

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 552**

Introduced by Nordquist, 7; Mello, 5.

Read first time January 23, 2013

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 4-108 and  
2 16-1020, Reissue Revised Statutes of Nebraska, and  
3 sections 84-1501, 84-1503, and 84-1511, Revised Statutes  
4 Cumulative Supplement, 2012; to adopt the Cities of the  
5 First Class Firefighters Cash Balance Retirement Act; to  
6 create funds; to change provisions relating to the Public  
7 Employees Retirement Board; to harmonize provisions; to  
8 repeal the original sections; and to declare an  
9 emergency.  
10 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

25           (4) Beneficiary means the person or persons designated by

1 an employee pursuant to a written instrument filed with the board  
2 before the employee's death, to receive death benefits which may be  
3 payable under the retirement system;

4 (5) Cash balance benefit means a member's retirement  
5 benefit that is equal to an amount based on annual employee  
6 contribution credits plus interest credits and, if vested, employer  
7 contribution credits plus interest credits and dividend amounts  
8 credited in accordance with subdivision (4)(c) of section 18 of this  
9 act;

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

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

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

21 (8) Date of adoption of the retirement system by each  
22 city means the first day of the month next following the date of  
23 approval of the retirement system by the city council;

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

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

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

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

11           (13) Employer means city of the first class;

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

15           (15) 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           (16) Five-year break in service means a period of five  
22 consecutive one-year breaks in service;

23           (17) 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           (18) Future service means service following the date of  
2 adoption of the retirement system;

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

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

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

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

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

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

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

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

23 (27) Prior service means service prior to the date of  
24 adoption of the retirement system;

25 (28) Regular interest means the rate of interest earned

1 each calendar year as determined by the retirement board in  
2 conformity with actual and expected earnings on the investments  
3 through December 31, 1985;

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

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

9 (31) Retirement board or board means the Public Employees  
10 Retirement Board;

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

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

22 (34) Surviving spouse means (a) the spouse married to the  
23 member on the date of the member's death or (b) the spouse or former  
24 spouse of the member if survivorship rights are provided under a  
25 qualified domestic relations order filed with the board pursuant to

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

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



1 retirement benefit has been paid to a member of the retirement system  
2 pursuant to section 19 of this act, the board shall require the  
3 member who has received such benefit to repay the benefit to the  
4 retirement system; and

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

8 Sec. 3. (1) A retirement system shall be established for  
9 the purpose of providing a retirement annuity or other benefits for  
10 employees as provided by the Cities of the First Class Firefighters  
11 Cash Balance Retirement Act. It shall be known as the Cash Balance  
12 Retirement System for Firefighters in Cities of the First Class, and  
13 by such name shall transact all business and hold all cash and other  
14 property as provided in the Cities of the First Class Firefighters  
15 Cash Balance Retirement Act.

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

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

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

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

25 (d) Contributions for military service credit made

1 pursuant to section 24 of this act;

2 (e) Actuarially required contributions pursuant to  
3 subdivision (4)(b) of section 18 of this act;

4 (f) Trustee-to-trustee transfers pursuant to section 28  
5 of this act; or

6 (g) Corrections ordered by the board pursuant to section  
7 5 of this act.

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

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

25 (2) The board shall adopt and promulgate rules and

1 regulations implementing this section, which shall include, but not  
2 be limited to, the following: (a) The procedures for refunding  
3 contributions, adjusting future contributions or benefit payments,  
4 and requiring additional contributions or repayment of benefits; (b)  
5 the process for a member, member's beneficiary, employee, or employer  
6 to dispute an adjustment of contributions or benefits; and (c) notice  
7 provided to all affected persons. All notices shall be sent prior to  
8 an adjustment and shall describe the process for disputing an  
9 adjustment of contributions or benefits.

10           Sec. 6. (1) The membership of the retirement system shall  
11 be composed of all employees who maintain an account balance with the  
12 retirement system.

13           (2) An employee who exercises the option to begin  
14 participation in the retirement system shall remain in the system  
15 until termination or retirement, regardless of any change of status  
16 as a permanent or temporary employee.

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

24           (4) Within the first one hundred eighty days of  
25 employment, a full-time employee may apply to the board for vesting

1 credit for years of participation in another Nebraska governmental  
2 plan, as defined by section 414(d) of the Internal Revenue Code.  
3 During the years of participation in the other Nebraska governmental  
4 plan, the employee must have been a full-time employee, as defined in  
5 the Nebraska governmental plan in which the credit was earned. The  
6 board may adopt and promulgate rules and regulations governing the  
7 assessment and granting of vesting credit.

8 (5) Any employee who qualifies for membership in the  
9 retirement system pursuant to this section may not be disqualified  
10 from membership in the retirement system solely because such employee  
11 also maintains separate employment which qualifies the employee for  
12 membership in another public retirement system, nor may membership in  
13 this retirement system disqualify such an employee from membership in  
14 another public retirement system solely by reason of separate  
15 employment which qualifies such employee for membership in this  
16 retirement system.

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

23 (7) Cities shall ensure that employees authorized to  
24 participate in the retirement system pursuant to this section shall  
25 enroll and make required contributions to the retirement system

1 immediately upon becoming an employee. Information necessary to  
2 determine membership in the retirement system shall be provided by  
3 the employer.

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

16           Sec. 8. Each employee who is a member of the retirement  
17 system shall pay to the city or have picked up by the city a sum  
18 equal to six and one-half percent of his or her compensation for each  
19 pay period. The contributions, although designated as employee  
20 contributions shall be paid by the city in lieu of employee  
21 contributions. The city shall pick up the employee contributions  
22 required by this section, and the contributions so picked up shall be  
23 treated as employer contributions pursuant to section 414(h)(2) of  
24 the Internal Revenue Code in determining federal tax treatment under  
25 the code and shall not be included as gross income of the employee

1 until such time as they are distributed or made available. The city  
2 shall pay these employee contributions from the same source of funds  
3 which is used in paying earnings to the employee. The city shall pick  
4 up these contributions by a compensation deduction through a  
5 reduction in the cash compensation of the employee. Employee  
6 contributions picked up shall be treated for all purposes of the  
7 Cities of the First Class Firefighters Cash Balance Retirement Act in  
8 the same manner and to the extent as employee contributions made  
9 prior to the date picked up.

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

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

23           (3) The board may charge the city an administrative  
24 processing fee of twenty-five dollars if the reports of necessary  
25 information or payments made pursuant to this section are received

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

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

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

1 treated as though he or she elected to continue participating in the  
2 retirement system established in sections 16-1020 to 16-1042 prior to  
3 XXXX, XX, XXXX. Members who elect to participate in the cash balance  
4 benefit beginning XXXX, XX, XXXX, through XXXX, XX, XXXX, shall  
5 commence participation in the cash balance benefit on XXXX, XX, XXXX.

6 (2) For a member employed and participating in the  
7 retirement system beginning on and after January 1, 2014, or a member  
8 employed and participating in the retirement system established in  
9 sections 16-1020 to 16-1042 on XXXX, XX, XXXX, who, beginning XXXX,  
10 XX, XXXX, through XXXX, XX, XXXX, elects to convert his or her  
11 accounts to the cash balance benefit:

12 (a) Except as provided in subdivision (2)(b) of section  
13 20 of this act, the employee cash balance account within the Cities  
14 of the First Class Firefighters Cash Balance Retirement Fund shall,  
15 at any time, be equal to the following:

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

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

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

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

25 (b) The employer cash balance account shall, at any time,



1 be equal to the following:

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

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

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

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

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

20 Sec. 11. The State Treasurer shall be the custodian of  
21 the funds and securities of the retirement system and may deposit the  
22 funds and securities in any financial institution approved by the  
23 Nebraska Investment Council. All disbursements therefrom shall be  
24 paid by him or her only upon vouchers signed by a person authorized  
25 by the retirement board. The State Treasurer shall transmit monthly

1 to the board a detailed statement showing all credits to and  
2 disbursements from the funds in his or her custody belonging to the  
3 retirement system.

4           Sec. 12. The Cities of the First Class Firefighters Cash  
5 Balance Retirement Expense Fund is created. The fund shall be  
6 credited with money forfeited pursuant to section 21 of this act and  
7 with money from the retirement system assets and income sufficient to  
8 pay the pro rata share of administrative expenses incurred as  
9 directed by the board for the proper administration of the Cities of  
10 the First Class Firefighters Cash Balance Retirement Act and  
11 necessary in connection with the administration and operation of the  
12 retirement system, except as provided in section 10 of this act. Any  
13 money in the fund available for investment shall be invested by the  
14 state investment officer pursuant to the Nebraska Capital Expansion  
15 Act and the Nebraska State Funds Investment Act.

16           Sec. 13. (1) The director of the Nebraska Public  
17 Employees Retirement Systems shall keep a complete record of all  
18 members with respect to names, current addresses, ages,  
19 contributions, and any other facts as may be necessary in the  
20 administration of the Cities of the First Class Firefighters Cash  
21 Balance Retirement Act. The information in the records shall be  
22 provided by the employer in an accurate and verifiable form, as  
23 specified by the director. The director shall, from time to time,  
24 carry out testing procedures pursuant to section 84-1512 to verify  
25 the accuracy of such information. For the purpose of obtaining such

1 facts and information, the director shall have access to the records  
2 of the various cities and state departments and agencies and the  
3 holder of the records shall comply with a request by the director for  
4 access by providing such facts and information to the director in a  
5 timely manner. A certified copy of a birth certificate or delayed  
6 birth certificate shall be prima facie evidence of the age of the  
7 person named in the certificate.

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

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

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

25 Sec. 15. (1) Upon filing an application for benefits with

1 the board, an employee may elect to retire at any time after  
2 attaining the age of fifty-five or an employee may retire as a result  
3 of disability at any age.

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

11 (3) Payment of any benefit provided under the retirement  
12 system may not be deferred later than April 1 of the year following  
13 the year in which the employee has both attained at least age seventy  
14 and one-half years and terminated his or her employment with the  
15 city.

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

25 Sec. 16. (1) Any member, disregarding the length of

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

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

23 Sec. 17. The retirement value for any employee who  
24 retires under the provisions of section 16 of this act shall be the  
25 benefit provided in section 10 of this act as of the date of final

1 account value.

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

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

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

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

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

6           (2) Except as provided in subsection (3) of this section,  
7 the monthly income payable to a retiring member shall be the amount  
8 which may be purchased by the accumulated contributions based on  
9 annuity rates in effect on the annuity start date which do not  
10 utilize gender as a factor.

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

24           Except as provided in section 42-1107, a member may elect  
25 a lump-sum distribution of his or her member cash balance account as

1 of the date of final account value upon termination of service or  
2 retirement.

3 For a member employed and participating in the retirement  
4 system prior to XXXX, XX, XXXX, who has elected to participate in the  
5 cash balance benefit pursuant to section 10 of this act, or for a  
6 member employed and participating in the retirement system beginning  
7 on and after XXXX, XX, XXXX, the balance of his or her member cash  
8 balance account as of the date of final account value shall be  
9 converted to an annuity using an interest rate used in the actuarial  
10 valuation as recommended by the actuary and approved by the board.

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



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

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

1 period from the actuarial valuation date until the dividend is  
2 actually paid shall be paid on the dividend amount. The interest rate  
3 shall be the interest credit rate earned on regular contributions.

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

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

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

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

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

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

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

22 (3) Members of the retirement system shall be vested  
23 after a total of seven years of participation in the system as a  
24 member, including vesting credit. If the member has less than four  
25 years of participation, the vesting percentage shall be zero. If the

1 member has four years, the vesting percentage shall be forty percent.  
2 The vesting percentage shall be sixty percent after five years and  
3 eighty percent after six years. If an employee retires pursuant to  
4 section 15 of this act, such employee shall be fully vested in the  
5 retirement system.

6 Sec. 20. (1) For a member who has terminated employment  
7 and is not fully vested, the balance of the member's employer account  
8 shall be forfeited. The forfeited account shall be credited to the  
9 Cities of the First Class Firefighters Cash Balance Retirement Fund  
10 and shall first be used to meet the expense charges incurred by the  
11 retirement board in connection with administering the retirement  
12 system, which charges shall be credited to the Cities of the First  
13 Class Firefighters Cash Balance Retirement Expense Fund, and the  
14 remainder, if any, shall then be used to restore employer accounts.  
15 Except as provided in subdivision (3)(c) of section 18 of this act,  
16 no forfeited amounts shall be applied to increase the benefits any  
17 member would otherwise receive under the Cities of the First Class  
18 Firefighters Retirement Act.

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

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

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

13           (2)(a) A member who ceases to be an employee before  
14 becoming eligible for retirement under section 15 of this act and  
15 again becomes a permanent full-time or permanent part-time employee  
16 prior to having a five-year break in service shall immediately be  
17 reenrolled in the retirement system and resume making contributions.  
18 For purposes of vesting employer contributions made prior to and  
19 after the reentry into the retirement system under subsection (3) of  
20 section 19 of this act, years of participation include years of  
21 participation prior to such employee's original termination. For a  
22 member who is not vested and has received a termination benefit  
23 pursuant to section 19 of this act, the years of participation prior  
24 to such employee's original termination shall be limited in a ratio  
25 equal to the amount that the member repays divided by the termination

1 benefit withdrawn pursuant to section 19 of this act.

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

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

23 (3) For a member who retired pursuant to section 15 of  
24 this act and becomes a permanent full-time employee or permanent  
25 part-time employee with a city under the Cities of the First Class

1 Firefighters Cash Balance Retirement Act more than one hundred twenty  
2 days after his or her retirement date, the member shall continue  
3 receiving retirement benefits. Such a retired member or a retired  
4 member who received a lump-sum distribution of his or her benefit  
5 shall be considered a new employee as of the date of reemployment and  
6 shall not receive credit for any service prior to the member's  
7 retirement for purposes of the act.

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

16 Sec. 22. (1) In the event of the death before his or her  
17 retirement date of any employee who is a member of the system, the  
18 death benefit shall be equal to the benefit provided in section 10 of  
19 this act. The death benefit shall be paid to the member's  
20 beneficiary, to an alternate payee pursuant to a qualified domestic  
21 relations order as provided in section 42-1107, or to the member's  
22 estate if there are no designated beneficiaries. If the beneficiary  
23 is not the member's surviving spouse, the death benefit shall be paid  
24 as a lump-sum payment or payments, except that the entire account  
25 must be distributed by the fifth anniversary of the member's death.

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

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

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

23 Sec. 23. (1) Except as provided in subsection (2) of this  
24 section, annuities or benefits which any person shall be entitled to  
25 receive under the Cities of the First Class Firefighters Cash Balance



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

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

25 Sec. 24. (1) Any employee who, while an employee, entered

1 into and served in the armed forces of the United States and who  
2 within ninety days after honorable discharge or honorable separation  
3 from active duty again became an employee shall be credited, for the  
4 purposes of section 15 of this act, with all the time actually served  
5 in the armed forces as if such person had been an employee throughout  
6 such service in the armed forces pursuant to the terms and conditions  
7 of subsection (2) of this section.

8 (2) Under such rules and regulations as the retirement  
9 board adopts and promulgates, an employee who is reemployed pursuant  
10 to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount  
11 equal to the sum of all deductions which would have been made from  
12 the employee's compensation during such period of military service.  
13 Payment shall be made within the period required by law, not to  
14 exceed five years. To the extent that payment is made, (a) the  
15 employee shall be treated as not having incurred a break in service  
16 by reason of his or her period of military service, (b) the period of  
17 military service shall be credited for the purposes of determining  
18 the nonforfeitability of the member's accrued benefits and the  
19 accrual of benefits under the plan, and (c) the employer shall  
20 allocate the amount of employer contributions to the member's  
21 employer account in the same manner and to the same extent the  
22 allocation occurs for other employees during the period of service.  
23 For purposes of member and employer contributions under this section,  
24 the member's compensation during the period of military service shall  
25 be the rate the member would have received but for the military

1 service or, if not reasonably determinable, the average rate the  
2 member received during the twelve-month period immediately preceding  
3 military service.

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

9 Sec. 25. (1) For purposes of this section and section 26  
10 of this act:

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 26 of this act, an individual  
25 retirement plan described in section 408A of the code, and (vi) a

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

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

1 the provisions of the Internal Revenue Code.

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

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

16 Sec. 26. (1) The retirement system may accept cash  
17 rollover contributions from a member who is making payment pursuant  
18 to section 19 or 24 of this act if the contributions do not exceed  
19 the amount authorized to be paid by the member pursuant to such  
20 sections, and the contributions represent (a) all or any portion of  
21 the balance of the member's interest in a qualified plan under  
22 section 401(a) of the Internal Revenue Code or (b) the interest of  
23 the member from an individual retirement account or an individual  
24 retirement annuity, the entire amount of which is attributable to a  
25 qualified total distribution, as defined in the Internal Revenue

1 Code, from a qualified plan under section 401(a) of the code and  
2 qualified as a tax-free rollover amount. The member's interest under  
3 subdivision (a) or (b) of this subsection must be transferred to the  
4 retirement system within sixty days from the date of the distribution  
5 from the qualified plan, individual retirement account, or individual  
6 retirement annuity.

7 (2) Cash transferred to the retirement system as a  
8 rollover contribution shall be deposited as other payments made under  
9 section 19 or 24 of this act.

10 (3) Under the same conditions as provided in subsection  
11 (1) of this section, the retirement system may accept eligible  
12 rollover distributions from (a) an annuity contract described in  
13 section 403(b) of the Internal Revenue Code, (b) a plan described in  
14 section 457(b) of the code which is maintained by a state, a  
15 political subdivision of a state, or any agency or instrumentality of  
16 a state or political subdivision of a state, or (c) the portion of a  
17 distribution from an individual retirement account or annuity  
18 described in section 408(a) or 408(b) of the code that is eligible to  
19 be rolled over and would otherwise be includible in gross income.  
20 Amounts accepted pursuant to this subsection shall be deposited as  
21 all other payments under this section.

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

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

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

15           Sec. 28. Persons who have become members of the  
16 retirement system shall not thereafter lose their status as members  
17 while they remain employees.

18           Sec. 29. Any person who, knowing it to be false or  
19 fraudulent, presents or causes to be presented a false or fraudulent  
20 claim or benefit application, any false or fraudulent proof in  
21 support of such a claim or benefit, or false or fraudulent  
22 information which would affect a future claim or benefit application  
23 to be paid under the retirement system for the purpose of defrauding  
24 or attempting to defraud the retirement system shall be guilty of a  
25 Class II misdemeanor. The retirement board shall deny any benefits

1 that it determines are based on false or fraudulent information and  
2 shall have a cause of action against the member to recover any  
3 benefits already paid on the basis of such information.

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

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

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

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

24           Sec. 34. Every claim and demand under the Cities of the  
25 First Class Firefighters Cash Balance Retirement Act and against the



1 retirement system or the retirement board shall be forever barred  
2 unless the action is brought within two years of the time at which  
3 the claim accrued.

4           Sec. 35. All contributions to the retirement system, all  
5 property and rights purchased with the contributions, and all  
6 investment income attributable to the contributions, property, or  
7 rights shall be held in trust by the State of Nebraska for the  
8 exclusive benefit of members and their beneficiaries and shall only  
9 be used to pay benefits to such persons and to pay administrative  
10 expenses according to the Cities of the First Class Firefighters Cash  
11 Balance Retirement Act.

12           Sec. 36. Upon termination or partial termination of the  
13 retirement system or upon complete discontinuance of contributions  
14 under the retirement system, the rights of all affected members to  
15 the amounts credited to the members' accounts shall be  
16 nonforfeitable.

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

19           4-108 (1) Notwithstanding any other provisions of law,  
20 unless exempted from verification under section 4-110 or pursuant to  
21 federal law, no state agency or political subdivision of the State of  
22 Nebraska shall provide public benefits to a person not lawfully  
23 present in the United States.

24           (2) Except as provided in section 4-110 or if exempted by  
25 federal law, every agency or political subdivision of the State of

1 Nebraska shall verify the lawful presence in the United States of any  
 2 person who has applied for public benefits administered by an agency  
 3 or a political subdivision of the State of Nebraska. This section  
 4 shall be enforced without regard to race, religion, gender,  
 5 ethnicity, or national origin.

6 (3) ~~On and after October 1, 2009, no~~ No employee of a  
 7 state agency or political subdivision of the State of Nebraska shall  
 8 be authorized to participate in any retirement system, including, but  
 9 not limited to, the systems provided for in the Cities of the First  
 10 Class Firefighters Cash Balance Retirement Act, the Class V School  
 11 Employees Retirement Act, the County Employees Retirement Act, the  
 12 Judges Retirement Act, the Nebraska State Patrol Retirement Act, the  
 13 School Employees Retirement Act, and the State Employees Retirement  
 14 Act, unless the employee (a) is a United States citizen or (b) is a  
 15 qualified alien under the federal Immigration and Nationality Act, 8  
 16 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is  
 17 lawfully present in the United States.

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

20 16-1020 ~~Except as provided in section 16-1039, sections~~  
 21 Sections 16-1020 to 16-1038 shall apply to all firefighters of a city  
 22 of the first class. ~~except:~~

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

24 (2) Such sections shall not apply to any firefighter  
 25 employed by a city of the first class on or after XXXX, XX, XXXX, or

1 to a firefighter employed prior to such date who elected to be  
2 subject to the Cities of the First Class Firefighters Cash Balance  
3 Retirement Act.

4           Sec. 39. Section 84-1501, Revised Statutes Cumulative  
5 Supplement, 2012, is amended to read:

6           84-1501 (1) The Public Employees Retirement Board is  
7 hereby established.

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

18           (b) The six appointed members who are participants in the  
19 systems shall be as follows:

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

23           (ii) One of the appointed members shall be a participant  
24 in the Nebraska Judges Retirement System as provided in the Judges  
25 Retirement Act;

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

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

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

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

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

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

21 Sec. 40. Section 84-1503, Revised Statutes Cumulative  
22 Supplement, 2012, is amended to read:

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

25 (a) To administer the retirement systems provided for in

1 the Cities of the First Class Firefighters Cash Balance Retirement  
2 Act, County Employees Retirement Act, the Judges Retirement Act, the  
3 Nebraska State Patrol Retirement Act, the School Employees Retirement  
4 Act, and the State Employees Retirement Act. The agency for the  
5 administration of the retirement systems and under the direction of  
6 the board shall be known and may be cited as the Nebraska Public  
7 Employees Retirement Systems;

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

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

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

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

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

4           (g) To adopt and implement procedures for reporting  
5 information by employers, as well as testing and monitoring  
6 procedures in order to verify the accuracy of such information. The  
7 information necessary to determine membership shall be provided by  
8 the employer. The board shall adopt and promulgate rules and  
9 regulations and prescribe such forms necessary to carry out this  
10 subdivision. Nothing in this subdivision shall be construed to  
11 require the board to conduct onsite audits of political subdivisions  
12 for compliance with statutes, rules, and regulations governing the  
13 retirement systems listed in subdivision (1)(a) of this section  
14 regarding membership and contributions; and

15           (h) To prescribe and furnish forms for the public  
16 retirement system plan reports required to be filed pursuant to  
17 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,  
18 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987.

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

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

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

5                   (c) To adopt and promulgate rules and regulations for the  
6 management of the board;

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

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

1 circumstances and that the actuarial services performed have been  
2 satisfactory, in which case the contract may also contain an option  
3 for renewal without a competitive, formal, and sealed bidding process  
4 for up to three additional years. An actuary under contract for the  
5 State of Nebraska shall be a member of the American Academy of  
6 Actuaries;

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

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

18           (h) To obtain, by a competitive, formal, and sealed  
19 bidding process through the materiel division of the Department of  
20 Administrative Services, auditing services for a separate compliance  
21 audit of the retirement systems to be completed by December 31, 2012,  
22 and from time to time thereafter at the request of the Nebraska  
23 Retirement Systems Committee of the Legislature, to be completed not  
24 more than every four years but not less than every ten years. The  
25 compliance audit shall be in addition to the annual audit conducted



1 by the Auditor of Public Accounts. The compliance audit shall  
2 include, but not be limited to, an examination of records, files, and  
3 other documents and an evaluation of all policies and procedures to  
4 determine compliance with all state and federal laws. A copy of the  
5 compliance audit shall be given to the Governor, the board, and the  
6 Nebraska Retirement Systems Committee of the Legislature and shall be  
7 presented to the committee at a public hearing;

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

20 (j) To administer all retirement system plans in a manner  
21 which will maintain each plan's status as a qualified plan pursuant  
22 to the Internal Revenue Code, as defined in section 49-801.01,  
23 including: Section 401(a)(9) of the Internal Revenue Code relating to  
24 the time and manner in which benefits are required to be distributed,  
25 including the incidental death benefit distribution requirement of

1 section 401(a)(9)(G) of the Internal Revenue Code; section 401(a)(16)  
2 of the Internal Revenue Code relating to the specification of  
3 actuarial assumptions; section 401(a)(31) of the Internal Revenue  
4 Code relating to direct rollover distributions from eligible  
5 retirement plans; and section 401(a)(37) of the Internal Revenue Code  
6 relating to the death benefit of a member whose death occurs while  
7 performing qualified military service. The board shall adopt and  
8 promulgate rules and regulations necessary or appropriate to maintain  
9 such status including, but not limited to, rules or regulations which  
10 restrict discretionary or optional contributions to a plan or which  
11 limit distributions from a plan.

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

22 Sec. 41. Section 84-1511, Revised Statutes Cumulative  
23 Supplement, 2012, is amended to read:

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

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

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

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

23 (4) The board shall work with the Department of Health  
24 and Human Services, the personnel division of the Department of  
25 Administrative Services, employee groups, and any other governmental

1 agency, including political subdivisions or bodies whose services or  
2 expertise may enhance the development or implementation of the  
3 preretirement planning program.

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

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

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

20 Sec. 42. Original sections 4-108 and 16-1020, Reissue  
21 Revised Statutes of Nebraska, and sections 84-1501, 84-1503, and  
22 84-1511, Revised Statutes Cumulative Supplement, 2012, are repealed.

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