

AMENDMENTS TO LB655

Introduced by Davis, 43.

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

3 Section 1. Sections 1 to 37 of this act shall be known and may be
4 cited as the Cities of the First Class Firefighters Cash Balance
5 Retirement Act.

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

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

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

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

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

27 (5) Cash balance benefit means a member's retirement benefit that is

1 equal to an amount based on annual employee contribution credits plus
2 interest credits and, if vested, employer contribution credits plus
3 interest credits and dividend amounts credited in accordance with
4 subdivision (3)(c) of section 21 of this act;

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

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

13 (b) Compensation in excess of the limitations set forth in section
14 401(a)(17) of the Internal Revenue Code shall be disregarded;

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

17 (9) Disability means the complete inability of the firefighter, for
18 reasons of accident or other cause while in the line of duty, to perform
19 the duties of a firefighter as defined by fire department job
20 descriptions or ordinance of the city in which the firefighter is
21 employed;

22 (10) Employee means all persons who are first employed as
23 firefighters on or after January 1, 2018, by a city on a permanent full-
24 time basis and firefighters employed on a permanent full-time basis who
25 elect to become members of the retirement system;

26 (11) Employee contribution credit means an amount equal to the
27 member contribution amount required by section 7 of this act;

28 (12) Employer means a city of the first class;

29 (13) Employer contribution credit means an amount equal to the
30 employer contribution amount required by section 10 of this act;

31 (14) Five-year break in service means a period of five consecutive

1 one-year breaks in service;

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

4 (16) Fund means the Cities of the First Class Firefighters Cash
5 Balance Retirement Fund;

6 (17) Future service means service following the date of adoption of
7 the retirement system;

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

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

26 (20) Member account means an account equal to the sum of the
27 employee account and, if vested, the employer account and dividend
28 amounts credited in accordance with subdivision (3)(c) of section 21 of
29 this act;

30 (21) Member city means a city of the first class that employs
31 permanent full-time firefighters;

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

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

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

7 (25) Prior service means service prior to the date of adoption of
8 the retirement system;

9 (26) Regular interest means the rate of interest earned each
10 calendar year as determined by the board in conformity with actual and
11 expected earnings on the investments;

12 (27) Regular pay means the salary of a firefighter at the date such
13 firefighter elects to retire or terminate employment with the city;

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

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

18 (30) Retirement application means the form approved and provided by
19 the retirement system for a member's request for retirement;

20 (31) Retirement system means the Cash Balance Retirement System for
21 Firefighters in Cities of the First Class;

22 (32) Service means the actual total length of employment as an
23 employee and is not deemed to be interrupted by (a) temporary or seasonal
24 suspension of service that does not terminate the employee's employment,
25 (b) leave of absence authorized by the employer for a period not
26 exceeding twelve months, (c) leave of absence because of disability, or
27 (d) military service, when properly authorized by the board. Service does
28 not include any period of disability for which disability retirement
29 benefits are received under section 18 of this act;

30 (33) Surviving spouse means (a) the spouse married to the member on
31 the date of the member's death or (b) the spouse or former spouse of the

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

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

30 Sec. 3. (1) A retirement system shall be established for the
31 purpose of providing a retirement annuity or other benefits for employees

1 as provided by the Cities of the First Class Firefighters Cash Balance
2 Retirement Act. It shall be known as the Cash Balance Retirement System
3 for Firefighters in Cities of the First Class, and by such name shall
4 transact all business and hold all cash and other property as provided in
5 the Cities of the First Class Firefighters Cash Balance Retirement Act.

6 (2) The retirement system shall not accept as contributions any
7 money from members or member cities except the following:

8 (a) Mandatory contributions and fees established by subsection (1)
9 of section 7 and section 10 of this act;

10 (b) Money that is a repayment of refunded contributions made
11 pursuant to section 24 of this act;

12 (c) Contributions for military service credit made pursuant to
13 section 26 of this act;

14 (d) Actuarially required contributions pursuant to subdivision (3)
15 (b) of section 21 of this act;

16 (e) Trustee-to-trustee transfers pursuant to section 31 of this act;
17 or

18 (f) Corrections ordered by the board pursuant to section 5 of this
19 act.

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

24 Sec. 5. (1) If the board determines that the retirement system has
25 previously received contributions or distributed benefits which for any
26 reason are not in accordance with the statutory provisions of the Cities
27 of the First Class Firefighters Cash Balance Retirement Act, the board
28 shall refund contributions, require additional contributions, adjust
29 benefits, credit dividend amounts, or require repayment of benefits paid.
30 In the event of an overpayment of a benefit, the board may, in addition
31 to other remedies, offset future benefit payments by the amount of the

1 prior overpayment, together with regular interest or interest credits,
2 whichever is appropriate, thereon. In the event of an underpayment of a
3 benefit, the board shall immediately make payment equal to the deficit
4 amount plus regular interest or interest credits, whichever is
5 appropriate.

6 (2) The board shall have the power, through the director of the
7 Nebraska Public Employees Retirement Systems or the director's designee,
8 to make a thorough investigation of any overpayment of a benefit, when in
9 the judgment of the retirement system such investigation is necessary,
10 including, but not limited to, circumstances in which benefit payments
11 are made after the death of a member or beneficiary and the retirement
12 system is not made aware of such member's or beneficiary's death. In
13 connection with any such investigation, the board, through the director
14 or the director's designee, shall have the power to compel the attendance
15 of witnesses and the production of books, papers, records, and documents,
16 whether in hardcopy, electronic form, or otherwise, and issue subpoenas
17 for such purposes. Such subpoenas shall be served in the same manner and
18 have the same effect as subpoenas from district courts.

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

29 Sec. 6. (1) The membership of the retirement system shall be
30 composed of all employees who are or were employed by a member city and
31 maintain an account balance with the retirement system.

1 (2) An employee who exercises the option to begin participation in
2 the retirement system shall remain in the system until termination or
3 retirement.

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

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

18 (5) Cities shall ensure that employees authorized to participate in
19 the retirement system pursuant to this section shall enroll and make
20 required contributions to the retirement system immediately upon becoming
21 an employee. Information necessary to determine membership in the
22 retirement system shall be provided by the employer.

23 Sec. 7. (1) Beginning January 1, 2018, each employee who is a
24 member of the retirement system shall pay to the city or have picked up
25 by the city a sum equal to six and one-half percent of his or her
26 compensation for each pay period. The contributions, although designated
27 as employee contributions, shall be paid by the city in lieu of employee
28 contributions. The city shall pick up the employee contributions required
29 by this section, and the contributions so picked up shall be treated as
30 employer contributions pursuant to section 414(h)(2) of the Internal
31 Revenue Code in determining federal tax treatment under the code and

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

10 (2) Beginning January 1, 2018, each employee who is a member of the
11 retirement system shall pay to the city or have picked up by the city an
12 additional sum equal to one-half percent of his or her compensation for
13 each pay period. The contributions, although designated as employee
14 contributions, shall be paid by the city in lieu of employee
15 contributions. The city shall pick up the employee contributions required
16 by this section, and the contributions so picked up shall be treated as
17 employer contributions pursuant to section 414(h)(2) of the Internal
18 Revenue Code in determining federal tax treatment under the code and
19 shall not be included as gross income of the employee until such time as
20 they are distributed or made available. The city shall pay these employee
21 contributions from the same source of funds which is used in paying
22 earnings to the employee. The city shall pick up these contributions by a
23 compensation deduction through a reduction in the cash compensation of
24 the employee. Employee contributions picked up shall be treated for all
25 purposes of the Cities of the First Class Firefighters Cash Balance
26 Retirement Act in the same manner and to the extent as employee
27 contributions made prior to the date picked up.

28 (3) Beginning January 1, 2018, each city of the first class shall
29 deposit the payroll deductions pursuant to subsection (2) of this section
30 into the Firefighters Retirement System Fund established in section
31 16-1023. The funds shall be used exclusively to provide death and

1 disability benefits for employees and their beneficiaries granted by
2 sections 18, 25, and 26 of this act.

3 Sec. 8. All contributions to the Firefighters Retirement System
4 Fund established by each city in section 16-1023, all property and rights
5 purchased with the contributions, and all investment income attributable
6 to the contributions, property, or rights shall be held in trust by the
7 city for exclusive benefit of members and their beneficiaries and shall
8 only be used to pay death and disability benefits to such members and
9 beneficiaries, and to pay administrative expenses according to the Cities
10 of the First Class Firefighters Cash Balance Retirement Act.

11 Sec. 9. (1) The city clerk shall pay to the board or an entity
12 designated by the board an amount equal to three hundred percent of the
13 amounts deducted from the compensation of employees in accordance with
14 subsection (1) of section 7 of this act, which three hundred percent
15 equals the employees' contributions plus the city's contributions of two
16 hundred percent of the employees' contributions.

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

29 (3) The Department of Administrative Services may, for accounting
30 purposes, create subfunds of the Cities of the First Class Firefighters
31 Cash Balance Retirement Fund.

1 Sec. 10. The Cities of the First Class Firefighters Cash Balance
2 Retirement Fund is created. The fund shall be administered by the board
3 and shall consist of contributions and other such sums as provided in
4 section 3 of this act. Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to the
6 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
7 Act.

8 Sec. 11. (1) It is the intent of the Legislature that, in order to
9 improve the competitiveness of the retirement for firefighters in cities,
10 a cash balance benefit shall be offered through the Cities of the First
11 Class Firefighters Cash Balance Retirement Act on and after January 1,
12 2018. Each member who is employed and participating in the retirement
13 system established in sections 16-1020 to 16-1042 prior to January 1,
14 2018, may either elect to continue participation in the retirement system
15 established in sections 16-1020 to 16-1042 prior to January 1, 2018, or
16 elect to participate in the cash balance benefit as set forth in this
17 section. An active member shall make a one-time election beginning July
18 1, 2017, through October 31, 2017, in order to participate in the cash
19 balance benefit. Members hired November 1, 2017, through December 31,
20 2017, shall make a one-time election prior to January 1, 2018, in order
21 to participate in the cash balance benefit. If no such election is made,
22 the member shall be treated as though he or she elected to continue
23 participating in the retirement system established in sections 16-1020 to
24 16-1042 prior to January 1, 2018. Members who elect to participate in the
25 cash balance benefit beginning July 1, 2017, through October 31, 2017, or
26 November 1, 2017, through December 31, 2017, shall commence participation
27 in the cash balance benefit on January 1, 2018.

28 (2) For a member employed and participating in the retirement system
29 beginning on and after January 1, 2018, or a member employed and
30 participating in the retirement system established in sections 16-1020 to
31 16-1042 prior to January 1, 2018, who, beginning July 1, 2017, through

1 October 31, 2017, or for persons hired November 1, 2017, through December
2 31, 2017, prior to January 2, 2018, elects to convert his or her accounts
3 to the cash balance benefit:

4 (a) Except as provided in subdivision (2)(b) of section 24 of this
5 act, the employee account within the Cities of the First Class
6 Firefighters Cash Balance Retirement Fund shall, at any time, be equal to
7 the following:

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

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

12 (iii) Interest credits credited in accordance with subdivision (20)
13 of section 2 of this act; plus

14 (iv) Dividend amounts credited in accordance with subdivision (3)(c)
15 of section 21 of this act; and

16 (b) The employer account shall, at any time, be equal to the
17 following:

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

20 (ii) Employer contribution credits deposited in accordance with
21 section 10 of this act; plus

22 (iii) Interest credits credited in accordance with subdivision (20)
23 of section 2 of this act; plus

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

26 (3) In order to carry out this section, the board may enter into
27 administrative services agreements for accounting or record-keeping
28 services. No agreement shall be entered into unless the board determines
29 that it will result in administrative economy and will be in the best
30 interests of the cities and their participating employees. The board may
31 develop a schedule for the allocation of the administrative services

1 agreements costs for accounting or record-keeping services and may assess
2 the costs so that each member pays a reasonable fee as determined by the
3 board.

4 Sec. 12. The State Treasurer shall be the custodian of the funds
5 and securities of the retirement system and may deposit the funds and
6 securities in any financial institution approved by the Nebraska
7 Investment Council. All disbursements therefrom shall be paid by him or
8 her only upon vouchers signed by a person authorized by the board. The
9 State Treasurer shall transmit monthly to the board a detailed statement
10 showing all credits to and disbursements from the funds in his or her
11 custody belonging to the retirement system.

12 Sec. 13. The Cities of the First Class Firefighters Cash Balance
13 Retirement Expense Fund is created. The fund shall be credited with money
14 forfeited pursuant to section 23 of this act and with money from the
15 retirement system assets and income sufficient to pay the pro rata share
16 of administrative expenses incurred as directed by the board for the
17 proper administration of the Cities of the First Class Firefighters Cash
18 Balance Retirement Act and necessary in connection with the
19 administration and operation of the retirement system, except as provided
20 in section 11 of this act. Any money in the fund available for investment
21 shall be invested by the state investment officer pursuant to the
22 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
23 Act.

24 Sec. 14. (1) The director of the Nebraska Public Employees
25 Retirement Systems shall keep a complete record of all members with
26 respect to names, current addresses, ages, contributions, and any other
27 facts as may be necessary in the administration of the Cities of the
28 First Class Firefighters Cash Balance Retirement Act. The information in
29 the records shall be provided by the employer in an accurate and
30 verifiable form, as specified by the director. The director shall, from
31 time to time, carry out testing procedures pursuant to section 84-1512 to

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

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

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

20 Sec. 16. The retirement system may sue or be sued in the name of
21 the system, and in all actions brought by or against it, the system shall
22 be represented by the Attorney General.

23 Sec. 17. (1) Upon filing a retirement application for benefits with
24 the board, an employee may elect to retire at any time after attaining
25 the age of fifty-five or an employee may retire as a result of disability
26 at any age.

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

1 for other distributions, no sooner than the date of final account value.

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

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

14 Sec. 18. (1) Except as provided in subsection (3) of this section
15 for temporary disability, if any firefighter becomes disabled, such
16 firefighter shall be placed upon the roll of pensioned firefighters at
17 the regular retirement pension of fifty percent of regular pay for the
18 period of such disability.

19 (2) No disability benefit payment shall be made except upon adequate
20 proof furnished to the city, consisting of a medical examination
21 conducted by a competent, disinterested physician who is duly licensed to
22 practice medicine and surgery in this state and who certifies to the city
23 that the firefighter is unable to perform the duties of a firefighter.
24 The city, during the first three years of the payment of such benefits,
25 shall have the right, at reasonable times, to require the disabled
26 firefighter to undergo a medical examination at the city's expense to
27 determine the continuance of the disability claimed. After such three-
28 year period, the city may request the district court to order the
29 firefighter to submit proof of the continuance of the disability claimed
30 if the city has reasonable grounds to believe the firefighter is
31 fraudulently receiving disability payments. The city shall have the right

1 to demand a physical examination of the firefighter by a competent,
2 disinterested physician who is duly licensed to practice medicine and
3 surgery in this state and who is chosen by the city. The expense of such
4 examination shall be borne by the city.

5 (3) In case of temporary disability of a firefighter received while
6 in the line of duty, he or she shall receive his or her salary during the
7 continuance of such disability for a period not to exceed twelve months,
8 except that if it is ascertained by the city within twelve months that
9 such temporary disability has become a disability as defined in this
10 section, then the salary shall cease and he or she shall be entitled to
11 the benefits for pensions in case of disability as provided in this
12 section.

13 (4) All payments of pension or salary provided in this section shall
14 be subject to deduction of amounts paid under the Nebraska Workers'
15 Compensation Act. Total payments to a disabled firefighter, in excess of
16 amounts paid as workers' compensation benefits, shall not be less than
17 the amount necessary to pay the disabled firefighter the fifty percent
18 disability benefit of this section. In the event the retirement value at
19 the date of disability exceeds the actuarial equivalent of the disability
20 pension, after deduction of amounts paid under the Nebraska Workers'
21 Compensation Act, that amount shall be paid as an annuity to the disabled
22 firefighter in addition to the disability retirement provided in this
23 section. The city shall contribute such additional amounts as may be
24 necessary, from time to time, to provide for the required disability
25 pension, which amounts may include funds from the Firefighters Retirement
26 System Fund.

27 (5) If a firefighter who was receiving a pension under this section
28 is later determined to be no longer disabled, the pension provided for
29 under this section shall terminate and the firefighter's vested
30 retirement value, as reduced by any disability payments made from the
31 retirement system, shall thereafter be held and administered in the same

1 manner as for any nondisabled firefighter or former firefighter.

2 (6) If a firefighter who was receiving a pension under this section
3 is later determined to be no longer disabled during the first three years
4 when disability benefit payments are being paid, the firefighter may
5 return to duty with the fire department under the following conditions:

6 (a) If a vacancy exists in the fire department for which the
7 firefighter is qualified and the firefighter wishes to return to the fire
8 department, the city shall hire the firefighter to fill the vacancy at a
9 pay grade of not less than his or her previous pay grade; or

10 (b) If no vacancy exists in the fire department and the firefighter
11 wishes to return to the fire department, the city shall place the
12 firefighter on a waiting list and rehire the firefighter at a pay grade
13 of not less than his or her previous pay grade when a vacancy occurs for
14 which the firefighter is qualified.

15 The provisions of this subsection shall not apply to a firefighter
16 whose disability benefit payments are terminated because of fraud on the
17 part of the firefighter.

18 Sec. 19. No firefighter shall be entitled during any period of
19 temporary disability to receive in full both his or her salary and his or
20 her benefits under the Nebraska Workers' Compensation Act. All Nebraska
21 workers' compensation benefits shall be payable in full to such
22 firefighter as provided in the Nebraska Workers' Compensation Act, but
23 all amounts paid by the city or its insurer under the Nebraska Workers'
24 Compensation Act to any disabled firefighter entitled to receive a salary
25 during such disability shall be considered as payments on account of such
26 salary and shall be credited thereon. The remaining balance of such
27 salary, if any, shall be payable as otherwise provided in this act.

28 Sec. 20. The retirement value for any employee who retires under
29 the provisions of section 17 of this act shall be the benefit provided in
30 section 10 of this act as of the date of retirement.

31 Sec. 21. (1) The retirement benefit shall be an annuity, payable

1 monthly with the first payment made no earlier than the annuity start
2 date, which shall be the actuarial equivalent of the retirement value as
3 specified in section 20 of this act based on factors determined by the
4 board, except that gender shall not be a factor when determining the
5 amount of such payments pursuant to subsection (2) of this section.

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

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

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

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

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

30 (3)(a) The normal form of payment shall be a single life annuity
31 with five-year certain, which is an annuity payable monthly during the

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

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

14 For a member employed and participating in the retirement system
15 established in sections 16-1020 to 16-1042 prior to January 1, 2018, who
16 has elected to participate in the cash balance benefit pursuant to
17 section 11 of this act, or for a member employed and participating in the
18 retirement system beginning on and after January 1, 2018, the balance of
19 his or her member account shall be converted to an annuity using an
20 interest rate used in the actuarial valuation as recommended by the
21 actuary and approved by the board.

22 (b) For the calendar year ending December 31, 2018, and each
23 calendar year thereafter, the actuary for the board shall perform an
24 actuarial valuation of the system using the entry age actuarial cost
25 method. Under this method, the actuarially required funding rate is equal
26 to the normal cost rate plus the contribution rate necessary to amortize
27 the unfunded actuarial accrued liability on a level-payment basis. The
28 normal cost under this method shall be determined for each individual
29 member on a level percentage of salary basis. The normal cost amount is
30 then summed for all members. The initial unfunded actuarial accrued
31 liability as of January 1, 2018, if any, shall be amortized over a

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

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

31 (4) At the option of the retiring member, any lump sum or annuity

1 provided under this section may be deferred to commence at any time,
2 except that no benefit shall be deferred later than April 1 of the year
3 following the year in which the employee has both attained at least
4 seventy and one-half years of age and has terminated his or her
5 employment with the city. Such election by the retiring member may be
6 made at any time prior to the commencement of the lump sum or annuity
7 payments.

8 Sec. 22. (1) Except as provided in section 42-1107, upon
9 termination of employment, except for retirement or disability, and after
10 filing a retirement application with the board, a member may receive:

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

16 (b) If vested, a termination benefit equal to (i) the amount of his
17 or her member account payable in a lump sum or an annuity with the lump-
18 sum or first annuity payment made at any time after termination but no
19 later than April 1 of the year following the year in which the member
20 attains the age of seventy and one-half years or (ii)(A) the amount of
21 his or her employee account payable in a lump sum or an annuity with the
22 lump-sum or first annuity payment made at any time after termination but
23 no later than April 1 of the year following the year in which the member
24 attains the age of seventy and one-half years plus (B) the amount of his
25 or her employer account payable in a lump sum or an annuity with the
26 lump-sum or first annuity payment made at any time after termination but
27 no later than April 1 of the year following the year in which the member
28 attains the age of seventy and one-half years.

29 The member account of a terminating member shall be retained by the
30 board, and the termination benefit shall be deferred until a valid
31 application for benefits has been received.

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

7 (3) Members of the retirement system shall be vested after a total
8 of seven years of participation in the system as a member, including
9 vesting credit. If the member has less than four years of participation,
10 the vesting percentage shall be zero. If the member has four years, the
11 vesting percentage shall be forty percent. The vesting percentage shall
12 be sixty percent after five years and eighty percent after six years. If
13 an employee retires pursuant to section 17 of this act, such employee
14 shall be fully vested in the retirement system.

15 Sec. 23. (1) For a member who has terminated employment and is not
16 fully vested, the balance of the member's employer account shall be
17 forfeited. The forfeited account shall be credited to the Cities of the
18 First Class Firefighters Cash Balance Retirement Fund and shall first be
19 used to meet the expense charges incurred by the board in connection with
20 administering the retirement system, which charges shall be credited to
21 the Cities of the First Class Firefighters Cash Balance Retirement
22 Expense Fund, and the remainder, if any, shall then be used to restore
23 employer accounts. Except as provided in subdivision (3)(c) of section 21
24 of this act, no forfeited amounts shall be applied to increase the
25 benefits any member would otherwise receive under the Cities of the First
26 Class Firefighters Cash Balance Retirement Act.

27 (2)(a) If a member ceases to be an employee due to the termination
28 of his or her employment by the city and a grievance or other appeal of
29 the termination is filed, transactions involving forfeiture of his or her
30 employer account and, except as provided in subdivision (b) of this
31 subsection, transactions for payment of benefits under sections 17 and 22

1 of this act shall be suspended pending the final outcome of the grievance
2 or other appeal.

3 (b) If a member elects to receive benefits payable under sections 17
4 and 22 of this act after a grievance or appeal is filed, the member may
5 receive an amount up to the balance of his or her employee account or
6 twenty-five thousand dollars payable from the employee account, whichever
7 is less.

8 Sec. 24. (1) Except as otherwise provided in this section, a member
9 of the retirement system who has a five-year break in service shall, upon
10 reemployment, be considered a new employee with respect to the Cities of
11 the First Class Firefighters Cash Balance Retirement Act and shall not
12 receive credit for service prior to his or her reemployment date.

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

26 (b) The reemployed member may repay the value of, or a portion of
27 the value of, the termination benefit withdrawn pursuant to section 22 of
28 this act. A reemployed member who elects to repay all or a portion of the
29 value of the termination benefit withdrawn pursuant to section 22 of this
30 act shall repay the actual earnings on such value. Repayment of the
31 termination benefit shall commence within three years of reemployment and

1 shall be completed within five years of reemployment or prior to
2 termination of employment, whichever occurs first, through (i) direct
3 payments to the retirement system, (ii) installment payments made
4 pursuant to a binding irrevocable payroll deduction authorization made by
5 the member, (iii) an eligible rollover distribution as provided under the
6 Internal Revenue Code, or (iv) a direct rollover distribution made in
7 accordance with section 401(a)(31) of the Internal Revenue Code.

8 (c) The value of the member's forfeited employer account, as of the
9 date of forfeiture, shall be restored in a ratio equal to the amount of
10 the benefit that the member has repaid divided by the termination benefit
11 received. The employer account shall be restored first out of the current
12 forfeiture amounts and then by additional employer contributions.

13 (3) For a member who retired pursuant to section 17 of this act and
14 becomes a permanent full-time employee with a city under the Cities of
15 the First Class Firefighters Cash Balance Retirement Act more than one
16 hundred twenty days after his or her retirement date, the member shall
17 continue receiving retirement benefits. Such a retired member or a
18 retired member who received a lump-sum distribution of his or her benefit
19 shall be considered a new employee as of the date of reemployment and
20 shall not receive credit for any service prior to the member's retirement
21 for purposes of the act.

22 (4) A member who is reinstated as an employee pursuant to a
23 grievance or appeal of his or her termination by the city shall be a
24 member upon reemployment and shall not be considered to have a break in
25 service for such period of time that the grievance or appeal was pending.
26 Following reinstatement, the member shall repay the value of the amount
27 received from his or her employee account under subdivision (2)(b) of
28 section 21 of this act.

29 Sec. 25. (1) When prior to the commencement of retirement benefits
30 any firefighter participating in the retirement system dies other than in
31 the line of duty, and except as provided in subsection (2) of this

1 section, the entire member account shall be payable to the beneficiary or
2 beneficiaries specified by the deceased firefighter prior to his or her
3 death or to the deceased firefighter's estate in the event that no
4 beneficiary was specified. The member account or portion thereof may be
5 received by the beneficiary in the form of a single lump-sum payment, a
6 straight life annuity, or any other optional form of benefit specified in
7 the retirement system's funding medium. In the event benefits are paid in
8 the form of an annuity, such annuity shall be the amount provided by the
9 annuity contract purchased or otherwise provided by the amount of
10 retirement value to be paid to the beneficiary as of the date of the
11 first payment. Upon the payment of a lump-sum distribution or the
12 purchase and distribution of such annuity contract to the beneficiary,
13 all obligations of the retirement system to the beneficiary shall
14 terminate without exception.

15 (2) If any firefighter employed by such city as a member of its paid
16 fire department who, while employed in such department entered military
17 service and is still in military service, dies while employed by the city
18 as a firefighter other than in the line of duty after becoming fifty
19 years of age and before electing to retire, and after serving in the paid
20 fire department of such city for at least twenty-one years, then a
21 pension of at least twenty-five percent of his or her regular pay as
22 defined in section 16-1021, in the form of a straight life annuity, shall
23 be paid to the surviving spouse or minor children of such deceased
24 firefighter. If the deceased firefighter is not survived by a spouse or
25 in the event such surviving spouse dies before the minor children of such
26 firefighter attain the age of majority, such pension benefit shall be
27 paid to the firefighter's minor children until they have attained the age
28 of majority. Each such child shall share equally in the total pension
29 benefit to the age of majority, except that as soon as a child attains
30 the age of majority, such pension benefit to such child shall cease and
31 be reallocated among the remaining minor children until the last

1 remaining child dies or reaches the age of majority.

2 In the event that the actuarial equivalent of the pension benefit
3 payable under this subsection exceeds the retirement value at the time of
4 the first payment, the city shall utilize such funds as may be necessary
5 from the Firefighters Retirement System Fund to purchase or provide for
6 the required pension benefit. In the event a deceased firefighter
7 described in this subsection is not survived by a spouse or minor
8 children, his or her death benefits shall be provided under the
9 provisions of subsection (1) of this section as if such firefighter were
10 not employed by the city on January 1, 1984.

11 (3) In the event the surviving spouse or minor children of such
12 deceased firefighter die before the aggregate amount of pension payments
13 received by the firefighter and his or her survivor beneficiaries, if
14 any, equals the total amount in the firefighter's employee account at the
15 time of the first benefit payment, the difference between such total
16 amount in the employee's account and the aggregate amount of pension
17 payments received by the retired firefighter and his or her surviving
18 beneficiaries, if any, shall be paid in a single lump-sum payment to the
19 firefighter's beneficiary, or in the absence of a surviving beneficiary,
20 his or her estate.

21 (4) To the extent that the retirement value at the date of death
22 exceeds the amount required to purchase or provide the specified pension
23 under subsection (2) of this section, the excess shall be paid in the
24 manner provided in subsection (1) of this section.

25 (5) Any payments for the benefit of a minor child shall be made on
26 behalf of such child to the surviving spouse or, if there is none, to the
27 legal guardian of the child.

28 Sec. 26. (1) When prior to commencement of retirement benefits any
29 firefighter participating in the retirement system dies in the line of
30 duty or in case death is caused by or is the result of injuries received
31 while in the line of duty and such firefighter is not survived by a

1 spouse or minor children, the entire member account shall be payable to
2 the beneficiary or beneficiaries specified by the deceased firefighter
3 prior to his or her death or to the deceased firefighter's estate in the
4 event that no beneficiary was specified. The member account or portion
5 thereof may be paid in the form of a single lump-sum payment, a straight
6 life annuity, or any other optional form of benefit specified in the
7 retirement system's funding medium. In the event that the actuarial
8 equivalent of the pension benefit payable under this subsection exceeds
9 the retirement value at the time of the first payment, the city shall
10 utilize such funds as may be necessary from the Firefighters Retirement
11 System Fund to purchase or provide for the required pension benefit. For
12 a firefighter who is survived by a spouse or minor children, a retirement
13 pension of fifty percent of regular pay shall be paid to the surviving
14 spouse or, upon his or her remarriage or death, to the minor child or
15 children during such child's or children's minority subject to deduction
16 of the amounts paid as workers' compensation benefits on account of death
17 as provided in section 16 of this act. Each such child shall share
18 equally in the total pension benefit to the age of majority, except that
19 as soon as a child attains the age of majority, such pension benefit to
20 such child shall cease and be reallocated among the remaining minor
21 children until the last remaining child dies or reaches the age of
22 majority.

23 (2) Any payments for the benefit of a minor child shall be made on
24 behalf of such child to the surviving spouse or, if there is none, to the
25 legal guardian of the child.

26 (3) In the event the surviving spouse or minor children of such
27 deceased firefighter die before the aggregate amount of pension payments
28 received by the firefighter and his or her survivor beneficiaries, if
29 any, equals the total amount in the firefighter's employee account at the
30 time of the first benefit payment, the difference between the total
31 amount in the employee account and the aggregate amount of pension

1 payments received by the retired firefighter and his or her surviving
2 beneficiaries, if any, shall be paid in a single lump-sum payment to the
3 firefighter's beneficiary or, in the absence of a surviving beneficiary,
4 his or her estate.

5 (4) To the extent that the retirement value at the date of death
6 exceeds the amount required to purchase the specified retirement pension,
7 reduced by any amounts paid as workers' compensation benefits, the excess
8 shall be paid in the manner provided in subsection (1) of section 25 of
9 this act.

10 Sec. 27. Annuities or benefits which any person shall be entitled
11 to receive under the Cities of the First Class Firefighters Cash Balance
12 Retirement Act shall not be subject to garnishment, attachment, levy, the
13 operation of bankruptcy or insolvency laws, or any other process of law
14 whatsoever and shall not be assignable except to the extent that such
15 annuities or benefits are subject to a qualified domestic relations order
16 under the Spousal Pension Rights Act.

17 Sec. 28. (1) Any employee who, while an employee, entered into and
18 served in the armed forces of the United States and who within ninety
19 days after honorable discharge or honorable separation from active duty
20 again became an employee shall be credited, for the purposes of section
21 17 of this act, with all the time actually served in the armed forces as
22 if such person had been an employee throughout such service in the armed
23 forces pursuant to the terms and conditions of subsection (2) of this
24 section.

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

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

13 (3) The employer shall pick up the member contributions made through
14 irrevocable payroll deduction authorizations pursuant to this section,
15 and the contributions so picked up shall be treated as employer
16 contributions in the same manner as contributions picked up under section
17 7 of this act.

18 Sec. 29. (1) For purposes of this section and section 30 of this
19 act:

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

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

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

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

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

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

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

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

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

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

9 Sec. 30. (1) The retirement system may accept cash rollover
10 contributions from a member who is making payment pursuant to section 24
11 or 28 of this act if the contributions do not exceed the amount
12 authorized to be paid by the member pursuant to such sections, and the
13 contributions represent (a) all or any portion of the balance of the
14 member's interest in a qualified plan under section 401(a) of the
15 Internal Revenue Code or (b) the interest of the member from an
16 individual retirement account or an individual retirement annuity, the
17 entire amount of which is attributable to a qualified total distribution,
18 as defined in the Internal Revenue Code, from a qualified plan under
19 section 401(a) of the code and qualified as a tax-free rollover amount.
20 The member's interest under subdivision (a) or (b) of this subsection
21 must be transferred to the retirement system within sixty days from the
22 date of the distribution from the qualified plan, individual retirement
23 account, or individual retirement annuity.

24 (2) Cash transferred to the retirement system as a rollover
25 contribution shall be deposited as other payments made under section 24
26 or 28 of this act.

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

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

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

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

14 Sec. 31. The retirement system may accept as payment for withdrawn
15 amounts made pursuant to the Cities of the First Class Firefighters Cash
16 Balance Retirement Act a direct trustee-to-trustee transfer from (1) an
17 eligible tax-sheltered annuity plan as described in section 403(b) of the
18 Internal Revenue Code or (2) an eligible deferred compensation plan as
19 described in section 457(b) of the code on behalf of a member who is
20 making payments for such amounts. The amount transferred shall not exceed
21 the amount withdrawn and such transferred amount shall qualify as a
22 purchase of permissive service credit by the member as defined in section
23 415 of the code.

24 Sec. 32. Persons who have become members of the retirement system
25 shall not thereafter lose their status as members while they remain
26 employees.

27 Sec. 33. Any person who, knowing it to be false or fraudulent,
28 presents or causes to be presented a false or fraudulent claim or benefit
29 application, any false or fraudulent proof in support of such a claim or
30 benefit, or false or fraudulent information which would affect a future
31 claim or benefit application to be paid under the retirement system for

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

6 Sec. 34. Prior to April 1, 2017, the city clerk shall submit to the
7 board a list of all employees then eligible for participation in the
8 plan, which list shall state the name and address of the employee and his
9 or her gross monthly wage. For any members hired on or after April 1,
10 2017, the city clerk shall submit to the board within ten days of hire,
11 the name and address of the employee and his or her gross monthly wage.

12 Sec. 35. Every claim and demand under the Cities of the First Class
13 Firefighters Cash Balance Retirement Act and against the retirement
14 system or the board shall be forever barred unless the action is brought
15 within two years of the time at which the claim accrued.

16 Sec. 36. All contributions to the retirement system, all property
17 and rights purchased with the contributions, and all investment income
18 attributable to the contributions, property, or rights shall be held in
19 trust by the State of Nebraska for the exclusive benefit of members and
20 their beneficiaries and shall only be used to pay benefits to such
21 persons and to pay administrative expenses according to the Cities of the
22 First Class Firefighters Cash Balance Retirement Act.

23 Sec. 37. Upon termination or partial termination of the retirement
24 system or upon complete discontinuance of contributions under the
25 retirement system, the rights of all affected members to the amounts
26 credited to the members' accounts shall be nonforfeitable.

27 Sec. 38. Section 4-108, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 4-108 (1) Notwithstanding any other provisions of law, unless
30 exempted from verification under section 4-110 or pursuant to federal
31 law, no state agency or political subdivision of the State of Nebraska

1 shall provide public benefits to a person not lawfully present in the
2 United States.

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

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

20 Sec. 39. Section 16-1020, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 16-1020 ~~Sections Except as provided in section 16-1039,~~ sections
23 16-1020 to 16-1038 shall apply to all firefighters of a city of the first
24 class except: -

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

26 (2) Such sections shall not apply to any firefighter employed by a
27 city of the first class on or after January 1, 2018, or to a firefighter
28 employed prior to such date who elected to be subject to the Cities of
29 the First Class Firefighters Cash Balance Retirement Act.

30 Sec. 40. Section 84-1501, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

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

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

18 (ii) One of the appointed members shall be a participant in the
19 Nebraska Judges Retirement System as provided in the Judges Retirement
20 Act;

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

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

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

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

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

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

8 Sec. 41. Section 84-1503, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 84-1503 (1) It shall be the duty of the Public Employees Retirement
11 Board:

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

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

27 (c) To provide for an equitable allocation of expenses among the
28 retirement systems administered by the board, and all expenses shall be
29 provided from the investment income earned by the various retirement
30 funds unless alternative sources of funds to pay expenses are specified
31 by law;

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

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

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

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

19 (h) To prescribe and furnish forms for the public retirement system
20 plan reports required to be filed pursuant to sections 2-3228, 12-101,
21 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
22 23-3526, 71-1631.02, and 79-987.

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

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

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

31 (c) To adopt and promulgate rules and regulations for the management

1 of the board;

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

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

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

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

11 (h) To obtain, by a competitive, formal, and sealed bidding process
12 through the materiel division of the Department of Administrative
13 Services, auditing services for a separate compliance audit of the
14 retirement systems to be completed by December 31, 2020, and from time to
15 time thereafter at the request of the Nebraska Retirement Systems
16 Committee of the Legislature, to be completed not more than every four
17 years but not less than every ten years. The compliance audit shall be in
18 addition to the annual audit conducted by the Auditor of Public Accounts.
19 The compliance audit shall include, but not be limited to, an examination
20 of records, files, and other documents and an evaluation of all policies
21 and procedures to determine compliance with all state and federal laws. A
22 copy of the compliance audit shall be given to the Governor, the board,
23 and the Nebraska Retirement Systems Committee of the Legislature and
24 shall be presented to the committee at a public hearing;

25 (i) To adopt and promulgate rules and regulations for the adjustment
26 of contributions or benefits, which includes, but is not limited to: (i)
27 The procedures for refunding contributions, adjusting future
28 contributions or benefit payments, and requiring additional contributions
29 or repayment of benefits; (ii) the process for a member, member's
30 beneficiary, employee, or employer to dispute an adjustment to
31 contributions or benefits; (iii) establishing materiality and de minimus

1 amounts for agency transactions, adjustments, and inactive account
2 closures; and (iv) notice provided to all affected persons. Following an
3 adjustment, a timely notice shall be sent that describes the adjustment
4 and the process for disputing an adjustment to contributions or benefits;
5 and

6 (j) To administer all retirement system plans in a manner which will
7 maintain each plan's status as a qualified plan pursuant to the Internal
8 Revenue Code, as defined in section 49-801.01, including: Section 401(a)
9 (9) of the Internal Revenue Code relating to the time and manner in which
10 benefits are required to be distributed, including the incidental death
11 benefit distribution requirement of section 401(a)(9)(G) of the Internal
12 Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to
13 the specification of actuarial assumptions; section 401(a)(31) of the
14 Internal Revenue Code relating to direct rollover distributions from
15 eligible retirement plans; section 401(a)(37) of the Internal Revenue
16 Code relating to the death benefit of a member whose death occurs while
17 performing qualified military service; and section 401(a) of the Internal
18 Revenue Code by meeting the requirements of section 414(d) of the
19 Internal Revenue Code relating to the establishment of retirement plans
20 for governmental employees of a state or political subdivision thereof.
21 The board shall adopt and promulgate rules and regulations necessary or
22 appropriate to maintain such status including, but not limited to, rules
23 or regulations which restrict discretionary or optional contributions to
24 a plan or which limit distributions from a plan.

25 (3) By March 31 of each year, the board shall prepare a written plan
26 of action and shall present such plan to the Nebraska Retirement Systems
27 Committee of the Legislature at a public hearing. The plan shall include,
28 but not be limited to, the board's funding policy, the administrative
29 costs and other fees associated with each fund and plan overseen by the
30 board, member education and informational programs, the director's duties
31 and limitations, an organizational structure of the office of the

1 Nebraska Public Employees Retirement Systems, and the internal control
2 structure of such office to ensure compliance with state and federal
3 laws.

4 Sec. 42. Section 84-1511, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 84-1511 (1) The Public Employees Retirement Board shall establish a
7 comprehensive preretirement planning program for state patrol officers,
8 state employees, judges, county employees, ~~and~~ school employees, and
9 firefighters who are members of the retirement systems established
10 pursuant to the Cities of the First Class Firefighters Cash Balance
11 Retirement Act, the County Employees Retirement Act, the Judges
12 Retirement Act, the School Employees Retirement Act, the Nebraska State
13 Patrol Retirement Act, and the State Employees Retirement Act. The
14 program shall provide information and advice regarding the many changes
15 employees face upon retirement, including, but not limited to, changes in
16 physical and mental health, housing, family life, leisure activity, and
17 retirement income.

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

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

30 (4) The board shall work with the Department of Health and Human
31 Services, the personnel division of the Department of Administrative

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

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

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

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

19 Sec. 43. If any section in this act or any part of any section is
20 declared invalid or unconstitutional, the declaration shall not affect
21 the validity or constitutionality of the remaining portions.

22 Sec. 44. Original sections 4-108, 16-1020, 84-1501, 84-1503, and
23 84-1511, Reissue Revised Statutes of Nebraska, are repealed.

24 Sec. 45. Since an emergency exists, this act takes effect when
25 passed and approved according to law.