall designate its treasurer  
2 or an equivalent official, including the State Treasurer, to be the  
3 custodian of the funds and securities of the deferred compensation  
4 plan.

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

14 (6) The deferred compensation program shall exist and  
15 serve in addition to, and shall not be a part of, any existing  
16 retirement or pension system provided for state, county, municipal,  
17 or other political subdivision, instrumentality, or agency employees,  
18 or any other benefit program.

19 (7) Any compensation deferred under such a deferred  
20 compensation plan shall continue to be included as regular  
21 compensation for the purpose of computing the retirement, pension, or  
22 social security contributions made or benefits earned by any  
23 employee.

24 (8) Any sum so deferred shall not be included in the  
25 computation of any federal or state taxes withheld on behalf of any

1 such individual.

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

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

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

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

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

16           (12) If a county has not established a deferred  
17 compensation plan pursuant to this section, each individual may  
18 require that the county enter into an agreement with the individual  
19 to defer a portion of such individual's compensation and place it  
20 under the management and supervision of the state deferred  
21 compensation plan created pursuant to sections 84-1504 to 84-1506. If  
22 such an agreement is made, the county shall designate the State  
23 Treasurer as custodian of such deferred compensation funds and such  
24 deferred compensation funds shall become a part of the trust  
25 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 (a)  
3 any person designated by the county, municipality, or other political  
4 subdivision, instrumentality, or agency of the State of Nebraska,  
5 except any agency subject to sections 84-1504 to 84-1506 or section  
6 85-106, 85-320, or 85-606.01, as a permanent part-time or full-time  
7 employee of the county, municipality, or other political subdivision,  
8 instrumentality, or agency and (b) a person under contract providing  
9 services to the county, municipality, or other political subdivision,  
10 instrumentality, or agency of the State of Nebraska, except any  
11 agency subject to sections 84-1504 to 84-1506 or section 85-106,  
12 85-320, or 85-606.01, and who has entered into a contract with such  
13 county, municipality, political subdivision, instrumentality, or  
14 agency to have compensation deferred prior to August 28, 1999.

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

17 79-902 For purposes of the School Employees Retirement  
18 Act, unless the context otherwise requires:

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

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

1                   (3) Member means any person who has an account in the  
2 School Retirement Fund;

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

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

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

3           (7) Employer means the State of Nebraska or any  
4 subdivision thereof or agency of the state or subdivision authorized  
5 by law to hire school employees or to pay their 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 this  
15 section, contributing member means the following persons who receive  
16 compensation from a public school: (a) Regular employees; (b) regular  
17 employees having retired pursuant to the School Employees Retirement  
18 Act who subsequently provide compensated service on a regular basis  
19 in any capacity; and (c) regular employees hired by a public school  
20 on an ongoing basis to assume the duties of other regular employees  
21 who are temporarily absent. Substitute employees, and—temporary  
22 employees, and employees who have not attained the age of eighteen  
23 years shall not be considered school employees;

24           (11) Prior service means service rendered as a school  
25 employee in the public schools of the State of Nebraska prior to July

1 1, 1945;

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

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

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

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

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

25 (17) School year means one fiscal year which includes not



1 less than one thousand instructional hours or, in the case of service  
2 in the State of Nebraska prior to July 1, 1945, not less than  
3 seventy-five percent of the then legal school year;

4 (18) Service means employment as a school employee and  
5 shall not be deemed interrupted by (a) termination at the end of the  
6 school year of the contract of employment of an employee in a public  
7 school if the employee enters into a contract of employment in any  
8 public school, except a school in a Class V school district, for the  
9 following school year, (b) temporary or seasonal suspension of  
10 service that does not terminate the employee's employment, (c) leave  
11 of absence authorized by the employer for a period not exceeding  
12 twelve months, (d) leave of absence because of disability, or (e)  
13 military service when properly authorized by the retirement board.  
14 Service does not include any period of disability for which  
15 disability retirement benefits are received under sections 79-951 to  
16 79-953;

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

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

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

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

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

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

1 annuitant was reemployed, rendered a service, and was paid by the  
2 district or agency for such services;

3 (25) Actuarial equivalent means the equality in value of  
4 the aggregate amounts expected to be received under different forms  
5 of payment. The determinations shall be based on the 1994 Group  
6 Annuity Mortality Table reflecting sex-distinct factors blended using  
7 twenty-five percent of the male table and seventy-five percent of the  
8 female table. An interest rate of eight percent per annum shall be  
9 reflected in making these determinations except when a lump-sum  
10 settlement is made to an estate. If the lump-sum settlement is made  
11 to an estate, the interest rate will be determined by the Moody's  
12 Triple A Bond Index as of the prior June 30, rounded to the next  
13 lower quarter percent;

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

23 (27) Disability retirement date means the first day of  
24 the month following the date upon which a member's request for  
25 disability retirement is received on a retirement application

1 provided by the retirement system if the member has terminated  
2 employment in the school system and has complied with sections 79-951  
3 to 79-954 as such sections refer to disability retirement;

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

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

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

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

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

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

1           (32) Current benefit means ~~(a) until July 1, 2000, the~~  
2 ~~initial benefit increased by all adjustments made pursuant to section~~  
3 ~~79-947.02 and (b) on or after July 1, 2000, the~~ initial benefit  
4 increased by all adjustments made pursuant to the School Employees  
5 Retirement Act;

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

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

20           (35)(a) Compensation means gross wages or salaries  
21 payable to the member for personal services performed during the plan  
22 year and includes (i) overtime pay, (ii) member retirement  
23 contributions, (iii) retroactive salary payments paid pursuant to  
24 court order, arbitration, or litigation and grievance settlements,  
25 and (iv) amounts contributed by the member to plans under sections

1 125, 403(b), and 457 of the Internal Revenue Code as defined in  
2 section 49-801.01 or any other section of the code which defers or  
3 excludes such amounts from income.

4 (b) Compensation does not include (i) fraudulently  
5 obtained amounts as determined by the retirement board, (ii) amounts  
6 for unused sick leave or unused vacation leave converted to cash  
7 payments, (iii) insurance premiums converted into cash payments, (iv)  
8 reimbursement for expenses incurred, (v) fringe benefits, (vi) per  
9 diems, (vii) bonuses for services not actually rendered, including,  
10 but not limited to, early retirement inducements, cash awards, and  
11 severance pay, or ~~(vii)~~ (viii) beginning on September 4, 2005,  
12 employer contributions made for the purposes of separation payments  
13 made at retirement and early retirement inducements as provided for  
14 in section 79-514.

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

22 (d)(i) For purposes of section 79-934, in the  
23 determination of compensation for members on or after July 1, 2005,  
24 that part of a member's compensation for the plan year which exceeds  
25 the member's compensation with the same employer for the preceding

1 plan year by more than seven percent of the compensation base during  
2 the sixty months preceding the member's retirement shall be excluded  
3 unless (A) the member experienced a substantial change in employment  
4 position, (B) as verified by the school board, the excess  
5 compensation above seven percent occurred as the result of a  
6 collective-bargaining agreement between the employer and a recognized  
7 collective-bargaining unit or category of school employee, and the  
8 percentage increase in compensation above seven percent shall not be  
9 excluded for employees outside of a collective-bargaining unit or  
10 within the same category of school employee, or (C) the excess  
11 compensation occurred as the result of a districtwide permanent  
12 benefit change made by the employer for a category of school employee  
13 in accordance with subdivision (35)(a)(iv) of this section.

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

15 (A) Category of school employee means either all  
16 employees of the employer who are administrators or certificated  
17 teachers, or all employees of the employer who are not administrators  
18 or certificated teachers, or both;

19 (B) Compensation base means (I) for current members  
20 employed with the same employer, the member's compensation for the  
21 plan year ending June 30, 2005, or (II) for members newly hired or  
22 hired by a separate employer on or after July 1, 2005, the member's  
23 compensation for the first full plan year following the member's date  
24 of hiring. Thereafter, the member's compensation base shall be  
25 increased each plan year by the lesser of seven percent of the

1 member's preceding plan year's compensation base or the member's  
2 actual annual compensation increase during the preceding plan year;  
3 and

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

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

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

14 (A) Category of school employee means either all  
15 employees of the employer who are administrators or certificated  
16 teachers, or all employees of the employer who are not administrators  
17 or certificated teachers, or both; and

18 (B) Compensation base means (I) for current members  
19 employed with the same employer, the member's compensation for the  
20 plan year ending June 30, 2012, or (II) for members newly hired or  
21 hired by a separate employer on or after July 1, 2012, the member's  
22 compensation for the first full plan year following the member's date  
23 of hiring. Thereafter, the member's compensation base shall be  
24 increased each plan year by the lesser of nine percent of the  
25 member's preceding plan year's compensation base or the member's



1 actual annual compensation increase during the preceding plan year.

2 (f)(i) In the determination of compensation for members  
3 on or after July 1, 2013, that part of a member's compensation for  
4 the plan year which exceeds the member's compensation with the same  
5 employer for the preceding plan year by more than eight percent of  
6 the compensation base during the sixty months preceding the member's  
7 retirement shall be excluded.

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

9 (A) Category of school employee means either all  
10 employees of the employer who are administrators or certificated  
11 teachers, or all employees of the employer who are not administrators  
12 or certificated teachers, or both; and

13 (B) Compensation base means (I) for current members  
14 employed with the same employer, the member's compensation for the  
15 plan year ending June 30, 2013, or (II) for members newly hired or  
16 hired by a separate employer on or after July 1, 2013, the member's  
17 compensation for the first full plan year following the member's date  
18 of hiring. Thereafter, the member's compensation base shall be  
19 increased each plan year by the lesser of eight percent of the  
20 member's preceding plan year's compensation base or the member's  
21 actual annual compensation increase during the preceding plan year;

22 (36) Termination of employment occurs on the date on  
23 which the member experiences a bona fide separation from service of  
24 employment with the member's ~~current~~ employer, the date of which  
25 separation is determined by the employer. The employer shall notify

1 the board of the date on which such a termination has occurred. It is  
2 the responsibility of the employer that is involved in the  
3 termination of employment to notify the board of such change in  
4 employment and provide the board with such information as the board  
5 deems necessary. If the board determines that termination of  
6 employment has not occurred and a retirement benefit has been paid to  
7 a member of the retirement system pursuant to section 79-933, the  
8 board shall require the member who has received such benefit to repay  
9 the benefit to the retirement system. A member shall not be deemed to  
10 have terminated employment if the member subsequently provides  
11 service to any employer participating in the retirement system  
12 provided for in the School Employees Retirement Act within one  
13 hundred eighty calendar days after ceasing employment unless such  
14 service:

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

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

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

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

25 (38) Substitute employee means a person hired by a public

1 school as a temporary employee to assume the duties of regular  
2 employees due to the temporary absence of the regular employees.  
3 Substitute employee does not mean a person hired as a regular  
4 employee on an ongoing basis to assume the duties of other regular  
5 employees who are temporarily absent;

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

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

18 (41) Temporary employee means an employee hired by a  
19 public school who is not a regular employee and who is hired to  
20 provide service for a limited period of time to accomplish a specific  
21 purpose or task. When such specific purpose or task is complete, the  
22 employment of such temporary employee shall terminate and in no case  
23 shall the temporary employment period exceed one year in duration.

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

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

17                   ~~(2) If a member's compensation for a plan year exceeds~~  
18 ~~the member's compensation with the same employer for the preceding~~  
19 ~~plan year by more than seven percent of the compensation base, then~~  
20 ~~the employer shall, within ninety days of the end of a plan year,~~  
21 ~~provide information indicating to the director that the member's~~  
22 ~~compensation has exceeded seven percent of the compensation base.~~  
23 ~~Such information shall be provided in an accurate and verifiable form~~  
24 ~~as specified by the director.~~

25                   ~~(3)~~(2) The director shall develop and implement an

1 employer education program using principles generally accepted by  
2 public employee retirement systems so that all employers have the  
3 knowledge and information necessary to prepare and file reports as  
4 the board requires.

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

7           79-933.01 (1) For purposes of this section and section  
8 79-933.02:

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

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

16           (c) Eligible retirement plan means (i) an individual  
17 retirement account described in section 408(a) of the Internal  
18 Revenue Code, (ii) an individual retirement annuity described in  
19 section 408(b) of the code, except for an endowment contract, (iii) a  
20 qualified plan described in section 401(a) of the code, (iv) an  
21 annuity plan described in section 403(a) or 403(b) of the code, (v)  
22 except for purposes of section 79-933.02, an individual retirement  
23 plan described in section 408A of the code, and ~~(v)~~—(vi) a plan  
24 described in section 457(b) of the code and maintained by a  
25 governmental employer. For eligible rollover distributions to a

1 surviving spouse, an eligible retirement plan means subdivisions (1)  
2 (c)(i) through ~~(iv)~~ (vi) of this section; and

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

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

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

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

10           ~~(3)~~-(5) The board shall adopt and promulgate rules and  
11 regulations for direct rollover procedures which are consistent with  
12 section 401(a)(31) of the Internal Revenue Code and which include,  
13 but are not limited to, the form and time of direct rollover  
14 distributions.

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

17           79-948 ~~The~~-(1) Except as provided in subsection (2) of  
18 this section, the right of a person to an annuity, an allowance, or  
19 any optional benefit under the School Employees Retirement Act, any  
20 other right accrued or accruing to any person or persons under such  
21 act, the various funds and account created thereby, and all the  
22 money, investments, and income thereof shall be exempt from any  
23 state, county, municipal, or other local tax, shall not be subject to  
24 execution, garnishment, attachment, the operation of bankruptcy or  
25 insolvency laws, or any other process of law whatsoever, and shall

1 not be assignable except to the extent that such annuity, allowance,  
2 or benefit is subject to a qualified domestic relations order under  
3 the Spousal Pension Rights Act. The payment of any annuity,  
4 allowance, or benefit subject to such order shall take priority over  
5 any payment made pursuant to subsection (2) of this 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 of  
10 such felony, following distribution of the member's annuity,  
11 allowance, or optional benefit from the retirement system, the court  
12 may order the payment of such annuity, allowance, or optional benefit  
13 under the retirement system for such civil damages, except that the  
14 annuities, allowances, or optional benefits to the extent reasonably  
15 necessary for the support of the member or any of his or her  
16 beneficiaries shall be exempt from such payment. Any order for  
17 payment of annuities, allowances, or optional benefits shall not be  
18 stayed on the filing of any appeal of the conviction. If the  
19 conviction is reversed on final judgment, all annuities, allowances,  
20 or optional benefits paid as civil damages shall be forfeited and  
21 returned to the member. The changes made to this section by this  
22 legislative bill shall apply to persons convicted of or who have pled  
23 no contest to such a felony and who have been found liable for civil  
24 damages as a result of such felony prior to, on, or after the  
25 effective date of this act.



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

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

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

1 annuity payable as long as either the member or the member's spouse  
2 should survive and had the member retired ~~(a)~~(i) on the date of  
3 death if his or her age at death is sixty-five years or more or ~~(b)~~  
4 (ii) at age sixty-five years if his or her age at death is less than  
5 sixty-five years.

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

24 (4) If the requirements of subsection (2) or (3) of this  
25 section are not met, then the beneficiary or the estate, if the

1 member has not filed a statement with the board naming a beneficiary,  
2 shall be paid a lump sum equal to all contributions to the fund made  
3 by such member plus regular interest, except that commencing on  
4 January 1, 2006, an application for benefits under subsection (2) or  
5 (3) of this section shall be deemed to have been timely filed if the  
6 application is received by the retirement system within twelve months  
7 after the date of the death of the member.

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

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

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

25 Sec. 24. Section 79-980, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

1 retirement system shall be appointed for three fiscal years each. The  
2 trustees and the administrator of the retirement system shall  
3 administer the retirement system in compliance with the tax-  
4 qualification requirements applicable to government retirement plans  
5 under section 401(a) of the Internal Revenue Code, as defined in  
6 section 49-801.01.

7 (2) At any time that the retirement system consists of  
8 more than one Class V school district, the general administration of  
9 the retirement system is hereby vested in a Class V Retirement System  
10 Board composed of three members of the school board for each  
11 participating Class V school district. The board shall appoint, by a  
12 majority of all its members, trustees to serve as executive officers  
13 to administer the Class V School Employees Retirement Act. Such  
14 trustees shall consist of (a) the superintendent of each  
15 participating Class V school district, as ex officio trustees, (b)  
16 four members of the retirement system, two from the certificated  
17 staff, one from the classified staff, and one from the annuitants,  
18 (c) three members of the board, and (d) two trustees who are business  
19 persons qualified in financial affairs and who are not members of the  
20 retirement system. The trustees who are appointed from the board and  
21 the membership shall, to the extent feasible, be appointed equally  
22 from each participating Class V school district. The trustees shall  
23 serve without compensation, but they shall be reimbursed from the  
24 funds of the retirement system for expenses that they may incur  
25 through service on the board of trustees as provided in sections

1 81-1174 to 81-1177. A trustee shall serve until a successor  
2 qualifies, except that trustees who are members of the retirement  
3 system or members of the board shall be disqualified as trustees  
4 immediately upon ceasing to be a member of the retirement system or  
5 of the board. Each trustee shall be entitled to one vote on the board  
6 of trustees, and six trustees shall constitute a quorum for the  
7 transaction of any business. The trustees who are appointed from the  
8 board and the membership shall be appointed for each fiscal year. The  
9 two trustees who are not members of the board or of the retirement  
10 system shall be appointed for three fiscal years each. The trustees  
11 and the administrator of the retirement system shall administer the  
12 retirement system in compliance with the tax-qualification  
13 requirements applicable to government retirement plans under section  
14 401(a) of the Internal Revenue Code, as defined in section 49-801.01,  
15 including: Section 401(a)(9) of the Internal Revenue Code relating to  
16 the time and manner in which benefits are required to be distributed,  
17 including the incidental death benefit distribution requirement of  
18 section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(16)  
19 of the Internal Revenue Code relating to the specification of  
20 actuarial assumptions; section 401(a)(31) of the Internal Revenue  
21 Code relating to direct rollover distributions from eligible  
22 retirement plans; and section 401(a)(37) of the Internal Revenue Code  
23 relating to the death benefit of a member whose death occurs while  
24 performing qualified military service.

25 Sec. 25. Section 79-998, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           79-998 (1) The retirement system may accept as payment  
3 for additional service credit that is purchased pursuant to sections  
4 79-990 to 79-992 an eligible rollover distribution from or on behalf  
5 of the member who is making payments for such service credit if the  
6 eligible rollover distribution does not exceed the amount of payment  
7 required for the service credit being purchased by the member. The  
8 eligible rollover distribution may be contributed to the retirement  
9 system by the member or directly transferred from the plan that is  
10 making the eligible rollover distribution on behalf of the member.  
11 Contribution by a member pursuant to this section may only be made in  
12 the form of a cash contribution. For purposes of this section, an  
13 eligible rollover distribution means all or any portion of an amount  
14 that qualifies as an eligible rollover distribution under the  
15 Internal Revenue Code from:

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

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

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

24           ~~(4)~~ (d) An individual retirement account or annuity  
25 described in section 408(a) or section 408(b) of the Internal Revenue

1 Code that is eligible to be rolled over to an employer plan under the  
2 Internal Revenue Code.

3           (2) The retirement system may accept as payment for  
4 service credit that is purchased pursuant to sections 79-990 to  
5 79-992 a direct trustee-to-trustee transfer from an eligible deferred  
6 compensation plan as described in section 457(e)(17) of the Internal  
7 Revenue Code on behalf of a member who is making payments for such  
8 service credit if the amount transferred from the eligible deferred  
9 compensation plan does not exceed the amount of payment required for  
10 the service credit being purchased and the purchase of such service  
11 credit qualifies as the purchase of permissive service credit by the  
12 member as defined in section 415(n)(3) of the Internal Revenue Code.

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

18           (4) Cash and other properties contributed or transferred  
19 to the system pursuant to this section shall be deposited and held as  
20 a commingled asset of the system and shall not be separately  
21 accounted for or invested for the member's benefit. Contributions or  
22 direct transfers made by or on behalf of any member pursuant to this  
23 section shall be treated as qualifying payments under sections 79-990  
24 to 79-992 and as employee contributions for all other purposes of the  
25 Class V School Employees Retirement Act except in determining federal



1 and state tax treatment of distributions from the system.

2           (5) The system, the board, the trustees, and their  
3 respective members, officers, and employees shall have no  
4 responsibility or liability with respect to the federal and state  
5 income tax consequences of any contribution or transfer to the system  
6 pursuant to this section, and the trustees may require as a condition  
7 to the system's acceptance of any rollover contribution or transfer  
8 satisfactory evidence that the proposed contribution or transfer is a  
9 qualifying rollover contribution or trustee-to-trustee transfer under  
10 the Internal Revenue Code and reasonable releases or indemnifications  
11 from the member against any and all liabilities which may in any way  
12 be connected with such contribution or transfer.

13           (6) Effective January 1, 1993, any member who is to  
14 receive an eligible rollover distribution, as defined in the Internal  
15 Revenue Code, from the system may, in accordance with such rules,  
16 regulations, and limitations as may be established by the trustees,  
17 elect to have such distribution made in the form of a direct transfer  
18 to a retirement plan eligible to receive such transfer under the  
19 provisions of the Internal Revenue Code. Any such election shall be  
20 made in the form and within the time periods established by the  
21 trustees.

22           (7) A member's surviving spouse or former spouse who is  
23 an alternate payee under a qualified domestic relations order and, on  
24 or after September 1, 2010, any designated beneficiary of a member  
25 who is not a surviving spouse or former spouse who is entitled to

1 receive an eligible rollover distribution from the system may, in  
2 accordance with such rules, regulations, and limitations as may be  
3 established by the trustees, elect to have such distribution made in  
4 the form of a direct transfer to a retirement plan eligible to  
5 receive such transfer under the provisions of the Internal Revenue  
6 Code.

7           (8) An eligible rollover distribution on behalf of a  
8 designated beneficiary of a member who is not a surviving spouse or  
9 former spouse of the member may be transferred to an individual  
10 retirement account or annuity described in section 408(a) or section  
11 408(b) of the Internal Revenue Code that is established for the  
12 purpose of receiving the distribution on behalf of the designated  
13 beneficiary and that will be treated as an inherited individual  
14 retirement account or individual retirement annuity described in  
15 section 408(d)(3)(C) of the Internal Revenue Code.

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

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

20           79-9,104 (1) ~~All~~ Except as provided in subsection (4) of  
21 this section, all annuities and other benefits payable under the  
22 Class V School Employees Retirement Act and all accumulated credits  
23 of members of the retirement system shall not be assignable or  
24 subject to execution, garnishment, or attachment except to the extent  
25 that such annuity or benefit is subject to a qualified domestic

1 relations order as such term is defined in and which meets the  
2 requirements of section 414(p) of the Internal Revenue Code. The  
3 payment of any annuity or benefit subject to such order shall take  
4 priority over any payment made pursuant to subsection (4) of this  
5 section. Payments under such a qualified domestic relations order  
6 shall be made only after the administrator of the retirement system  
7 receives written notice of such order and such additional information  
8 and documentation as the administrator may require.

9           (2) In lieu of the assignment of a member's future  
10 annuity or benefit to the member's spouse or former spouse, the  
11 retirement system shall permit the spouse or former spouse of a  
12 member to receive, pursuant to a qualified domestic relations order,  
13 a single sum payment of a specified percentage of the member's  
14 accumulated contributions on the condition that upon the payment of  
15 such amount the spouse or former spouse shall have no further  
16 interest in the retirement system or in the remaining benefit of the  
17 member under the retirement system.

18           (3) A member's interest and benefits under the retirement  
19 system shall be reduced, either at termination of employment,  
20 retirement, disability, or death, by the actuarial value of the  
21 benefit assigned or paid to the member's spouse, former spouse, or  
22 other dependents under a qualified domestic relations order, as  
23 determined by the plan actuary on the basis of the actuarial  
24 assumptions then recommended by the actuary pursuant to section  
25 79-984.

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

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

21           79-9,106 (1) Upon the death of a member who has not yet  
22 retired and who has twenty years or more of creditable service, the  
23 member's primary beneficiary shall receive a survivorship annuity in  
24 accordance with subdivision (1) of section 79-9,101 if the primary  
25 beneficiary is (a) the member's spouse or (b) one other designated

1 beneficiary whose attained age in the calendar year of the member's  
2 death is no more than ten years less than the attained age of the  
3 member in such calendar year. The amount of such actuarially  
4 equivalent annuity shall be calculated using the attained ages of the  
5 member and the beneficiary and be based on the annuity earned to the  
6 date of the member's death without reduction due to any early  
7 commencement of benefits. Within sixty days from the date of the  
8 member's death, if the member has not previously filed with the  
9 administrator of the retirement system a form requiring that only the  
10 survivorship annuity be paid, the beneficiary may request to receive  
11 in a lump sum an amount equal to the member's accumulated  
12 contributions. If prior to the member's death, the member files with  
13 the administrator of the retirement system a form requiring that the  
14 beneficiary receive a lump-sum settlement in lieu of the survivorship  
15 annuity, the beneficiary shall receive, in lieu of the survivorship  
16 annuity, a lump-sum settlement in an amount equal to the member's  
17 accumulated contributions notwithstanding any other provision of this  
18 section.

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

1 contributions.

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

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

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

18 81-2014 For purposes of the Nebraska State Patrol  
19 Retirement Act:

20 (1) Actuarial equivalent means the equality in value of  
21 the aggregate amounts expected to be received under different forms  
22 of payment or to be received at an earlier retirement age than the  
23 normal retirement age. The determinations shall be based on the 1994  
24 Group Annuity Mortality Table reflecting sex-distinct factors blended  
25 using seventy-five percent of the male table and twenty-five percent

1 of the female table. An interest rate of eight percent per annum  
2 shall be reflected in making the determinations until such percent is  
3 amended by the Legislature;

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

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

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

1 the retirement system as in effect on July 1, 1993;

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

9 (5) Current benefit means ~~(a) until July 1, 2000, the~~  
10 ~~initial benefit increased by all adjustments made pursuant to section~~  
11 ~~81-2027.04 and (b) on or after July 1, 2000, the~~ initial benefit  
12 increased by all adjustments made pursuant to the Nebraska State  
13 Patrol Retirement Act;

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

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

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



1 benefit calculation;

2 (9) Initial benefit means the retirement benefit  
3 calculated at the time of retirement;

4 (10) Officer means an officer provided for in sections  
5 81-2001 to 81-2009;

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

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

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

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

25 (15) Surviving spouse means (a) the spouse married to the

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

13 (16) Termination of employment occurs on the date on  
14 which the Nebraska State Patrol determines that the officer's  
15 employer-employee relationship with the patrol is dissolved. The  
16 Nebraska State Patrol shall notify the board of the date on which  
17 such a termination has occurred. Termination of employment does not  
18 include ceasing employment with the Nebraska State Patrol if the  
19 officer returns to regular employment with the Nebraska State Patrol  
20 or another agency of the State of Nebraska and there are less than  
21 one hundred twenty days between the date when the employee's  
22 employer-employee relationship ceased and the date when the employer-  
23 employee relationship commenced with the Nebraska State Patrol or  
24 another state agency. Termination of employment does not occur upon  
25 an officer's participation in DROP pursuant to section 81-2041. It is

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

9           Sec. 29. Section 81-2026, Revised Statutes Supplement,  
10 2011, is amended to read:

11           81-2026 (1)(a) Any officer qualified for an annuity as  
12 provided in section 81-2025 for reasons other than disability shall  
13 be entitled to receive a monthly annuity for the remainder of the  
14 officer's life. The annuity payments shall continue until the end of  
15 the calendar month in which the officer dies. The amount of the  
16 annuity shall be a percentage of the officer's final average monthly  
17 compensation. For retirement on or after the fifty-fifth birthday of  
18 the member or on or after the fiftieth birthday of a member who has  
19 been in the employ of the state for twenty-five years, as calculated  
20 in section 81-2033, the percentage shall be three percent multiplied  
21 by the number of years of creditable service, as calculated in  
22 section 81-2033, except that the percentage shall never be greater  
23 than seventy-five percent.

24           (b) For retirement pursuant to subsection (2) of section  
25 81-2025 on or after the fiftieth birthday of the member but prior to

1 the fifty-fifth birthday of the member who has been in the employ of  
2 the state for less than twenty-five years, as calculated in section  
3 81-2033, the annuity which would apply if the member were age fifty-  
4 five at the date of retirement shall be reduced by five-ninths of one  
5 percent for each month by which the early retirement date precedes  
6 age fifty-five or for each month by which the early retirement date  
7 precedes the date upon which the member has served for twenty-five  
8 years, whichever is earlier. Any officer who has completed thirty  
9 years of creditable service with the Nebraska State Patrol shall have  
10 retirement benefits computed as if the officer had reached age fifty-  
11 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 an  
15 officer in which compensation was the greatest divided by thirty-six,  
16 and for any officer employed on or before January 4, 1979, the  
17 officer's total compensation shall include payments received for  
18 unused vacation and sick leave accumulated during the final three  
19 years of service.

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

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

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

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

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

1 annuity to the surviving spouse for the remainder of the surviving  
2 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 years  
11 of age to be divided equally among such dependent children but in no  
12 case shall the benefit received by a surviving spouse and dependent  
13 children residing with such spouse be less than fifty percent of the  
14 amount of the officer's annuity. At such time as any dependent child  
15 of the officer attains nineteen years of age, the benefit shall be  
16 divided equally among the remaining dependent children of the officer  
17 who have not yet attained nineteen years of age. When there is no  
18 remaining dependent child of the officer under nineteen years of age,  
19 the benefit shall be seventy-five percent of the amount of the  
20 officer's annuity to the surviving spouse for the remainder of the  
21 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 to  
25 the dependent children of the officer under nineteen years of age to

1 be divided equally among such dependent children. At such time as any  
2 dependent child of the officer attains nineteen years of age, the  
3 benefit shall be divided equally among the remaining dependent  
4 children of the officer who have not yet attained nineteen years of  
5 age; and

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

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

16 (5) Upon the death of an officer before retirement,  
17 benefits shall be provided as if the officer had retired for reasons  
18 of disability on the date of such officer's death, calculated as  
19 follows:

20 (a) If there is a surviving spouse but no dependent child  
21 or children of the officer under nineteen years of age, the surviving  
22 spouse shall receive a benefit equal to seventy-five percent of the  
23 amount of the officer's annuity for the remainder of the surviving  
24 spouse's life;

25 (b) 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 and there is no other dependent  
3 child or children of the officer not in the care of the surviving  
4 spouse under nineteen years of age, the benefit shall be equal to one  
5 hundred percent of the officer's annuity. When there is no remaining  
6 dependent child of the officer under nineteen years of age, the  
7 benefit shall be seventy-five percent of the amount of the officer's  
8 annuity to the surviving spouse for the remainder of the surviving  
9 spouse's life;

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



1 the benefit shall be seventy-five percent of the amount of the  
2 officer's annuity to the surviving spouse for the remainder of the  
3 surviving spouse's life;

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

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

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

21 (7) For any member whose death occurs on or after January  
22 1, 2007, while performing qualified military service as defined in  
23 section 414(u) of the Internal Revenue Code, the member's beneficiary  
24 shall be entitled to any additional death benefit that would have  
25 been provided, other than the accrual of any benefit relating to the

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

5 ~~(6)~~(8) Any changes made to this section by Laws 2004, LB  
6 1097, shall apply only to retirements, disabilities, and deaths  
7 occurring on or after July 16, 2004.

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

10 81-2031.03 (1) For purposes of this section and section  
11 81-2031.04:

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

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

19 (c) Eligible retirement plan means (i) an individual  
20 retirement account described in section 408(a) of the Internal  
21 Revenue Code, (ii) an individual retirement annuity described in  
22 section 408(b) of the code, except for an endowment contract, (iii) a  
23 qualified plan described in section 401(a) of the code, (iv) an  
24 annuity plan described in section 403(a) or 403(b) of the code, (v)  
25 except for purposes of section 81-2031.04, an individual retirement

1 plan described in section 408A of the code, and ~~(v)~~-(vi) a plan  
2 described in section 457(b) of the code and maintained by a  
3 governmental employer. For eligible rollover distributions to a  
4 surviving spouse, an eligible retirement plan means subdivisions (1)  
5 (c)(i) through ~~(iv)~~-(vi) of this section; and

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

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

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

1 established by the board, elect to have such distribution made in the  
2 form of a direct transfer to a retirement plan eligible to receive  
3 such transfer under the provisions of the Internal Revenue Code.

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

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

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

20 81-2032 ~~All~~(1) Except as provided in subsection (2) of  
21 this section, all annuities or benefits which any person shall be  
22 entitled to receive under sections 81-2014 to 81-2036 shall not be  
23 subject to garnishment, attachment, levy, the operation of bankruptcy  
24 or insolvency laws, or any other process of law whatsoever and shall  
25 not be assignable except to the extent that such annuities or

1 benefits are subject to a qualified domestic relations order under  
2 the Spousal Pension Rights Act. The payment of any annuities or  
3 benefits subject to such order shall take priority over any payment  
4 made pursuant to subsection (2) of this section.

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

23 Sec. 32. Section 81-2041, Revised Statutes Supplement,  
24 2011, is amended to read:

25 81-2041 (1) Any member who meets the participation

1 requirements of subsection (2) of this section may participate in  
2 DROP. DROP provides that subsequent to attaining normal age and  
3 service retirement eligibility, a member may voluntarily choose to  
4 participate in DROP upon its adoption which, for purposes of this  
5 section, shall be the earlier of September 1, 2008, or the first of  
6 the month following a favorable letter determination by the Internal  
7 Revenue Service. If the member chooses to participate in DROP, the  
8 member shall be deemed to have retired but shall not be deemed to be  
9 terminated, ~~but and~~ the member may continue in active employment for  
10 up to a five-year period. During the DROP period, the member's  
11 retirement benefit payments shall be deposited into the DROP account  
12 for the benefit of the member until the member actually retires from  
13 active employment at or before the expiration of the DROP period.  
14 Thereafter, future retirement benefit payments shall be made directly  
15 to the member, and the member shall have access to all funds in the  
16 DROP account designated for the benefit of the member.

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

19 (a) A member shall be eligible to enter DROP at any time  
20 subsequent to the date when the member has (i) attained normal  
21 retirement age and (ii) completed twenty-five years of service.  
22 Members having attained normal retirement age and completed twenty-  
23 five years of service on or before the date of adoption of DROP shall  
24 be eligible to enter DROP at any future date;

25 (b) A member who elects to enter DROP shall be entitled

1 to receive regular age and service retirement benefits in accordance  
2 with section 81-2026. A member is entitled to remain in DROP for a  
3 maximum of five years subsequent to the date of the member's DROP  
4 election. A member may separate from service and thereby exit DROP at  
5 any time during the DROP period. On or before the completion of the  
6 DROP period, the member must separate from active employment and exit  
7 DROP. During the DROP period, a member's retirement benefit shall be  
8 payable to the DROP account vendor designated in the member's name.  
9 Amounts transferred or paid to a participating member's DROP account  
10 shall not constitute annual additions under section 415 of the  
11 Internal Revenue Code;

12 (c) A member electing to enter DROP shall choose an  
13 annuity payment option. After the option is chosen, the member shall  
14 not be entitled to any retirement benefit changes, for reasons  
15 including, but not limited to, wage increases, promotions, and  
16 demotions, except that the restriction on retirement benefit changes  
17 shall not apply in the event of duty-related death or duty-related  
18 disability. The benefit amount shall be fixed as of the date of  
19 election and shall be payable as if the employee retired on that date  
20 and separated from active employment. Upon the death of a member  
21 during the DROP period, monthly benefits shall be provided as a  
22 percentage of the amount of the member's annuity as set forth in  
23 subsection (3) of section 81-2026 based upon the annuity benefit  
24 calculation made at commencement of the DROP period. In addition, the  
25 balance of the DROP account, if any, shall be provided to the

1 beneficiary or beneficiaries of the member in accordance with  
2 subsection (6) of section 81-2026 or, if no beneficiary is provided,  
3 to the estate of the member. Upon the disability of a member during  
4 the DROP period, the member shall be deemed to have completed the  
5 DROP period, shall begin receiving the annuity benefit as calculated  
6 at the commencement of the DROP period, and shall be paid the balance  
7 of the DROP account, if any;

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

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

14 (f) The member shall be paid the balance of the DROP  
15 account upon the member's separation from active employment or at the  
16 expiration of the DROP period thereby ending the member's  
17 participation in DROP. If a member has not voluntarily separated from  
18 active employment on or before the completion of the DROP period, the  
19 member's retirement benefit shall be paid directly to the member  
20 thereby ending the member's active employment. The member's DROP  
21 account shall consist of accrued retirement benefits and interest on  
22 such benefits;

23 (g) Any member that is enrolled in DROP shall be  
24 responsible for directing the DROP account designated for the benefit  
25 of the member by investing the account in any DROP investment



1 options. There shall be no guaranteed rate of investment return on  
2 DROP account assets. Any losses, charges, or expenses incurred by the  
3 participating DROP member in such member's DROP account by virtue of  
4 the investment options selected by the participating DROP member  
5 shall not be made up by the retirement system but all of the same  
6 shall be ~~born~~borne by the participating DROP member. The retirement  
7 system, the state, the board, and the state investment officer shall  
8 not be responsible for any investment results under the DROP  
9 agreement. Transfers between investment options shall be in  
10 accordance with the rules and regulations of DROP. A DROP account  
11 shall be established for each participating DROP member. Such DROP  
12 account shall be adjusted no less frequently than annually for the  
13 member's retirement benefit distributions and net investment earnings  
14 and losses;

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

18 (i) Cost-of-living adjustments as provided for in section  
19 81-2027.08 shall not be applied to retirement benefits during the  
20 DROP period.

21 Sec. 33. Section 84-1301, Revised Statutes Supplement,  
22 2011, is amended to read:

23 84-1301 For purposes of the State Employees Retirement  
24 Act, unless the context otherwise requires:

25 (1) Actuarial equivalent means the equality in value of

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

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

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

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

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

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

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

22           (7) Defined contribution benefit means a member's  
23 retirement benefit from a money purchase plan in which member  
24 benefits equal annual contributions and earnings pursuant to section  
25 84-1310 and, if vested, employer contributions and earnings pursuant

1 to section 84-1311;

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

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

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

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

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

22 (12) Final account value means the value of a member's  
23 account on the date the account is either distributed to the member  
24 or used to purchase an annuity from the plan, which date shall occur  
25 as soon as administratively practicable after receipt of a valid

1 application for benefits, but no sooner than forty-five days after  
2 the member's termination;

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

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

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

10 (16) Guaranteed investment contract means an investment  
11 contract or account offering a return of principal invested plus  
12 interest at a specified rate. For investments made after July 19,  
13 1996, guaranteed investment contract does not include direct  
14 obligations of the United States or its instrumentalities, bonds,  
15 participation certificates or other obligations of the Federal  
16 National Mortgage Association, the Federal Home Loan Mortgage  
17 Corporation, or the Government National Mortgage Association, or  
18 collateralized mortgage obligations and other derivative securities.  
19 This subdivision shall not be construed to require the liquidation of  
20 investment contracts or accounts entered into prior 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 by  
23 the Internal Revenue Service as of the first day of the calendar  
24 quarter for which interest credits are credited, plus one and one-  
25 half percent, such rate to be compounded annually;

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

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

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

24           (21) Participation means qualifying for and making the  
25 required deposits to the retirement system during the course of a

1 plan year;

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

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

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

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

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

14 (27) Retirement means qualifying for and accepting the  
15 retirement benefit granted under the State Employees Retirement Act  
16 after terminating employment;

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

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

21 (30) Service means the actual total length of employment  
22 as an employee and shall not be deemed to be interrupted by (a)  
23 temporary or seasonal suspension of service that does not terminate  
24 the employee's employment, (b) leave of absence authorized by the  
25 employer for a period not exceeding twelve months, (c) leave of



1 absence because of disability, or (d) military service, when properly  
2 authorized by the retirement board. Service does not include any  
3 period of disability for which disability retirement benefits are  
4 received under section 84-1317;

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

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

21 (33) Termination of employment occurs on the date on  
22 which the agency which employs the member determines that the  
23 member's employer-employee relationship with the State of Nebraska is  
24 dissolved. The agency which employs the member shall notify the board  
25 of the date on which such a termination has occurred. Termination of

1 employment does not occur if an employee whose employer-employee  
2 relationship with the State of Nebraska is dissolved enters into an  
3 employer-employee relationship with the same or another agency of the  
4 State of Nebraska and there are less than one hundred twenty days  
5 between the date when the employee's employer-employee relationship  
6 ceased with the state and the date when the employer-employee  
7 relationship commenced with the same or another agency. It ~~shall be~~  
8 is the responsibility of the current employer that is involved in the  
9 termination of employment to notify the board of such change in  
10 employment and provide the board with such information as the board  
11 deems necessary. If the board determines that termination of  
12 employment has not occurred and a ~~termination-retirement~~ benefit has  
13 been paid to a member of the retirement system pursuant to section  
14 84-1321, the board shall require the member who has received such  
15 benefit to repay the benefit to the retirement system; and

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

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

21 84-1309 (1) There is hereby established in the state  
22 treasury a special fund to be known as the State Employees Retirement  
23 Fund to consist of such funds as the Legislature shall from time to  
24 time appropriate. The Director of Administrative Services shall  
25 credit an amount each month to the State Employees Retirement Fund

1 equal to one hundred fifty-six percent of the amounts deducted, in  
2 accordance with section 84-1308, from the compensation of employees  
3 who are paid from funds appropriated from the General Fund.

4 (2) The Director of Administrative Services shall credit  
5 an amount each month to the State Employees Retirement Fund from the  
6 funds of each department with at least one employee who is a member  
7 of the retirement system for a sum equal to one hundred fifty-six  
8 percent of the amounts deducted, in accordance with section 84-1308,  
9 from the compensation of employees who are paid from any funds other  
10 than funds appropriated from the General Fund.

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

18 (4) The Department of Administrative Services may, for  
19 accounting purposes, create subfunds of the State Employees  
20 Retirement Fund to separately account for defined contribution plan  
21 assets and cash balance plan assets.

22 ~~(4)~~(5) The State Treasurer shall be the custodian of the  
23 funds and securities of the retirement system and may deposit the  
24 funds and securities in any financial institution approved by the  
25 Nebraska Investment Council. The State Treasurer shall transmit

1 monthly to the board a detailed statement showing all credits to and  
2 disbursements from the fund. He or she shall disburse money from the  
3 fund only on warrants issued by the Director of Administrative  
4 Services upon vouchers signed by a person authorized by the  
5 retirement board.

6 Sec. 35. Section 84-1309.02, Revised Statutes Supplement,  
7 2011, is amended to read:

8 84-1309.02 (1) It is the intent of the Legislature that,  
9 in order to improve the competitiveness of the retirement plan for  
10 state employees, a cash balance benefit shall be added to the State  
11 Employees Retirement Act on and after January 1, 2003. Each member  
12 who is employed and participating in the retirement system prior to  
13 January 1, 2003, may either elect to continue participation in the  
14 defined contribution benefit as provided in the act prior to January  
15 1, 2003, or elect to participate in the cash balance benefit as set  
16 forth in this section. ~~The member shall make the election prior to~~  
17 ~~January 1, 2003, or on or after November 1, 2007, but before January~~  
18 ~~1, 2008. If no election is made prior to January 1, 2003, or on or~~  
19 ~~after November 1, 2007, but before January 1, 2008, the member shall~~  
20 ~~be treated as though he or she elected to continue participating in~~  
21 ~~the defined contribution benefit as provided in the act prior to~~  
22 ~~January 1, 2003. Members who elect to participate in the cash balance~~  
23 ~~benefit on or after November 1, 2007, but before January 1, 2008,~~  
24 ~~shall commence participation in the cash balance benefit on January~~  
25 ~~1, 2008. Any member who made the election prior to January 1, 2003,~~

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

18 (2) For a member employed and participating in the  
19 retirement system beginning on and after January 1, 2003, or a member  
20 employed and participating in the retirement system on January 1,  
21 2003, who, prior to ~~January 1, 2003,~~ the effective date of this act  
22 ~~or on or after November 1, 2007, but before January 1, 2008,~~  
23 beginning September 1, 2012, through October 31, 2012, elects to  
24 convert his or her employee and employer accounts to the cash balance  
25 benefit:

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

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

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

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

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

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

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

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

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

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

25                   (3) In order to carry out the provisions of this section,

1 the board may enter into administrative services agreements for  
2 accounting or record-keeping services. No agreement shall be entered  
3 into unless the board determines that it will result in  
4 administrative economy and will be in the best interests of the state  
5 and its participating employees. The board may develop a schedule for  
6 the allocation of the administrative services agreements costs for  
7 accounting or record-keeping services and may assess the costs so  
8 that each member pays a reasonable fee as determined by the board.

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

11           84-1310.01 (1) Each member employed and participating in  
12 the retirement system prior to January 1, 2003, who has elected not  
13 to participate in the cash balance benefit, shall be allowed to  
14 allocate all contributions to his or her employee account to various  
15 investment options. Such investment options shall include, but not be  
16 limited to, the following:

17           (a) An investor select account which shall be invested  
18 under the direction of the state investment officer with an asset  
19 allocation and investment strategy substantially similar to the  
20 investment allocations made by the state investment officer for the  
21 defined benefit plans under the retirement systems described in  
22 subdivision (1)(a) of section 84-1503. Investments shall most likely  
23 include domestic and international equities, fixed income  
24 investments, and real estate, as well as potentially additional asset  
25 classes;

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

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

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

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

14                   (f) A fixed income account which shall be invested by or  
15 under the direction of the state investment officer in fixed income  
16 instruments;

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

20                   (h) Beginning on July 1, 2006, an age-based account which  
21 shall be invested under the direction of the state investment officer  
22 with an asset allocation and investment strategy that changes based  
23 upon the age of the member. The board shall develop an account  
24 mechanism that changes the investments as the employee nears  
25 retirement age. The asset allocation and asset classes utilized in



1 the investments shall move from aggressive, to moderate, and then to  
2 conservative as retirement age approaches.

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

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

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

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

1 into unless the board determines that it will result in  
2 administrative economy and will be in the best interests of the state  
3 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 shall  
6 not be liable for any investment results resulting from the member's  
7 exercise of control over the assets in the employee account.

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

10 84-1311.03 (1) Each member employed and participating in  
11 the retirement system prior to January 1, 2003, who has elected not  
12 to participate in the cash balance benefit, shall be allowed to  
13 allocate all contributions to his or her employer account to various  
14 investment options. Such investment options shall be the same as the  
15 investment options of the employee account as provided in subsection  
16 (1) of section 84-1310.01. If a member fails to select an option or  
17 combination of options, all of his or her funds in the employer  
18 account shall be placed in the balanced account option described in  
19 subdivision (1)(d) of section 84-1310.01. Each member shall be given  
20 a detailed current description of each investment option prior to  
21 making or revising his or her allocation.

22 (2) Each member of the retirement system may allocate  
23 contributions to his or her employer account to the investment  
24 options in percentage increments as set by the board in any  
25 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 options  
9 and shall assess the costs so that each member pays a reasonable fee  
10 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 entered  
14 into unless the board determines that it will result in  
15 administrative economy and will be in the best interests of the state  
16 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 shall  
19 not be liable for any investment results resulting from the member's  
20 exercise of control over the assets in the employer account.

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

23 84-1312 (1) For purposes of this section and section  
24 84-1313:

25 (a) Distributee means the member, the member's surviving

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

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

7 (c) Eligible retirement plan means (i) an individual  
8 retirement account described in section 408(a) of the Internal  
9 Revenue Code, (ii) an individual retirement annuity described in  
10 section 408(b) of the code, except for an endowment contract, (iii) a  
11 qualified plan described in section 401(a) of the code, (iv) an  
12 annuity plan described in section 403(a) or 403(b) of the code, (v)  
13 except for purposes of section 84-1313, an individual retirement plan  
14 described in section 408A of the code, and ~~(v)~~-(vi) a plan described  
15 in section 457(b) of the code and maintained by a governmental  
16 employer. For eligible rollover distributions to a surviving spouse,  
17 an eligible retirement plan means subdivisions (1)(c)(i) through ~~(iv)~~  
18 (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 or

1 more and shall not include any distribution to the extent such  
2 distribution is required under section 401(a)(9) of the Internal  
3 Revenue Code.

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

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

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

1           ~~(3)~~(5) The board shall adopt and promulgate rules and  
2 regulations for direct rollover procedures which are consistent with  
3 section 401(a)(31) of the Internal Revenue Code and which include,  
4 but are not limited to, the form and time of direct rollover  
5 distributions.

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

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

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

20           Except as provided in section 42-1107, in lieu of the  
21 future service retirement annuity, a retiring employee may receive a  
22 benefit not to exceed the amount in his or her employer and employee  
23 accounts as of the date of final account value payable in a lump sum  
24 and, if the employee chooses not to receive the entire amount in such  
25 accounts, an annuity equal to the actuarial equivalent of the

1 remainder of the retirement value, and the employee may choose any  
2 form of such annuity as provided for by the board.

3           In any case, the amount of the monthly payment shall be  
4 such that the annuity chosen shall be the actuarial equivalent of the  
5 retirement value as specified in section 84-1318 except as provided  
6 in this section.

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

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

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

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

25           (b) The income provided by the accumulated contributions

1 made on and after January 1, 1984, based on the annuity purchase  
2 rates in effect on the date of purchase which do not use gender as a  
3 factor.

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

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

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

25 For a member employed and participating in the retirement



1 system prior to January 1, 2003, who has elected to participate in  
2 the cash balance benefit pursuant to section 84-1309.02, or for a  
3 member employed and participating in the retirement system beginning  
4 on and after January 1, 2003, the balance of his or her member cash  
5 balance account as of the date of final account value shall be  
6 converted to an annuity using an interest rate used in the actuarial  
7 valuation as recommended by the actuary and approved by the board.

8 For an employee who is a member prior to January 1, 2003,  
9 who has elected not to participate in the cash balance benefit ~~prior~~  
10 ~~to January 1, 2003, or on or after November 1, 2007, but before~~  
11 ~~January 1, 2008,~~ pursuant to section 84-1309.02, and who, at the time  
12 of retirement, chooses the annuity option rather than the lump-sum  
13 option, his or her employee and employer accounts as of the date of  
14 final account value shall be converted to an annuity using an  
15 interest rate that is equal to the lesser of (i) the Pension ~~Benefits~~  
16 ~~Guarantee~~ Benefit Guaranty Corporation initial interest rate for  
17 valuing annuities for terminating plans as of the beginning of the  
18 year during which payment begins plus three-fourths of one percent or  
19 (ii) the interest rate used in the actuarial valuation as recommended  
20 by the actuary and approved by the board.

21 (b) For the calendar year beginning January 1, 2003, and  
22 each calendar year thereafter, the actuary for the board shall  
23 perform an actuarial valuation of the system using the entry age  
24 actuarial cost method. Under this method, the actuarially required  
25 funding rate is equal to the normal cost rate plus the contribution

1 rate necessary to amortize the unfunded actuarial accrued liability  
2 on a level-payment basis. The normal cost under this method shall be  
3 determined for each individual member on a level percentage of salary  
4 basis. The normal cost amount is then summed for all members. The  
5 initial unfunded actual accrued liability as of January 1, 2003, if  
6 any, shall be amortized over a twenty-five-year period. During each  
7 subsequent actuarial valuation, changes in the unfunded actuarial  
8 accrued liability due to changes in benefits, actuarial assumptions,  
9 the asset valuation method, or actuarial gains or losses shall be  
10 measured and amortized over a twenty-five-year period beginning on  
11 the valuation date of such change. If the unfunded actuarial accrued  
12 liability under the entry age actuarial cost method is zero or less  
13 than zero on an actuarial valuation date, then all prior unfunded  
14 actuarial accrued liabilities shall be considered fully funded and  
15 the unfunded actuarial accrued liability shall be reinitialized and  
16 amortized over a twenty-five-year period as of the actuarial  
17 valuation date. If the actuarially required contribution rate exceeds  
18 the rate of all contributions required pursuant to the State  
19 Employees Retirement Act, there shall be a supplemental appropriation  
20 sufficient to pay for the difference between the actuarially required  
21 contribution rate and the rate of all contributions required pursuant  
22 to the act.

23 (c) If the unfunded accrued actuarial liability under the  
24 entry age actuarial cost method is less than zero on an actuarial  
25 valuation date, and on the basis of all data in the possession of the

1 retirement board, including such mortality and other tables as are  
2 recommended by the actuary engaged by the retirement board and  
3 adopted by the retirement board, the retirement board may elect to  
4 pay a dividend to all members participating in the cash balance  
5 option in an amount that would not increase the actuarial  
6 contribution rate above ninety percent of the actual contribution  
7 rate. Dividends shall be credited to the employee cash balance  
8 account and the employer cash balance account based on the account  
9 balances on the actuarial valuation date. In the event a dividend is  
10 granted and paid after the actuarial valuation date, interest for the  
11 period from the actuarial valuation date until the dividend is  
12 actually paid shall be paid on the dividend amount. The interest rate  
13 shall be the interest credit rate earned on regular contributions.

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

25 Sec. 40. Section 84-1321.01, Revised Statutes Supplement,

1 2011, is amended to read:

2           84-1321.01 (1) For a member who has terminated employment  
3 and is not vested, the balance of the member's employer account or  
4 employer cash balance account shall be forfeited. The forfeited  
5 account shall be credited to the State Employees Retirement Fund and  
6 shall first be used to meet the expense charges incurred by the  
7 retirement board in connection with administering the retirement  
8 system, which charges shall be credited to the State Employees  
9 Defined Contribution Retirement Expense Fund, if the member  
10 participated in the defined contribution option, or to the State  
11 Employees Cash Balance Retirement Expense Fund, if the member  
12 participated in the cash balance option, and the remainder, if any,  
13 shall then be used ~~to reduce the state contribution which would~~  
14 ~~otherwise be required to fund future service retirement benefits or~~  
15 ~~to restore employer accounts or employer cash balance accounts. No~~  
16 Except as provided in subdivision (4)(c) of section 84-1319, no  
17 forfeited amounts shall be applied to increase the benefits any  
18 member would otherwise receive under the State Employees Retirement  
19 Act.

20           (2)(a) If a member ceases to be an employee due to the  
21 termination of his or her employment by the state and a grievance or  
22 other appeal of the termination is filed, transactions involving  
23 forfeiture of his or her employer account or employer cash balance  
24 account and, except as provided in subdivision (b) of this  
25 subsection, transactions for payment of benefits under sections

1 84-1317 and 84-1321 shall be suspended pending the final outcome of  
2 the grievance or other appeal.

3 (b) If a member elects to receive benefits payable under  
4 sections 84-1317 and 84-1321 after a grievance or appeal is filed,  
5 the member may receive an amount up to the balance of his or her  
6 employee account or member cash balance account or twenty-five  
7 thousand dollars payable from the employee account or member cash  
8 balance account, whichever is less.

9 (3) The State Employer Retirement Expense Fund is  
10 created. The fund shall be administered by the Public Employees  
11 Retirement Board. ~~The fund shall be established and maintained~~  
12 ~~separate from any funds held in trust for the benefit of members~~  
13 ~~under the retirement system. The~~ Prior to July 1, 2012, the fund  
14 shall be used to meet expenses of the State Employees Retirement  
15 System of the State of Nebraska whether such expenses are incurred in  
16 administering the member's employer account or in administering the  
17 member's employer cash balance account when the funds available in  
18 the State Employees Defined Contribution Retirement Expense Fund or  
19 State Employees Cash Balance Retirement Expense Fund make such use  
20 reasonably necessary. On July 1, 2012, or as soon as practicable  
21 thereafter, any money in the State Employer Retirement Expense Fund  
22 shall be transferred by the State Treasurer to the State Employees  
23 Retirement Fund and credited to the cash balance benefit established  
24 in section 84-1309.02.

25 (4) ~~The~~ Prior to July 1, 2012, the director of the

1 Nebraska Public Employees Retirement Systems shall certify to the  
2 Accounting Administrator of the Department of Administrative Services  
3 when accumulated employer account forfeiture funds are available to  
4 reduce the state contribution which would otherwise be required to  
5 fund future service retirement benefits or to restore employer  
6 accounts or employer cash balance accounts referred to in subsection  
7 (1) of this section. Following such certification, the Accounting  
8 Administrator shall transfer the amount reduced from the state  
9 contribution from the Imprest Payroll Distributive Fund to the State  
10 Employer Retirement Expense Fund. Expenses incurred as a result of  
11 the state depositing amounts into the State Employer Retirement  
12 Expense Fund shall be deducted prior to any additional expenses being  
13 allocated. Any remaining amount shall be allocated in accordance with  
14 subsection (3) of this section. Any money in the ~~fund~~ State Employer  
15 Retirement Expense Fund available for investment shall be invested by  
16 the state investment officer pursuant to the Nebraska Capital  
17 Expansion Act and the Nebraska State Funds Investment Act.

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

20 84-1323 (1) In the event of the death before his or her  
21 retirement date of any employee who is a member of the system, the  
22 death benefit shall be equal to ~~(1)~~ (a) for participants in the  
23 defined contribution benefit, the total of the employee account and  
24 the employer account and ~~(2)~~ (b) for participants in the cash balance  
25 benefit, the benefit provided in section 84-1309.02. The death

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

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

21 (3) For any member whose death occurs on or after January  
22 1, 2007, while performing qualified military service as defined in  
23 section 414(u) of the Internal Revenue Code, the member's beneficiary  
24 shall be entitled to any additional death benefit that would have  
25 been provided, other than the accrual of any benefit relating to the

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

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

7           84-1324 All—(1) Except as provided in subsection (2) of  
8 this section, all annuities or benefits which any person shall be  
9 entitled to receive under the State Employees Retirement Act shall  
10 not be subject to garnishment, attachment, levy, the operation of  
11 bankruptcy or insolvency laws, or any other process of law whatsoever  
12 and shall not be assignable except to the extent that such annuities  
13 or benefits are subject to a qualified domestic relations order under  
14 the Spousal Pension Rights Act. The payment of any annuities or  
15 benefits subject to such order shall take priority over any payment  
16 made pursuant to subsection (2) of this section.

17           (2) 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 annuities or  
22 benefits from the retirement system, the court may order the payment  
23 of the member's annuities or benefits under the retirement system for  
24 such civil damages, except that the annuities or benefits to the  
25 extent reasonably necessary for the support of the member or any of



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

10           Sec. 43. Section 84-1503, Revised Statutes Supplement,  
11 2011, is amended to read:

12           84-1503 (1) It shall be the duty of the Public Employees  
13 Retirement Board:

14           (a) To administer the retirement systems provided for in  
15 the County Employees Retirement Act, the Judges Retirement Act, the  
16 Nebraska State Patrol Retirement Act, the School Employees Retirement  
17 Act, and the State Employees Retirement Act. The agency for the  
18 administration of the retirement systems and under the direction of  
19 the board shall be known and may be cited as the Nebraska Public  
20 Employees Retirement Systems;

21           (b) To appoint a director to administer the systems under  
22 the direction of the board. The appointment shall be subject to the  
23 approval of the Governor and a majority of the Legislature. The  
24 director shall be qualified by training and have at least five years  
25 of experience in the administration of a qualified public or private

1 employee retirement plan. The director shall not be a member of the  
2 board. The salary of the director shall be set by the board. The  
3 director shall serve without term and may be removed by the board;

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

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

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

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

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

1 retirement systems listed in subdivision (1)(a) of this section  
2 regarding membership and contributions; and

3 (h) To prescribe and furnish forms for the public  
4 retirement system plan reports required to be filed pursuant to  
5 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,  
6 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

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

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

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

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

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

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

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

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

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

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

21           (i) To adopt and promulgate rules and regulations for the  
22 adjustment of contributions or benefits, which ~~shall include,~~  
23 includes, but is not ~~be~~-limited to: (i) The procedures for refunding  
24 contributions, adjusting future contributions or benefit payments,  
25 and requiring additional contributions or repayment of benefits; (ii)

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

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

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

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

13           84-1505 (1) All compensation deferred under the plan, all  
14 property and rights purchased with the deferred compensation, and all  
15 investment income attributable to the deferred compensation,  
16 property, or rights shall be held in trust for the exclusive benefit  
17 of participants and their beneficiaries by the State of Nebraska  
18 until such time as payments shall be paid under the terms of the  
19 deferred compensation plan. All such assets held in trust shall be  
20 invested by the state investment officer pursuant to the Nebraska  
21 Capital Expansion Act and the Nebraska State Funds Investment Act.

22           (2) The State Treasurer shall be the custodian of the  
23 funds and securities of the deferred compensation plan and may  
24 deposit the funds and securities in any financial institution  
25 approved by the Nebraska Investment Council. All disbursements

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

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

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



1 or her beneficiaries shall be exempt from such payment. Any order for  
2 payment of compensation, property and rights, or investment income  
3 shall not be stayed on the filing of any appeal of the conviction. If  
4 the conviction is reversed on final judgment, all compensation,  
5 property and rights, or investment income paid as civil damages shall  
6 be forfeited and returned to the participant. The changes made to  
7 this section by this legislative bill shall apply to persons  
8 convicted of or who have pled no contest to such a felony and who  
9 have been found liable for civil damages as a result of such felony  
10 prior to, on, 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, 79-933.01,  
17 79-948, 79-956, 79-980, 79-998, 79-9,104, 79-9,106, 81-2014,  
18 81-2031.03, 81-2032, 84-1309, 84-1312, 84-1324, and 84-1505, Reissue  
19 Revised Statutes of Nebraska, sections 23-2309.01, 23-2310.05,  
20 23-2317, 23-2321, 84-1310.01, 84-1311.03, 84-1319, and 84-1323,  
21 Revised Statutes Cumulative Supplement, 2010, and sections 14-2111,  
22 23-2301, 23-2308, 23-2308.01, 23-2319.01, 24-701, 79-902, 81-2026,  
23 81-2041, 84-1301, 84-1309.02, 84-1321.01, and 84-1503, Revised  
24 Statutes Supplement, 2011, are repealed.

25           Sec. 47. The following section is outright repealed:

1 Section 23-2319.02, Revised Statutes Cumulative Supplement, 2010.

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

3 when passed and approved according to law.