LEGISLATIVE BILL 672

Approved by the Governor April 17, 1992

Introduced by Nelson, 35; Bernard-Stevens, 42; Kristensen, 37

AN ACT relating to retirement systems; to amend sections 2-1603, 2-1604, 2-1605, 2-1606, 2-1607, 16-1002, 16-1004 to 16-1011, 16-1013, 16-1014, 16-1016, 16-1018, 16-1019, 16-1026, 16-1027, 16-1029, 16-1030, 16-1034 to 16-1037, and 23-1118, Reissue Revised Statutes of Nebraska, 1943, and sections 24-703, 24-710, and 84-1503, Revised Statutes Supplement, 1991; to change provisions relating to county extension organizations; to provide that the employees of such combined organizations shall be participants in the Retirement System for Nebraska Counties; to define and redefine terms; to change and provide for benefits under retirement systems for police officers and for firefighters in cities of the first class; to provide for duties and expenses for the city and the retirement committee members; to change provisions relating to certain county contribution rates under the Retirement System for Nebraska Counties; to provide for a cost-of-living adjustment under the judges retirement system; to provide an additional duty for the Public Employees Retirement Board; to create a fund and provide for allocations to and expenditures from the fund; to provide a duty for the Revisor of Statutes; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-1603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1603. For the purpose of carrying out the provisions of sections 2-1601 to 2-1607 and section 6 of this act, there may be created in each county or combination of counties within the State of Nebraska an organization to be created in the following manner: Whenever a number of farm operators of a county or counties effect an organization for doing extension work in agriculture and home economics, adopt a constitution

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and bylaws as are not inconsistent with the Cooperative Extension Service of the University of Nebraska, and are recognized by the extension service as the official body within the county or counties for carrying on extension work in agriculture and home economics within the county or counties, such organization may make such regulations and bylaws for its government and the carrying on of its work as are not inconsistent with the provisions of such sections, except that for the purposes of such sections only one such organization shall be recognized in any one county or counties so affiliated. Any farm operator or spouse of a farm operator who is a legal voter in the county may at any time petition the county board to appropriate a sum of money from the general fund of the county, as provided by section 2-1604, for the purpose of employing and maintaining a county agricultural agent and for carrying out generally the purposes as expressed in sections 2-1601 and 2-1602. It shall be understood that for each family operating a farm, there shall be only one person whose name shall be counted in judging the sufficiency of such petition. When any farm operator or spouse of a farm operator has so petitioned the county board, both spouses shall be deemed members of the county extension organization provided for in sections 2-1601 to 2-1603 and shall be entitled to all voting and participating rights thereto.

Sec. 2. That section 2-1604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1604. If, on or before September 1 of any even-numbered year, a petition is filed with the county clerk containing the names of twenty percent or more of the farm operators of any county, ~~or counties,~~ as determined by the last available federal census, ~~comprising a district under sections 2-1601 to 2-1607,~~ asking the submission to the voters of the question of whether there shall be county funds appropriated for the continuance or support of county agricultural extension work in ~~said~~ such county ~~or district~~ on January 1 after the filing of ~~said~~ the petition, it shall be the duty of the clerk of ~~said~~ such county to have placed upon the ballot at the election following the filing of ~~said~~ the petition the question, Shall an appropriation be made annually from the general fund of the county for the support of agricultural extension work?

Yes ... No ...

If a majority of the votes cast on this question are opposed to such appropriation, the county board shall deny the appropriation. If a majority of the votes cast on this question are in favor of the appropriation, the county board shall annually set aside in the general fund of the county an amount equal to the county extension budget~~, PROVIDED, that such sum~~ established under section 2-1606 or 2-1607. Such amount shall not exceed thirty thousand dollars or an amount equal to a levy of two and one-tenth cents on each one hundred dollars upon the actual value of all the taxable property in such county~~, except intangible property,~~ whichever is the greater. As claims are approved by the board of directors or by a joint board established pursuant to section 2-1607 and filed with the county clerk, the county board shall order warrants to be drawn upon the general fund of the county in payment of such claims. ~~It is further provided that in~~ In counties where extension work is being conducted in accordance with sections 2-1110 to 2-1117, C.S.Supp., 1937, which have been repealed, the county board shall continue to appropriate funds for the continuance of extension work until such support is denied by vote as provided for in this section. Whenever any county ~~or group of counties~~ has an organization recognized as the sponsoring organization for extension work by the director of extension service~~,~~ within ~~the~~ a county ~~or counties~~ not then receiving a county appropriation~~,~~ and can show on August 1 of any odd-numbered year that it has a membership of not less than twenty-five percent of the farm operators of ~~each~~ the county included within the organization as petitioners and members, the county board of commissioners or supervisors may appropriate funds for extension work within that county ~~or group of counties~~ for one year~~, as provided for in this section,~~ and the county clerk shall submit the question of continued support at the next general election.

Sec. 3. That section 2-1605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1605. In sections 2-1601 to 2-1607 and section 6 of this act the term farm operator shall ~~be understood to refer to~~ mean any person who actually manages, and either by his or her own or other's labor, operates a tract of agricultural land of not less than three acres, and whose name appears on the tax rolls of the county as owning property or equipment such as might be used in operating such tract of agricultural land. The number of farmers in a county shall be determined by the report of the last federal census.

Sec. 4. That section 2-1606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1606. The president and secretary of the organization shall on or before January 1 of each year file with the county clerk (1) a report of their work during the preceding year; (2) a sworn itemized statement of expenditures under sections 2-1601 to 2-1607 and section 6 of this act during the preceding year; and (3) a budget or estimate of the funds necessary for the carrying on of such work in the county during the ensuing year.

Sec. 5. That section 2-1607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1607. (1) Whenever two or more counties which have complied with the provisions of sections 2-1601 to 2-1607 and section 6 of this act desire to unite ~~in employing a county agricultural agent~~ for the purpose of continuance, support, and management of extension work, they may do so. ~~Each county shall bear its proportionate share of the expense of the counties concerned and shall unite into a joint board for the management of the work. Such county or~~ The participating county organizations shall form a joint board to direct combined extension work in the participating counties and annually select a president and a secretary. The joint board shall each year establish a combined annual budget for such extension work, and each participating county shall pay its proportionate share of expenses under each combined annual budget as such share of expenses shall be determined by the joint board, except that the share of annual expenses to be paid by a participating county shall not exceed the maximum annual extension budget authorized for it under section 2-1604. The participating counties shall be recognized as but one organization for state and federal aid.

(2) The president and secretary of the joint board shall on or before January 1 of each year file with the county clerk of each participating county (a) a report of the combined extension work of the participating counties for the preceding year, (b) a sworn statement of itemized expenditures under sections 2-1601 to 2-1607 and section 6 of this act during the preceding year, and (c) the extension budget for each participating county which shall be the amount to be set aside in the general fund of each participating county to pay its proportionate share of the expenses of the combined extension work during the ensuing year.

Sec. 6. Whenever two or more county extension organizations have united as provided in section 2-1607 for the purpose of support and management of extension work, county extension employees jointly employed by the participating extension organizations shall be considered persons employed by a county for the purpose of subdivision (1) of section 23-2301 and shall participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act. To accomplish such participation the participating county extension organizations shall (1) pick up employee contributions as salary deductions on behalf of such county extension employees in the manner required for a county in section 23-2307, and (2) pay to the carrier an amount in accordance with the provisions of section 23-2308. In all other respects the participation of such county extension employees in the retirement system shall be in accordance with the act.

Sec. 7. That section 16-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1002. For ~~the~~ purposes of sections 16-1001 to 16-1019, unless the context otherwise requires:

(1) Actuarial equivalent shall mean equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalent of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by the police officer's retirement value. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Beneficiary shall mean the person or persons designated by a police officer, pursuant to a written instrument filed with the retirement committee before the police officer's death, to receive death benefits which may be payable under the retirement system;

(3) Funding agent shall mean any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the city or retirement committee to hold or invest the funds of the retirement system;

(4) Regular interest shall mean the ~~net~~ rate

of interest earned each calendar year commencing January 1, 1984, ~~as determined by the retirement committee in conformity with actual and expected earnings on its investments~~ equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings shall mean the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year;

(5) ~~(2)~~ Regular pay shall mean the average salary of a police officer for the five years preceding the date such police officer elects to retire, the five years preceding his or her death, or the five years preceding the date of disability, whichever is earliest, except that for any police officer who retires, dies, or becomes disabled after the effective date of this act, regular pay shall mean the average salary of the police officer for the period of five consecutive years preceding such retirement, death, or disability which produces the highest average;

(6) ~~(3)~~ Salary shall mean all amounts paid to a participating police officer by the employing city for personal services as reported on the participant's federal income tax withholding statement, including the police officer's contributions picked up by the city as provided in subsection (2) of section 16-1005 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code of 1986, as amended;

(7) ~~(4)~~ Retirement committee shall mean the retirement committee created pursuant to section 16-1014;

(8) Retirement system shall mean a retirement system established pursuant to sections 16-1001 to 16-1019;

(9) ~~(5)~~ Retirement value shall mean the accumulated value of the police officer's employee account and employer account. The retirement value shall consist of the sum of the contributions made or transferred to such accounts by the police officer and by the city on the police officer's behalf and the regular interest credited to the accounts as of the date of computation, reduced by any realized losses which were not taken into account in determining regular interest in any year, and further adjusted each year to reflect the pro rata share for the accounts of the appreciation or depreciation of the fair market value of the assets of the retirement system as determined by the

retirement committee. The retirement value shall be reduced by the amount of all distributions made to or on the behalf of the police officer from the retirement system. Such valuation shall be computed annually as of December 31. If separate investment accounts are established pursuant to subsection (3) of section 16-1004, a police officer's retirement value with respect to such accounts shall be equal to the value of his or her separate investment accounts as determined under such subsection;

(10) Annuity ~~(6) Group annuity~~ contract shall mean the contract or contracts issued by one or more life insurance companies ~~to the retirement committee~~ and purchased by the retirement system in order to provide any of the benefits described in sections 16-1001 to 16-1019. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis; and

(11) ~~(7)~~ Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only~~,~~ and terminating at his or her death without refund or death benefit of any kind.

Sec. 8. That section 16-1004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1004. (1) Commencing on January 1, 1984, each city of the first class shall keep and maintain a Police Officers Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered under the direction of the city and the retirement committee exclusively for the purposes of the retirement system and for the benefit of participating police officers and their beneficiaries. The fund shall be established as a trust under the laws of this state for all purposes of section 401(a) of the Internal Revenue Code of 1986, as amended. ~~established pursuant to sections 16-1001 to 16-1019.~~ Upon the passage of sections 16-1001 to 16-1019 all of the contributions made by ~~an~~ a police officer prior to January 1, 1984, will be transferred to the police officer's ~~retirement~~ employee account without interest unless the city, at the time of the transfer, credited interest on such contributions. Regular interest shall begin to accrue on the contributions transferred into the fund from January 1, 1984. Such funds shall be invested in the manner prescribed in section 16-1016.

(2) The city shall establish a medium for funding of the retirement system, which may be a pension

trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1016 and to provide the retirement, death, and disability benefits for police officers pursuant to sections 16-1001 to 16-1019. The trustee or custodian of any trust fund may be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, a city officer authorized to administer funds of the city, or a combination thereof.

(3) Upon direction of the city, there may be established separate investment accounts for each participating police officer for the purpose of allowing each police officer to direct the investment of all or a portion of his or her employee account or employer account subject to the requirements of section 16-1016 and any other rules or limitations that may be established by the city or the retirement committee. If separate investment accounts are established, each account shall be separately invested and reinvested, separately credited with all earnings and gains with respect to the investment of the assets of the investment account, and separately debited with the losses of the account. Each investment account shall be adjusted each year to reflect the appreciation or depreciation of the fair market value of the assets held in such account as determined by the retirement committee. The expenses incurred by the retirement system when a police officer directs the investment of all or a portion of his or her individual investment account shall be charged against the police officer's investment account and shall reduce the police officer's retirement value.

Sec. 9. That section 16-1005, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1005. (1) Each police officer participating in the retirement system ~~established pursuant to sections 16-1001 to 16-1019~~ shall contribute to the retirement system a sum equal to six percent of his or her salary. Such payment shall be made by regular payroll deductions from his or her periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class with police officers participating in a retirement system established pursuant to sections 16-1001 to 16-1019

shall pick up the police officers' contributions required by subsection (1) of this section for all compensation paid on or after January 1, 1984, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the ~~United States~~ Internal Revenue Code of 1986, as amended, except that the city shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the ~~United States~~ Internal Revenue Code of 1986, as amended, these contributions shall not be included as gross income of the employee until such time as they are distributed ~~or made available~~ from the retirement system. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. A police officer shall not be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each police officer participating in the retirement system shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code of 1986, as amended. Voluntary contributions shall be credited to the police officer's employee account and shall thereafter be credited with regular interest. A police officer's voluntary contribution shall become a part of the Police Officers Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Sec. 10. That section 16-1006, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1006. ~~Each~~ Beginning January 1, 1984, each city of the first class with police officers participating in a retirement system ~~established pursuant to sections 16-1001 to 16-1019~~ shall contribute to the retirement system a sum equal to six percent of each such participating police officer's periodic salary. Such payment shall be contributed as provided in subsection (1) of section 16-1005 for employee contributions and shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any police officer employed by the city on January 1, 1984, an amount equal to the employee contributions of such police officer that were made to the city prior to January 1, 1984, without interest, with such contribution to be made at the time the police officer retires or terminates employment with the city. The city may contribute such amount before the police officer's retirement or termination of employment or credit interest on such contribution.

Sec. 11. That section 16-1007, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1007. (1) At any time before the retirement date, the retiring police officer may elect to receive at his or her retirement date a pension benefit either in the form of a straight life annuity or any optional form of annuity benefit ~~specified in the group annuity contract~~ established by the retirement committee and provided under a purchased annuity contract. The optional annuity benefit shall be specified in the funding medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring police officer and, after the death of the retiree, monthly payments, as elected by the retiring police officer, of either one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring police officer during his or her life, to the beneficiary selected by the retiring police officer at the time of the original application for an annuity. For any police officer whose retirement date is on or after January 1, 1997, the optional benefit forms for the retirement system shall include a single lump-sum payment of the police officer's retirement value. For police officers whose retirement date is prior to January 1, 1997, a single lump-sum payment shall be available only if the city has adopted such distribution option in the funding medium established for the retirement system. The retiring police officer may further elect to defer the date of the first annuity payment or lump-sum payment to the first day of any specified month prior to age seventy. If the retiring police officer elects to receive his or her pension benefit in the form of an annuity, the amount of annuity benefit shall be the amount paid by the annuity contract purchased or otherwise provided by his or her retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the police officer and, upon such distribution, all obligations of the retirement system to pay retirement, death, or disability benefits to the police officer and his or her beneficiaries shall terminate, without exception. ~~In any case, the amount of the pension benefit shall be the amount purchased or otherwise provided by the retirement value as of the date of the first payment.~~

(2) For all officers employed on January 1, 1984, and continuously employed by the city from such date through the date of their retirement, the amount of the pension benefit, when determined on the straight life annuity basis, shall not be less than the following amounts:

(a) If retirement occurs following age sixty and with twenty-five years of service with the city, or twenty-one years of service if hired prior to November 18, 1965, fifty percent of regular pay; or

(b) If retirement occurs following age fifty-five but before age sixty and with twenty-five years of service with the city, forty percent of regular pay.

A police officer entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of this section, including a single lump-sum payment, if the officer retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for officers retiring before January 1, 1997, in the funding medium for the retirement system. If the minimum pension benefit is paid in a form other than a straight-life annuity, such benefit shall be the actuarial equivalent of the straight-life annuity that would otherwise be paid to the officer pursuant to this subsection.

If the police officer chooses the single lump-sum payment option, the officer can request that the actuarial equivalent be equal to the average of the cost of three annuity contracts purchased on the open market. Of the three annuity contracts used for comparison, one shall be chosen by the police officer, one shall be chosen by the retirement committee, and one shall be chosen by the city.

(3) If the retirement value of an officer entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the

first payment to purchase or provide the required pension benefit, the city shall transfer such funds as may be necessary to the employer account of the police officer so that the retirement value of such officer is sufficient to purchase or provide for the required pension benefit.

(4) Any retiring police officer whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value ~~in lieu of annuity~~ and shall not be entitled to elect to receive annuity benefits.

Sec. 12. That section 16-1008, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1008. (1) A police officer of a city of the first class may:

(a) Elect to retire and receive the applicable ~~a~~ pension benefit provided in section 16-1007 based on his or her full retirement value upon the attainment of age sixty;

(b) Elect to take early retirement and receive the applicable pension benefit provided in section 16-1007 if he or she has attained the age of fifty-five and has completed twenty-five years of service with the city; or

(c) Retire as a result of disability while in the line of duty, as determined under section 16-1011, at any age, and receive the applicable pension benefit provided in section 16-1011.

(2) A police officer who is eligible to retire pursuant to ~~subdivision (1)(a)~~ subsection (1) of this section but does not, shall continue to contribute to his or her employee account, and the city shall continue to contribute to his or her employee account and to his or her employer account.

(3) The first of the month immediately following the last day of work shall be the retirement date.

Sec. 13. That section 16-1009, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1009. (1) When prior to retirement~~,~~ any police officer participating in the retirement system ~~established pursuant to sections 16-1001 to 16-1019 shall die~~ dies other than in the line of duty and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased police officer prior to his or her death or to the deceased police officer's estate ~~in the event that~~ if no beneficiary was specified. The retirement value ~~may~~ or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or ~~any~~ other optional form of benefit specified in the ~~group annuity contract.~~ retirement system's funding medium. If benefits are paid in the form of an annuity, the annuity shall be the amount paid by the annuity contract purchased or otherwise provided by the amount of the beneficiary's share of the retirement value as of the date of the first payment. Upon the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.

(2) If ~~such benefits are payable in the form of annuity benefits, and if~~ any police officer employed by such city as a member of its paid police department on January 1, 1984, except those who shall have been formerly employed in such department who are now in military service, ~~shall die~~ dies while employed by the city as a police officer, other than in the line of duty, after becoming fifty-five years of age and before electing to retire, and after serving in the paid police department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay ~~as defined in section 16-1002 under~~ in the form of a straight life annuity shall be paid to the surviving spouse ~~or minor children~~ of such deceased police officer. If the deceased police officer is not survived by a spouse or if the surviving spouse dies before the children of the police officer attain the age of majority, the pension benefit shall be paid to the police officer's minor children until they attain the age of majority. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess shall be paid in the manner provided in subsection (1) of this section. If the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary to purchase or provide for the required pension benefit. If a deceased police officer described in this subsection is

not survived by a spouse or minor children, his or her death benefits shall be provided under subsection (1) of this section as if such officer was not employed by the city on January 1, 1984.

(3) Any payments for the benefit of a minor child shall be made on behalf of the child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child. ~~will be applied to increase the amount of the pension benefit. In the event that the pension benefit is payable, the retirement value of the officer's retirement account who died after the age of fifty-five shall be retained by the city.~~

Sec. 14. That section 16-1010, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1010. When prior to retirement any police officer participating in the retirement system ~~established pursuant to sections 16-1001 to 16-1019 shall die~~ dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty and if such police officer is not survived by a spouse or by minor children, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death or to the deceased police officer's estate ~~in the event that~~ if no beneficiary was specified. The retirement value ~~may~~ or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or ~~any~~ other optional form of benefit specified in the ~~group annuity contract~~ retirement system's funding medium. For a police officer ~~that~~ who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse~~,~~ or, upon his or her remarriage or death, to the minor ~~child or~~ children during ~~such~~ each child's ~~or children's~~ minority subject to deduction of the amounts paid as workers' compensation benefits on account of death~~,~~ as provided in section 16-1012. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child. To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified retirement pension, as reduced by any amounts paid as workers' compensation benefits, the excess shall be ~~applied to increase the amount of the pension benefit. In the event that the specified retirement pension is payable, the retirement value shall be retained by the city~~ paid in the manner provided in subsection (1) of section 16-1009. If the actuarial equivalent of the pension benefit payable to a surviving spouse or minor children under this section exceeds the retirement value at the time of the first payment, the city shall contribute such additional amount as may be necessary to purchase or provide for the required pension benefit.

Sec. 15. That section 16-1011, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1011. ~~In case~~ (1) If any police officer becomes ~~shall become permanently and totally~~ disabled, ~~from accident or other cause while in the line of duty and such police officer because of such disability is unable to resume the duties he or she was performing at the time of injury,~~ such police officer shall ~~forthwith~~ be placed upon the roll of pensioned police officers at the regular retirement pension of fifty percent of regular pay~~, as defined in section 16-1002.~~ for the period of such disability. For purposes of this section, disability shall mean the complete inability of the police officer, for reasons of accident or other cause while in the line of duty, to perform the duties of a police officer.

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

surgery in this state, and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary ~~total~~ disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it ~~shall be~~ is ascertained by the city council or other proper municipal authorities within twelve months that such temporary disability has become ~~permanent~~ a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of ~~total and permanent~~ disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Such payments shall not commence until all credit for unused annual or sick leave and other similar credits have been fully utilized by the disabled police officer if there will be no impairment to his or her salary during the period of disability. Total payments to a disabled police officer, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the police officer's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a police officer who was pensioned under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the police officer's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled police officer or former police officer.

(6) If a police officer who has pensioned under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid the police officer may return to duty with the police force under the following conditions:

(a) If a vacancy exists on the police force for which the police officer is qualified and the police officer wishes to return to the police force, the city shall hire the police officer to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists on the police force and the police officer wishes to return to the police force, the city may create a vacancy under the city's reduction in force policy adopted under the Civil Service Act and rehire the officer at a pay grade of not less than his or her previous pay grade.

The provisions of this subsection shall not apply to a police officer whose disability benefit payments are terminated because of fraud on the part of the police officer.

Sec. 16. That section 16-1013, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1013. ~~In the event~~ If a police officer quits or is discharged before his or her normal or early retirement date, the officer may request and receive as a ~~lump sum all of the contribution he or she has made toward his or her employee account, including regular interest earned from January 1, 1984~~ lump-sum payment an amount equal to the retirement value of his or her employee account as determined at the valuation date preceding his or her termination of employment. Such police officer, if vested, shall also receive a deferred pension benefit in an amount purchased or provided by the retirement value at the date of retirement. The retirement value at such retirement date shall consist of the accumulated value of the police officer's employee account, ~~less~~ as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the police officer's employer account at the date of retirement. ~~plus regular interest from the date of termination to the date of retirement. The retirement value of an officer who is employed on January 1, 1984, shall include, when he or she quits or is discharged from the city, an amount equal to the employee's contributions that were made prior to January 1, 1984, subject to the vesting schedule.~~

The vesting schedule ~~is~~ shall be as follows:

(1) If the terminated police officer has been a member of the system for less than four years, such vesting shall be nil;

(2) If the terminating officer has been a member of the paid department of the city of the first class for at least four years, such vesting percentage shall be forty percent. Such vesting percentage shall

be fifty percent after five years, sixty percent after six years, seventy percent after seven years, eighty percent after eight years, ninety percent after nine years, and one hundred percent after ten years; and

(3) All police officers shall be one hundred percent vested ~~at~~ upon attainment of age sixty while employed by the city as a police officer.

The deferred pension benefit ~~is~~ shall be payable on the first of the month immediately following the police officer's sixtieth birthday. At the option of the terminating police officer, such pension benefit may be paid as of the first of the month after such ~~member~~ police officer attains the age of fifty-five. Such election may be made by the police officer any time prior to the payment of the pension benefits. The deferred pension benefit shall be paid in the form of the benefit options specified in subsection (1) of section 16-1007 as elected by the police officer. If the police officer's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, the city may elect to pay such police officer his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a police officer may elect upon his or her termination of employment to receive his or her vested retirement value in the form of a single lump-sum payment. For a police officer whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating police officers in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating police officer's retirement value under this section, such police officer will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such police officer or his or her beneficiaries any benefits under sections 16-1001 to 16-1019.

If ~~In the event that~~ the terminating police officer ~~shall~~ is not ~~be~~ credited with one hundred percent of his or her employer account, the ~~remainder shall first be~~ nonvested portion of the account shall be forfeited and first used to meet the expense charges incurred by the city in connection with administering the police officers retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Sec. 17. That section 16-1014, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1014. A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to sections 16-1001 to 16-1019. The governing body of the city shall continue to be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. Whenever duties or powers are vested in the city or the retirement committee under such sections or whenever such sections fail to specifically allocate the duties or powers of administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee. The city and the retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system.

Sec. 18. That section 16-1016, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1016. The funds of the retirement system shall be invested ~~by~~ under the general direction of the retirement committee. The city or ~~committee shall contract with an insurance company, trust company, or other financial institution, including, but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit unions, or lenders approved by the Farmers Home Administration or United States Department of Veterans Affairs. Such~~ the retirement committee if delegated such function by the city shall select and contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by sections 16-1001 to 16-1019. The city or committee may select and contract with investment managers registered under the Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or committee. All funds of the retirement system shall be invested pursuant to the policies established by the Nebraska Investment Council.

Sec. 19. That section 16-1018, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1018. ~~In the event that after four or more years of employment~~ If a police officer terminates his or her employment for the purpose of becoming a police officer employed by another ~~first-class~~ city of the first class in Nebraska~~,~~ and such new employment commences within ~~ninety~~ one hundred twenty days of such termination, such police officer shall be entitled to transfer to the Police Officers Retirement System Fund of the city by which he or she is newly employed, the full amount of his or her ~~contribution and his or her~~ employee account and the vested portion of the ~~city's contribution~~ value of his or her employer account at the time of termination. ~~, together with regular interest accrued thereon.~~ The transferred funds shall be directly transferred to the police officer's employee account in the retirement system of the city to which transferred and administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system shall have no further obligation to such police officer or his or her beneficiary. Following the commencement of new employment, the transferring police officer shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred. ~~For the purpose of applying the vesting schedule in section 16-1013 to contributions made following the commencement of new employment, such police officer shall be deemed a new employee.~~

Sec. 20. That section 16-1019, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1019. (1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code of 1986, as amended. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code of 1986, as amended, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, and section 401(a)(25) relating to the specification of actuarial assumptions. Any requirements for compliance with section 401(a) of the Internal Revenue Code of 1986, as amended, may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code of 1986, as amended, is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

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

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

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under sections 16-1001 to 16-1019, the mayor and council may make a levy in addition to the multiple levies or the all-purpose and exclusive levy which such city is authorized by law to make.

Sec. 21. That section 16-1026, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1026. At least once every five years, the retirement committee shall cause the liability of the Firefighters Retirement System Fund to be evaluated by an actuary who is a member of the American Academy of Actuaries. Such actuary shall report to the retirement committee and the city as to the soundness and solvency of the fund in relation to projected plan liabilities and the amount of annual deposits by the city which would be sufficient to provide for such liabilities. The costs of such evaluations and reports shall be paid by the city from the unallocated employer account. ~~For any city for which the most recent actuarial report shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities and that additional contributions to this account will not be required no further actuarial evaluation shall be required.~~

Sec. 22. That section 16-1027, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1027. (1) At any time before the retirement date, the retiring firefighter may elect to receive his or her pension benefit either in the form of a straight life annuity or any optional form of annuity benefit specified in the group annuity contract. The retiring firefighter may further elect to defer the date of the first payment to the first day of any specified month prior to age seventy. In any case, the amount of the pension benefit shall be the amount purchased or otherwise provided by the retirement value as of the date of the first payment.

(2) For all firefighters employed on January 1, 1984, the amount of the pension benefit shall not be less than the following amounts:

(a) If retirement occurs following age fifty-five with twenty-one years of service, fifty percent of regular pay;

(b) If retirement occurs on or after age fifty-five with less than twenty-one years of service, such firefighter shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of retirement multiplied by the ratio of the years of service to twenty-one;

(c) At the death of any such retired firefighter, the same rate of pension, as is provided for in this section, shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse ~~shall remain~~ remains unmarried and, in case there ~~be~~ is no surviving spouse, then the minor children, if any, of such deceased firefighter~~,~~ shall be paid such pension during their minority, ~~to the age of eighteen years,~~ except that as soon as a child of such deceased firefighter ~~shall become eighteen years of age~~ ceases to be a minor, such pension as to such child shall cease; or

(d) In the event a retired firefighter or his or her surviving beneficiaries die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the employee's account, including interest, the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's duly qualified personal representative, except that if the difference is less than five hundred dollars, the city may pay the same to such claimant or claimants as the retirement committee, in its discretion, ~~shall determine~~ determines to be entitled to the funds.

(3) Any retiring firefighter whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value in lieu of annuity.

Sec. 23. That section 16-1029, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1029. When prior to retirement~~,~~ any firefighter participating in the retirement system established pursuant to sections 16-1020 to 16-1038 ~~shall die~~ dies other than in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the group annuity contract.

If such benefits are payable in the form of annuity benefits~~,~~ and if any firefighter employed by such city as a member of its paid fire department on January 1, 1984, and any firefighter reemployed thereafter who, while employed in such department entered military service and is still in military service, ~~shall die~~ dies other than in the line of duty after becoming fifty years of age and before electing to retire, and after serving in the paid fire department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay as defined in section 16-1021 under a straight life annuity shall be paid to the surviving spouse or minor children of such deceased firefighter.

In the event the surviving spouse ~~or~~ minor children of such deceased firefighter ~~dies~~ die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the employee's account, including interest, the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's duly qualified personal representative, except that if the difference is less than five hundred dollars, the city may pay the same to such claimant or claimants as the retirement committee, in its discretion, ~~shall determine~~ determines to be entitled to the funds.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess ~~will~~ shall be applied to increase the amount of the pension benefit. In the event that the pension benefit is payable, the retirement value of the firefighter's retirement account who died after the age of fifty shall be ~~retained by the city~~ deposited in the unallocated employer account.

Sec. 24. That section 16-1030, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1030. When prior to retirement any firefighter participating in the retirement system established pursuant to sections 16-1020 to 16-1038 ~~shall die~~ dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the group annuity contract. For a firefighter who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse~~,~~ or, upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death~~,~~ as provided in section 16-1032.

In the event the surviving spouse or minor children of such deceased firefighter ~~dies~~ die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the employee's account, including interest, the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's duly qualified personal representative, except that if the difference is less than five hundred dollars, the city may pay the same to such claimant or claimants as the retirement committee, in its discretion, ~~shall determine~~ determines to be entitled to the funds.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workers' compensation benefits, the excess shall be applied to increase the amount of the pension benefit. In the event that the specified retirement pension is payable, the retirement value shall be ~~retained by the city~~ deposited in the unallocated employer account.

Sec. 25. That section 16-1034, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1034. A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to sections 16-1020 to 16-1038. The governing body of the city shall ~~continue to~~ be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. All costs incurred with regard to the administration of the retirement system shall be paid by the city from the unallocated employer account as provided in section 29 of this act.

Sec. 26. That section 16-1035, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1035. Each retirement committee established pursuant to section 16-1034 shall consist of six members of which four members shall be selected by the active paid firefighters excluding firefighters identified in section 16-1039. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city, active members of the fire department, and members of the general public may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall, subject to approval by the city council, be reimbursed for their actual and necessary expenses incurred in carrying out their duties. ~~receive no salary and shall not be compensated for expenses.~~

Sec. 27. That section 16-1036, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1036. (1) The funds ~~of the retirement system~~ in the Firefighters Retirement System Fund shall be invested by the retirement committee. The city, subject to the approval of the retirement ~~or~~ committee, shall contract with an insurance company, trust company, or other financial institution, including, but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit unions, or lenders approved by the Farmers Home Administration or ~~Veterans' Administration approved lenders~~ United States Department of Veterans Affairs. ~~Such funds shall be invested pursuant to the policies established by the Nebraska Investment Council.~~

(2) The retirement committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account to the various investment options or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

(3) The funds in the Firefighters Retirement System Fund shall be invested pursuant to the policies established by the Nebraska Investment Council.

Sec. 28. That section 16-1037, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-1037. It shall be the duty of the retirement committee to:

(1) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;

(2) Hold regular quarterly meetings and special meetings upon the call of the chairperson;

(3) Conduct meetings pursuant to sections 84-1408 to 84-1414;

(4) Provide each employee a summary of plan eligibility requirements, ~~and~~ benefit provisions, and investment options available to such employee;

~~(2)~~ (5) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive;

~~(3)~~ (6) Make available for review an annual report of the system's operations describing both (a) the amount of contributions to the system from both employee and employer sources and (b) an identification of the total assets of the retirement system; and

~~(4)~~ (7) Have an analysis made of the investment return that has been achieved on the ~~assets~~ funds of the ~~retirement system administered~~ Firefighters Retirement System Fund invested by the committee. Such analysis shall be prepared as of January 1, 1989, and ~~each~~ at least once every five years thereafter. The analysis shall be prepared by an independent private organization or public entity which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Sec. 29. The city and the retirement committee shall develop a schedule of investment costs relating to the investment of the funds in each of the accounts in the Firefighters Retirement System Fund, which costs shall be paid out of the funds in such accounts or assessed to the firefighters as provided in such schedule. The schedule of investment costs shall provide for the allocation of the administrative or record-keeping costs of the various investment options available to the members of the retirement system and shall assess such costs so that each member pays a fair proportion of the costs based upon his or her choice of options and number of transfers among options. All other costs related to the general operation of the retirement system established pursuant to sections

16-1020 to 16-1038 and not allocated or assessed pursuant to the schedule of investment costs shall be considered administrative costs and shall be paid by the city from the unallocated employer account.

Sec. 30. That section 23-1118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1118. (1)(a) Unless the county has adopted a retirement system pursuant to section 23-2329, the county board of any county having a population of one hundred thousand inhabitants or more may, in its discretion and with the approval of the voters, provide retirement benefits for present and future employees of the county. The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary cost being treated in the county budget in the same way as any other operating expense. ~~Each~~

(b) Except as provided in subdivision (c) of this subsection, each employee shall be required to contribute, or have contributed on his or her behalf, an amount at least equal to the county's contribution to the cost of any such retirement program as to service performed after the adoption of such retirement program, but the cost of any benefits based on prior service shall be borne solely by the county.

(c) In a county having a population of two hundred thousand or more inhabitants but not more than three hundred thousand inhabitants, the county shall establish the employee and employer contribution rates to the retirement program for each year after the effective date of this act. The county shall contribute at least an amount equal to each employee's mandatory contribution, if any, to the cost of any such retirement program and by January 1, 1996, shall be contributing one hundred fifty percent of each employee's mandatory contribution. The combined contributions of the county and its employees to the cost of any such retirement program shall not exceed thirteen percent of the employees' salaries.

(2) Before the county board provides retirement benefits for the employees of the county, such question shall be submitted at a regular general or primary election held within the county, and in which election all persons eligible to vote for the county officials of the county shall be entitled to vote on such question, which shall be submitted in the following language: Shall the county board provide retirement benefits for present and future employees of the county?

If a majority of the votes cast upon such question ~~shall be~~ are in favor of such question, then the county board shall be empowered to provide retirement benefits for present and future employees as provided in this section. If such retirement benefits for present and future county employees are approved by the voters and authorized by the county board, then the funds of such retirement system, in excess of the amount required for current operations as determined by the county board, may be invested and reinvested in the class of securities and investments described in section 30-3209.

(3) As used in this section, employees shall mean all persons or officers devoting more than twenty hours per week to employment by the county, all elected officers of the county, and such other persons or officers as are classified from time to time as permanent employees by the county board.

~~(2)~~ (4) The county may pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date picked up.

Sec. 31. That section 24-703, Revised Statutes Supplement, 1991, be amended to read as follows:

24-703. (1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (10) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2) Each future member shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services to make a deduction of six percent on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the six percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) A Nebraska Retirement Fund for Judges fee of one dollar shall be taxed as costs in each civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts and the county courts. In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06. No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06. When collected by the clerk of the district or county court, such fees shall be paid to the director in charge of the

judges retirement system on forms prescribed by the board by the clerk within ten days after the close of each calendar quarter. Such director shall promptly thereafter remit the same to the state treasury. Upon the receipt thereof, the State Treasurer shall credit the same to the fund. No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits and for the expenses of administration.

(5) The fund shall consist of the total fund as of December 25, 1969, the contributions of members as provided in this section, all supplementary court fees as provided in subsection (3) of this section, and any required contributions of the state.

(6) Not later than January 1 of each year, the State Treasurer shall transfer to the fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30 in excess of member contributions for that fiscal year and court fees as provided in subsection (3) of this section, if any, for that fiscal year plus any required contributions of the state as provided in subsection (9) of this section.

(7) Benefits under the retirement system to members or to their beneficiaries shall be paid from the fund.

(8) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board.

(9) Not later than January 1 of each year, the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the retirement system as of June 30, 1988, by level payments up to January 1, 2000. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. Any change in the unfunded accrued liabilities due to benefit or assumption changes shall be fully funded over the average expected future service of the active members of the retirement system or by the first day of the twenty-sixth calendar year after the

date of the actuarial valuation which first recognized these changes, whichever occurs first. The change in the unfunded accrued liabilities shall be funded by level annual payments which shall be made over the lesser of twenty-five years or the average expected future service of the active members of the retirement system. If the unfunded accrued liability for the retirement system, determined under the entry age actuarial cost method, is zero or less than zero on any actuarial valuation date, then all prior unfunded accrued liability amounts shall be considered fully funded. Effective July 1, 1988, actuarial gains and losses shall be amortized over the expected future service of the active members as part of the annual normal cost.

(10) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the state or county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction either through a reduction in the compensation of the member or a combination of a reduction in compensation and offset against a future compensation increase. Member contributions picked up shall be treated for all purposes of sections 24-701 to 24-714 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 32. That section 24-710, Revised Statutes Supplement, 1991, be amended to read as follows:

24-710. (1) The retirement annuity of a judge who is an original member, who has not made the election provided for in subsection (8) of section 24-703 or section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her total years of service. The amount stated in this section shall be supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by sections 24-701 to 24-714 shall not exceed sixty-five percent of the final average compensation such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her total years of service, except that the monthly benefits received under this subsection shall not exceed sixty percent of the final average compensation such judge was receiving when he or she last served as such judge.

(3) Any member may, when filing an application as provided by the retirement system, elect to receive, in lieu of the normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under sections 24-701 to 24-714, any form of annuity which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board shall promptly after September 2, 1973, (a) adopt and promulgate appropriate rules and regulations establishing joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) Notwithstanding anything to the contrary in sections 24-701 to 24-714, the annual benefit payable

under such sections shall not at any time exceed the lesser of (a) ninety thousand dollars, as adjusted for cost-of-living adjustments announced by the Internal Revenue Service for each calendar year in which the adjustment is announced, actuarially reduced to reflect distributions prior to age sixty-two, or (b) one hundred percent of the member's average compensation for the highest three consecutive calendar years of service during which the member was an active member in the retirement system provided by sections 24-701 to 24-714. The maximum amount shall be adjusted, when necessary, as follows: (i) When the annual benefit is payable under the retirement system to a member in a form other than a straight life annuity or a qualified joint and survivor annuity, the maximum amount shall be adjusted to the equivalent of a straight life annuity beginning at the same age on the basis of the actuarial assumptions referred to in subsection (3) of this section; and (ii) when the annual benefit is payable under the retirement system to a member who has less than ten years of service under the retirement system, the maximum amount shall be multiplied by a fraction, the numerator of which is the member's number of years of service under the retirement system and the denominator of which is ten. For purposes of this subsection, qualified joint and survivor annuity means an annuity for the life of the member with not less than fifty percent nor more than one hundred percent of the amount the member was receiving being paid to the member's surviving spouse for the life of the spouse following the death of the member.

(5) A one-time cost-of-living adjustment shall be made for each retired judge and each surviving beneficiary who is receiving a retirement annuity as provided for in this section. The annuity shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increases shall not exceed three percent per year of retirement and the total increase shall not exceed two hundred fifty dollars per month.

Sec. 33. That section 84-1503, Revised Statutes Supplement, 1991, be amended to read as follows:

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

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the School Employees Retirement Act, the State Employees

Retirement Act, and sections 24-701 to 24-714 and 81-2014 to 81-2036;

(b) To hire a director to administer the systems under direction of the board. The director shall not be a member of the board. Salaries of the director and his or her employees shall be set by the board;

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

(d) To administer the deferred compensation program authorized in section 84-1504.

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

(a) With respect to the retirement systems for which the board invests funds, to use the services of the state investment officer or to select, on the basis of the most sound proposal or proposals received, after written notice of such proposition to all domestic companies, one or more life insurance companies, banks, trust companies, or investment managers authorized to do business in Nebraska to underwrite, serve as trustee, or manage investments for the retirement system and to enter into a contract or contracts with such company or companies in the name of the retirement system, except that if a bank, trust company, or investment manager is chosen as the primary carrier or investment manager, the funds shall be invested or reinvested in such securities and investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the life insurance company, bank, trust company, or investment manager has special skills or is named on the basis of representations of special skills or expertise, it is under a duty to use such skills;

(b) With respect to the retirement systems for which the board invests funds, to change underwriters, trustees, or investment managers if, in the judgment of the board, such action would be desirable. The cancellation notice may be given by telephone and shall be confirmed in writing within five days by the board or a designated person appointed by the board;

(c) To determine the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(d) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the county board in his or her county;

(e) To adopt and promulgate rules and regulations for the management of the board;

(f) To keep a complete record of all proceedings taken at any meeting of the board; ~~and~~

(g) To employ such actuarial and other assistance as may be necessary in the performance of its duties. An actuary employed by the board shall be a member of the American Academy of Actuaries; and

(h) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 31, 1992, and at intervals of not less than ten years and not more than fifteen years and shall be in such amounts as the Legislature shall direct.

(3) The board and the Nebraska Investment Council shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. Such analysis shall be prepared annually as of January 1. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement system. The analysis may be waived jointly by the board and the council for any retirement system with assets of less than ten million dollars. A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee.

Sec. 34. There is hereby created the Legislative Council Retirement Study Fund. The fund shall consist of money appropriated to it by the Legislature and transfers made pursuant to subdivision (2)(h) of section 84-1503. Money in the fund shall only be used for a comprehensive study of the retirement systems listed in subdivision (1)(a) of section 84-1503. Any money remaining in the fund eighteen months after the date of transfer shall be transferred by the State Treasurer back to the retirement systems for credit to the various retirement funds. Any money in the Legislative Council Retirement Study Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 35. The Revisor of Statutes shall assign section 29 of this act within sections 16-1020 to 16-1038, and any reference to sections 16-1020 to 16-1038 shall be construed to include section 29 of this act.

Sec. 36. That original sections 2-1603, 2-1604, 2-1605, 2-1606, 2-1607, 16-1002, 16-1004 to 16-1011, 16-1013, 16-1014, 16-1016, 16-1018, 16-1019, 16-1026, 16-1027, 16-1029, 16-1030, 16-1034 to 16-1037, and 23-1118, Reissue Revised Statutes of Nebraska, 1943, and sections 24-703, 24-710, and 84-1503, Revised Statutes Supplement, 1991, are repealed.