

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 686**

Introduced by Walz, 15.

Read first time January 18, 2023

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend section 16-1020,  
2 Reissue Revised Statutes of Nebraska; to adopt the Cities of the  
3 First Class Firefighters Cash Balance Retirement Act; to harmonize  
4 provisions; to provide severability; to repeal the original section;  
5 and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 44 of this act shall be known and may be  
2 cited as the Cities of the First Class Firefighters Cash Balance  
3 Retirement Act.

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

6           (1) Actuarial equivalent means the equality in value of the  
7 aggregate amounts expected to be received under different forms of an  
8 annuity payment. The mortality assumption used for purposes of converting  
9 the member cash balance account shall be a unisex mortality table that is  
10 recommended by the actuary and approved by the board following an  
11 actuarial experience study, a benefit adequacy study, or a plan  
12 valuation. The mortality table and actuarial factors in effect on the  
13 member's retirement date will be used to calculate the actuarial  
14 equivalency of any retirement benefit;

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

28           (5) Cash balance benefit means a member's retirement benefit that is  
29 equal to an amount based on annual employee contribution credits plus  
30 interest credits and, if vested, employer contribution credits plus  
31 interest credits and dividend amounts credited in accordance with

1 subsection (2) of section 30 of this act;

2 (6) City means a city of the first class that employs permanent  
3 full-time firefighters;

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

11 (b) Compensation in excess of the limitations set forth in section  
12 401(a)(17) of the Internal Revenue Code shall be disregarded;

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

15 (9) Date of hire means the first day of compensated service subject  
16 to retirement contributions;

17 (10) 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;

20 (11) Employee means a person employed as a firefighter with a city  
21 that is participating in the retirement system;

22 (12) Employee contribution credit means an amount equal to the  
23 member contribution amount required by sections 7 and 8 of this act;

24 (13) Employer means a city;

25 (14) Employer contribution credit means an amount equal to the  
26 employer contribution amount required by section 10 of this act;

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

1 termination;

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

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

6 (18) Funding agent means any bank, trust company, life insurance  
7 company, thrift institution, credit union, or investment management firm  
8 selected by the board to hold or invest the funds of the retirement  
9 system;

10 (19) Interest credit rate means the greater of:

11 (a) Five percent; or

12 (b) The applicable federal mid-term rate, as published by the  
13 Internal Revenue Service as of the first day of the calendar quarter for  
14 which interest credits are credited, plus one and one-half percent. Such  
15 rate shall be compounded annually;

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

29 (21) Member means a person who is participating in the retirement  
30 system;

31 (22) Member account means an account equal to the sum of the

1 employee account and, if vested, the employer account and dividend  
2 amounts credited in accordance with subsection (2) of section 30 of this  
3 act;

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

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

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

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

13 (27) Required beginning date means, for purposes of the deferral of  
14 distributions, April 1 of the year following the calendar year in which a  
15 member has:

16 (a)(i) Terminated employment with an employer; and

17 (ii)(A) Attained at least seventy and one-half years of age for a  
18 member who attained seventy and one-half years of age on or before  
19 December 31, 2019; or

20 (B) Attained at least seventy-two years of age for a member who  
21 attained seventy and one-half years of age on or after January 1, 2020;  
22 or

23 (b)(i) Terminated employment with an employer; and

24 (ii) Otherwise reached the date specified by section 401(a)(9) of  
25 the Internal Revenue Code and the regulations issued under such section;

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

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

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

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

3       (32)(a) Service means the actual total length of employment as an  
4 employee and is not deemed to be interrupted by:

5       (i) Temporary or seasonal suspension of service that does not  
6 terminate the employee's employment;

7       (ii) Leave of absence authorized by the employer for a period not  
8 exceeding twelve months;

9       (iii) Leave of absence because of disability; or

10       (iv) Military service, when properly authorized by the board.

11       (b) Service does not include any period of disability for which  
12 disability retirement benefits are received under section 28 of this act;

13       (33) Solvency means the rate of all contributions required pursuant  
14 to the First Class Cities Firefighters Retirement Act is equal to or  
15 greater than the actuarially required contribution rate as annotated in  
16 the most recent valuation report prepared by the actuary retained for the  
17 retirement system as provided in sections 21 and 30 of this act;

18       (34) Surviving spouse means:

19       (a) The spouse married to the member on the date of the member's  
20 death; or

21       (b) The spouse or former spouse of the member if survivorship rights  
22 are provided under a qualified domestic relations order filed with the  
23 board pursuant to the Spousal Pension Rights Act. The spouse or former  
24 spouse shall supersede the spouse married to the member on the date of  
25 the member's death as provided under a qualified domestic relations  
26 order. If the benefits payable to the spouse or former spouse under a  
27 qualified domestic relations order are less than the value of benefits  
28 entitled to the surviving spouse, the spouse married to the member on the  
29 date of the member's death shall be the surviving spouse for the balance  
30 of the benefits; and

31       (35) Termination of employment occurs on the date that a city that

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

19       Sec. 3. (1) It is the intent of the Legislature to improve the  
20 competitiveness of the retirement benefits paid to firefighters in cities  
21 of the first class by authorizing a cash balance benefit through the  
22 Cities of the First Class Firefighters Cash Balance Retirement Act on and  
23 after January 1, 2025.

24       (2) A retirement system shall be established to include each city of  
25 the first class that employs permanent full-time firefighters for the  
26 purpose of providing a retirement annuity or other benefits for employees  
27 as provided by the Cities of the First Class Firefighters Cash Balance  
28 Retirement Act. The retirement system shall be known as the Cash Balance  
29 Retirement System for Firefighters in Cities of the First Class, and by  
30 such name shall transact all business and hold all cash and other  
31 property as provided in the Cities of the First Class Firefighters Cash

1 Balance Retirement Act.

2       Sec. 4. (1) The membership of the retirement system shall be  
3 composed of all employees who (a) are employed by a city or were employed  
4 by a city, (b) elect to participate in the cash balance benefit, and (c)  
5 maintain an account balance with the retirement system.

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

9       (3) No employee of a city is authorized to participate in the  
10 retirement system provided for in the Cities of the First Class  
11 Firefighters Cash Balance Retirement Act unless the employee is a:

12       (a) Citizen of the United States; or

13       (b) Qualified alien under the federal Immigration and Nationality  
14 Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2023, and  
15 is lawfully present in the United States.

16       (4) Each employee who qualifies for membership in the retirement  
17 system pursuant to this section shall not be disqualified from membership  
18 in the retirement system solely because such employee also maintains  
19 separate employment that qualifies the employee for membership in another  
20 public retirement system, nor shall membership in this retirement system  
21 disqualify such an employee from membership in another public retirement  
22 system solely by reason of separate employment that qualifies such  
23 employee for membership in this retirement system.

24       (5) Cities shall ensure that employees authorized to participate in  
25 the retirement system pursuant to this section shall enroll and make  
26 required contributions to the retirement system immediately upon meeting  
27 the requirements to become a member of the retirement system. Information  
28 necessary to determine eligibility for membership in the retirement  
29 system shall be provided by the employer.

30       Sec. 5. (1) Each member who is an employee hired prior to November  
31 1, 2024, and participates in a retirement system established pursuant to



1 sections 16-1020 to 16-1042, shall make a one-time election beginning  
2 July 1, 2024, through October 31, 2024, either to continue participating  
3 in such retirement system or elect to participate in the cash balance  
4 benefit as set forth in this section.

5 (2) Each member who is an employee hired November 1, 2024, through  
6 December 31, 2024, and participates in a retirement system established  
7 pursuant to sections 16-1020 to 16-1042, shall make a one-time election  
8 prior to January 1, 2025, either to continue participating in such  
9 retirement system or elect to participate in the cash balance benefit as  
10 set forth in this section.

11 (3) If an election described in this section is not made, the  
12 employee shall be treated as though such employee elected to continue  
13 participating in a retirement system established pursuant to sections  
14 16-1020 to 16-1042.

15 (4) Each member who, pursuant to this section, elects to participate  
16 in the cash balance benefit shall commence participation in the cash  
17 balance benefit on January 1, 2025.

18 Sec. 6. (1)(a) Prior to April 1, 2024, each employer shall submit  
19 to the board a list of all employees who are eligible for participation  
20 in the retirement system. Such list shall include the name, address, and  
21 gross monthly wage of each such employee.

22 (b) For each employee hired after the submission of the list  
23 described in subdivision (a) of this subsection, each employer shall  
24 submit the name, address, and gross monthly wage of the employee to the  
25 board within ten days of the employee's date of hire.

26 (2) On or prior to January 1, 2025, each city shall transfer to the  
27 board for each employee who elected to participate in the cash balance  
28 benefit pursuant to section 5 of this act an amount not to exceed the  
29 employee and employer accounts of each such employee plus earnings during  
30 the period of participation in a retirement system established pursuant  
31 to sections 16-1020 to 16-1042. Each employee shall receive vesting

1 credit for such employee's years of service in a retirement system  
2 established pursuant to sections 16-1020 to 16-1042.

3 Sec. 7. (1)(a) Beginning January 1, 2025, the sum described in  
4 subdivision (b) of this subsection shall be paid in one of the following  
5 ways for each employee who is a member of the retirement system:

6 (i) The employee shall pay the calculated sum to the employer of  
7 such employee; or

8 (ii) The employer may pick up the calculated sum on behalf of the  
9 employee.

10 (b) The sum to be paid shall be the greater of the following:

11 (i) Six and one-half percent of the employee's compensation for each  
12 pay period; or

13 (ii) The percentage determined by the board of the employee's  
14 compensation for each pay period. The percentage determined by the board  
15 shall be greater than six and one-half percent if the board determines  
16 that a greater percentage is necessary to maintain the solvency of the  
17 retirement system. Such determination shall be done annually by the board  
18 based upon the recommendation of the actuary retained by the board.

19 (2) The contributions, although designated as employee  
20 contributions, shall be paid by the employer in lieu of employee  
21 contributions. The employer shall pick up the employee contributions  
22 required by this section, and such contributions shall be treated as  
23 employer contributions pursuant to section 414(h)(2) of the Internal  
24 Revenue Code in determining federal tax treatment under the code and  
25 shall not be included as gross income of the employee until such time as  
26 they are distributed or made available to the employee or the employee's  
27 beneficiary. The employer shall pay these employee contributions from the  
28 same source of funds used to pay earnings to the employee. The employer  
29 shall pick up these contributions by a compensation deduction through a  
30 reduction in the cash compensation of the employee. Employee  
31 contributions picked up shall be treated for all purposes of the Cities

1 of the First Class Firefighters Cash Balance Retirement Act in the same  
2 manner and to the extent as employee contributions made prior to the date  
3 picked up.

4       Sec. 8. Beginning January 1, 2025, each employee who is a member of  
5 the retirement system shall pay to or have picked up by the employee's  
6 employer, in addition to the sum calculated pursuant to section 7 of this  
7 act, a sum equal to one-half percent of such employee's compensation for  
8 each pay period. The contributions, although designated as employee  
9 contributions, shall be paid by the employer in lieu of employee  
10 contributions. The employer shall pick up the employee contributions  
11 required by this section, and the contributions so picked up shall be  
12 treated as employer contributions pursuant to section 414(h)(2) of the  
13 Internal Revenue Code in determining federal tax treatment under the code  
14 and shall not be included as gross income of the employee until such time  
15 as they are distributed or made available. The employer shall pay such  
16 employee contributions from the same source of funds used to pay earnings  
17 to the employee. The employer shall pick up such contributions by a  
18 compensation deduction through a reduction in the cash compensation of  
19 the employee. Employee contributions picked up shall be treated for all  
20 purposes of the Cities of the First Class Firefighters Cash Balance  
21 Retirement Act in the same manner and to the extent as employee  
22 contributions made prior to the date picked up.

23       Sec. 9. The retirement system shall not accept any money as  
24 contributions from members or cities, except the following:

25       (1) Mandatory contributions and fees established by sections 7, 8,  
26 and 10 of this act;

27       (2) Money that is a repayment of refunded contributions made  
28 pursuant to section 33 of this act;

29       (3) Contributions for military service credit made pursuant to  
30 section 37 of this act;

31       (4) Actuarially required contributions pursuant to subsection (2) of

1 section 30 of this act;

2 (5) Trustee-to-trustee transfers pursuant to section 40 of this act;  
3 and

4 (6) Corrections ordered by the board pursuant to section 22 of this  
5 act.

6 Sec. 10. Each city shall pay to the board or an entity designated  
7 by the board an amount equal to:

8 (1) Three hundred percent of the amount deducted from the  
9 compensation of each employee in accordance with subdivision (1)(b)(i) of  
10 section 7 of this act. Such amount is equal to one hundred percent of the  
11 contributions made by each employee plus two hundred percent of the  
12 contributions made by the employer;

13 (2) Three hundred percent of the amount deducted from the  
14 compensation of each employee in accordance with subdivision (1)(b)(ii)  
15 of section 7 of this act. Such amount is equal to one hundred percent of  
16 the contributions made by each employee plus two hundred percent of the  
17 contributions made by the employer; and

18 (3) The amounts deducted pursuant to section 8 of this act.

19 Sec. 11. (1) The board shall specify a due date for:

20 (a) Any report required by the Cities of the First Class  
21 Firefighters Cash Balance Retirement Act; and

22 (b) Any payment required pursuant to section 10 of this act.

23 (2) The board may charge an employer an administrative processing  
24 fee of twenty-five dollars for a report or payment described in  
25 subsection (1) of this section that is received later than the due date  
26 specified by the board for such report or payment.

27 (3)(a) Until a required payment described in subsection (1) of this  
28 section is received by the board, the board may charge an employer a late  
29 fee each day after such payment's due date. The late fee shall be used to  
30 make a member's account whole for any costs incurred by the member due to  
31 the late receipt of contributions.

1        (b) The late fee described in this subsection shall be the greater  
2 amount of the following:

3        (i) Thirty-eight thousandths of one percent of the amount of the  
4 late payment; or

5        (ii) The amount of all costs incurred by a member due to the late  
6 receipt of contributions for such member.

7        Sec. 12. All contributions to the retirement system, all property  
8 and rights purchased with the contributions, and all investment income  
9 attributable to the contributions, property, or rights shall be held in  
10 trust by the board for the exclusive benefit of members and their  
11 beneficiaries and shall only be used to pay benefits to such persons and  
12 to pay administrative expenses specified by the Cities of the First Class  
13 Firefighters Cash Balance Retirement Act.

14        Sec. 13. The Cities of the First Class Firefighters Cash Balance  
15 Retirement Contributions Fund is created. The fund shall be administered  
16 by the board and consist of money received pursuant to sections 7 and 10  
17 of this act. The board shall apply all money received pursuant to  
18 sections 7 and 10 of this act to the fund. All money in the fund  
19 available for investment shall be invested pursuant to the policies  
20 established by the Nebraska Investment Council.

21        Sec. 14. The Firefighters Retirement System Death and Disability  
22 Fund is created. The fund shall be administered by the board and consist  
23 of money received from payroll deductions pursuant to section 8 of this  
24 act. Money in the fund shall be used exclusively to provide death and  
25 disability benefits for employees and their beneficiaries specified in  
26 sections 28, 34, and 35 of this act. The board shall deposit the payroll  
27 deductions specified in section 8 of this act received from employers  
28 into the fund. All money in the fund available for investment shall be  
29 invested pursuant to the policies established by the Nebraska Investment  
30 Council.

31        Sec. 15. The Cities of the First Class Firefighters Cash Balance

1 Retirement Expense Fund is created. The fund shall be administered by the  
2 board and consist of money forfeited pursuant to section 32 of this act  
3 and money specified by the board. Except as provided in subsection (2) of  
4 section 30 of this act, such money may be used to pay the administrative  
5 expenses incurred by the board, the administrative expenses of the Cities  
6 of the First Class Firefighters Cash Balance Retirement Act, and the  
7 administrative and operational expenses of the retirement system. All  
8 money in the fund available for investment shall be invested pursuant to  
9 the policies established by the Nebraska Investment Council.

10       Sec. 16. The funds created in sections 13, 14, and 15 of this act  
11 shall be maintained apart from any other funds and shall be held in trust  
12 and administered exclusively for the purposes of the retirement system  
13 and for the benefit of members and their beneficiaries. The trustee or  
14 custodian of any trust fund shall be a designated funding agent which is  
15 qualified to act as a fiduciary or custodian in Nebraska.

16       Sec. 17. As directed and approved by the board, the trustee or  
17 custodian of the funds and securities of the retirement system may  
18 deposit the funds and securities in any financial institution. All  
19 disbursements from such financial institution shall be paid only upon  
20 vouchers signed by a person authorized by the board. The trustee or  
21 custodian shall transmit monthly to the board a detailed statement  
22 showing all credits to and disbursements from the funds in the custody of  
23 the custodian that belong to the retirement system.

24       Sec. 18. (1) For an employee participating in the retirement system  
25 on and after January 1, 2025, or an employee who elects to participate in  
26 the cash balance benefit pursuant to section 5 of this act:

27       (a) The employee account within the Cities of the First Class  
28 Firefighters Cash Balance Retirement Contributions Fund shall at all  
29 times be equal to the sum of the following:

30       (i) The initial employee account balance, if any, transferred from a  
31 retirement system described in sections 16-1020 to 16-1042;

1        (ii) Employee contribution credits deposited in accordance with  
2 section [XXXX] of this act;

3        (iii) Interest credits credited in accordance with subsection (19)  
4 of section 2 of this act; and

5        (iv) Dividend amounts credited in accordance with subdivision (2) of  
6 section 30 of this act; and

7        (b) The employer account shall at all times be equal to the sum of  
8 the following:

9        (i) The initial employer account balance, if any, transferred from a  
10 retirement system described in sections 16-1020 to 16-1042;

11        (ii) Employer contribution credits deposited in accordance with  
12 section 10 of this act;

13        (iii) Interest credits credited in accordance with subdivision (19)  
14 of section 2 of this act; and

15        (iv) Dividend amounts credited in accordance with subsection (2) of  
16 section 30 of this act.

17        (2) In order to carry out this section, the board may enter into  
18 administrative services agreements. No agreement shall be entered into  
19 unless the board determines that it will result in administrative economy  
20 and will be in the best interests of members and employers.

21        (3) The board may develop a schedule of costs for accounting or  
22 record-keeping services and may assess the costs so that each member pays  
23 a reasonable fee as determined by the board.

24        Sec. 19. (1) The Cities of the First Class Firefighters Cash  
25 Balance Retirement Board is created. It shall be the duty of the board to  
26 administer the Cities of the First Class Firefighters Cash Balance  
27 Retirement Act as provided in the act and to have responsibility for the  
28 investment management of the assets of the retirement system as provided  
29 in the act. The board shall have all powers necessary or appropriate for  
30 establishing, maintaining, managing, and administering the retirement  
31 system including the investment management of the assets of the

1 retirement system.

2 (2) The board may adopt and promulgate rules and regulations to  
3 carry out the Cities of the First Class Firefighters Cash Balance  
4 Retirement Act.

5 (3) The commissioners of the board shall be deemed fiduciaries with  
6 respect to the investment management of the assets and administration of  
7 the retirement system and shall be held to the standard of conduct of a  
8 fiduciary. As fiduciaries, the commissioners of the board shall discharge  
9 their duties with respect to the retirement system solely in the  
10 interests of the members and beneficiaries of the retirement system for  
11 the exclusive purposes of providing benefits to members and their  
12 beneficiaries and defraying reasonable expenses incurred within the  
13 limitations of and according to the powers, duties, and purposes  
14 prescribed by law at the time such duties are discharged. The  
15 commissioners of the board shall act with the care, skill, prudence, and  
16 diligence under the circumstances then prevailing that a prudent person  
17 acting in like capacity and familiar with such matters would use in the  
18 conduct of an enterprise of a like character and with like aims.

19 Sec. 20. (1) The board shall consist of the following nine  
20 commissioners:

21 (a)(i) Five commissioners elected by the active members employed as  
22 firefighters by a city. The commissioners elected by the active members  
23 shall be active or retired members.

24 (ii) Two of such commissioners first elected shall be elected for a  
25 term of two years and three of such commissioners first elected shall be  
26 elected for a term of four years.

27 (iii) As the term of each commissioner expires, the succeeding  
28 commissioner shall be elected to a term of four years. In the event of a  
29 vacancy of a commissioner, a replacement shall be elected for the  
30 remainder of the term; and

31 (b)(i) Four commissioners elected by agreement of the cities. The



1 commissioners elected by the cities are not required to be members. Any  
2 commissioner elected by the cities who is not a member shall have general  
3 knowledge regarding retirement plans.

4 (ii) Two of such commissioners shall be elected for a term of two  
5 years and two of such commissioners shall be elected for a term of four  
6 years.

7 (iii) As the term of a commissioner expires, the succeeding  
8 commissioner shall be elected to a term of four years. In the event of a  
9 vacancy of a commissioner, a replacement shall be elected for the  
10 remainder of the term.

11 (2) Commissioners shall serve without compensation, but shall be  
12 reimbursed for expenses incurred in the discharge of their official  
13 duties.

14 Sec. 21. In addition to other duties described in the Cities of the  
15 First Class Firefighters Cash Balance Retirement Act, it shall be the  
16 duty of the board to:

17 (1) Elect a chairperson, a vice-chairperson, and such other officers  
18 as determined by the board;

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

21 (3) Conduct meetings pursuant to the Open Meetings Act;

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

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

28 (6) Contract for services of an actuary who is a member of the  
29 American Academy of Actuaries and meets the academy's qualification  
30 standards to render a statement of actuarial opinion. Such actuary shall  
31 be the technical advisor of the board on matters regarding the operation

1 of the retirement system for the following matters:

2 (a) Making a general investigation of the retirement system  
3 annually. Such investigation shall cover mortality, retirement  
4 disability, employment, turnover, interest, and earnable compensation;

5 (b) Recommending tables to use for all required actuarial  
6 calculations;

7 (c) Preparing an annual actuarial valuation report of the plan  
8 administered by the board. Such report shall be presented by the actuary  
9 to the Nebraska Retirement Systems Committee of the Legislature at a  
10 public hearing or hearings; and

11 (d) Perform other duties specified under the Cities of the First  
12 Class Firefighters Cash Balance Retirement Act or as may be assigned by  
13 the board;

14 (7) Obtain an experience study beginning in 2029 and at least every  
15 four years thereafter or at the request of the Nebraska Retirement  
16 Systems Committee of the Legislature. Such study shall be presented to  
17 the Nebraska Retirement Systems Committee at a public hearing; and

18 (8)(a) Administer the retirement system plan in a manner that will  
19 maintain the status of the plan as a qualified plan pursuant to the  
20 Internal Revenue Code, including:

21 (i) Section 401(a)(9) of the Internal Revenue Code relating to the  
22 time and manner in which benefits are required to be distributed,  
23 including the incidental death benefit distribution requirement of  
24 section 401(a)(9)(G) of the Internal Revenue Code;

25 (ii) Section 401(a)(25) of the Internal Revenue Code relating to the  
26 specification of actuarial assumptions;

27 (iii) Section 401(a)(31) of the Internal Revenue Code relating to  
28 direct rollover distributions from eligible retirement plans;

29 (iv) Section 401(a)(37) of the Internal Revenue Code relating to the  
30 death benefit of a member whose death occurs while performing qualified  
31 military service; and

1       (v) Section 401(a) of the Internal Revenue Code by meeting the  
2 requirements of section 414(d) of the Internal Revenue Code relating to  
3 the establishment of retirement plans for governmental employees of a  
4 state or political subdivision.

5       (b) The board may adopt and promulgate rules and regulations to  
6 maintain such status, including restricting discretionary or optional  
7 contributions to a plan and limiting distributions from a plan.

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

21       (2) The board shall have the power to make a thorough investigation  
22 of any overpayment of a benefit, including circumstances in which benefit  
23 payments were made after the death of a member or beneficiary and the  
24 retirement system was not made aware of the death of such member or  
25 beneficiary. In connection with any such investigation, the board shall  
26 have the power to compel the attendance of witnesses and the production  
27 of books, papers, records, and documents, whether in hardcopy, electronic  
28 form, or otherwise, and issue subpoenas for such purposes. Such subpoenas  
29 shall be served in the same manner and have the same effect as subpoenas  
30 from district courts.

31       Sec. 23. (1) The board shall keep a complete record of all members

1 with respect to names, current addresses, ages, contributions, and any  
2 other facts as may be necessary in the administration of the Cities of  
3 the First Class Firefighters Cash Balance Retirement Act. The information  
4 in the records shall be provided by the employer in an accurate and  
5 verifiable form. The board shall, from time to time, carry out testing  
6 procedures to verify the accuracy of such information. For the purpose of  
7 obtaining such facts and information, each city shall grant the board  
8 access to its records and the holder of the records shall comply with a  
9 request by the board for access by providing requested facts and  
10 information to the board in a timely manner. A certified copy of a birth  
11 certificate or delayed birth certificate shall be prima facie evidence of  
12 the age of the person named in the certificate.

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

17 Sec. 24. The Auditor of Public Accounts shall audit the retirement  
18 system annually and provide an annual report to the board and to the  
19 Clerk of the Legislature of the condition of the retirement system. The  
20 report submitted to the Clerk of the Legislature shall be submitted  
21 electronically. Each member of the Legislature shall receive an  
22 electronic copy of such report by making a request for such report to  
23 either the Auditor of Public Accounts or the board.

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

27 (2) The member shall specify in the application for benefits the  
28 manner in which such member wishes to receive the retirement benefit  
29 under the options provided by the Cities of the First Class Firefighters  
30 Cash Balance Retirement Act. Payment for benefits shall be made for:

31 (a) Annuities, no sooner than the annuity start date; and

1       (b) Other distributions, no sooner than the date of final account  
2 value.

3       (3) Payment of any benefit provided under the retirement system  
4 shall not be deferred later than the required beginning date.

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

14       Sec. 26. The retirement value for any employee who retires under  
15 the provisions of section 25 of this act shall be the benefit provided in  
16 section 18 of this act as of the date of final account value.

17       Sec. 27. (1) The retirement benefit shall be an annuity, payable  
18 monthly with the first payment made no earlier than the annuity start  
19 date, which shall be the actuarial equivalent of the retirement value as  
20 specified in section 30 of this act based on factors determined by the  
21 board, except that gender shall not be a factor when determining the  
22 amount of such payments pursuant to subsection (2) of this section.  
23 Except as provided in section 42-1107, at any time before the annuity  
24 start date, the retiring member may choose to receive such member's  
25 annuity either in the form of an annuity as provided under subsection (3)  
26 of this section or any optional form that is determined by the board.  
27 Except as provided in section 42-1107, in lieu of the retirement annuity,  
28 a retiring member may receive a benefit not to exceed the amount in such  
29 member's employee and employer accounts as of the date of final account  
30 value payable in a lump sum and, if the member chooses not to receive the  
31 entire amount in such accounts, an annuity equal to the actuarial

1 equivalent of the remainder of the retirement value, and the member may  
2 choose any form of such annuity as provided for by the board. Except as  
3 provided in this section, the amount of the monthly payment shall be such  
4 that the annuity chosen shall be the actuarial equivalent of the  
5 retirement value specified in section 30 of this act.

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

10 (3)(a) The normal form of payment shall be a single life annuity  
11 with five-year certain, which is an annuity payable monthly during the  
12 remainder of the member's life with the provision that, in the event of  
13 such member's death before sixty monthly payments have been made, the  
14 monthly payments will be continued to such member's estate or to the  
15 designated beneficiary until sixty monthly payments have been made in  
16 total. Such annuity shall be equal to the actuarial equivalent of the  
17 member cash balance account or the sum of the employee and employer  
18 accounts, whichever is applicable, as of the date of final account value.

19 (b) As a part of the annuity, the normal form of payment may include  
20 a two and one-half percent cost-of-living adjustment purchased by the  
21 member, if the member elects such a payment option.

22 (c) Except as provided in section 42-1107, a member may elect a  
23 lump-sum distribution of such member's cash balance account as of the  
24 date of final account value upon termination of service or retirement.

25 (d) For a member employed and participating in a retirement system  
26 established pursuant to sections 16-1020 to 16-1042 who elected to  
27 participate in the cash balance benefit pursuant to section 5 of this act  
28 or for a member employed and participating in the retirement system  
29 beginning on and after January 1, 2025, the balance of such member's  
30 account shall be converted to an annuity using an interest rate used in  
31 the actuarial valuation as recommended by the actuary and approved by the

1 board.

2 (4) At the option of the retiring member, any lump sum or annuity  
3 provided under this section may be deferred to commence at any time,  
4 except that no benefit shall be deferred later than the required  
5 beginning date. Such election by the retiring member may be made at any  
6 time prior to the commencement of the lump sum or annuity payments.

7 Sec. 28. (1) Except as provided in subsection (3) of this section  
8 for temporary disability, if any member becomes disabled, such member  
9 shall be placed upon the roll of pensioned members at the regular  
10 retirement pension of fifty percent of regular pay for the period of such  
11 disability.

12 (2) No disability benefit payment shall be made except upon adequate  
13 proof furnished to the board consisting of a medical examination  
14 conducted by a competent, disinterested physician who is duly licensed to  
15 practice medicine and surgery in Nebraska and who certifies to the board  
16 that the member is unable to perform the duties of an employee. During  
17 the first three years of the payment of such benefits, the board shall  
18 have the right, at reasonable times, to require the disabled member to  
19 undergo a medical examination at the expense of the board to determine  
20 the continuance of the disability claimed. After such three-year period,  
21 the board may request the district court to order the member to submit  
22 proof of the continuance of the disability claimed if the board has  
23 reasonable grounds to believe the member is fraudulently receiving  
24 disability payments. The board shall have the right to demand a physical  
25 examination of the member by a competent, disinterested physician who is  
26 duly licensed to practice medicine and surgery in Nebraska and who is  
27 chosen by the board. The board shall pay for the expense of such  
28 examination.

29 (3) In the case of a temporary disability of a member sustained  
30 while in the line of duty, such member shall receive the member's salary  
31 during the continuance of such disability for a period not to exceed

1 twelve months, except that if it is ascertained by the board within  
2 twelve months that the temporary disability has become a disability, then  
3 the member's salary shall cease and such member shall be entitled to the  
4 benefits for pensions for disability as provided in this section.

5 (4) All payments of pension or salary provided in this section shall  
6 be subject to deduction of amounts paid under the Nebraska Workers'  
7 Compensation Act. Total payments to a disabled member, in excess of  
8 amounts paid as workers' compensation benefits, shall not be less than  
9 the amount necessary to pay the disabled member the fifty percent  
10 disability benefit described in this section. In the event the retirement  
11 value at the date of disability exceeds the actuarial equivalent of the  
12 disability pension, after deduction of amounts paid under the Nebraska  
13 Workers' Compensation Act, that amount shall be paid as an annuity to the  
14 disabled member in addition to the disability retirement provided in this  
15 section. The city shall contribute such additional amounts as necessary,  
16 from time to time, to provide for the required disability pension. Such  
17 amounts may utilize funds as necessary from the Firefighters Retirement  
18 System Death and Disability Fund.

19 (5) If a member who was receiving a pension under this section is  
20 later determined to be no longer disabled, the pension provided for under  
21 this section shall terminate and the member's vested retirement value  
22 shall be reduced by the amount of all disability payments made to the  
23 member from the retirement system relating to such disability. Such  
24 member's vested retirement value shall then be held and administered in  
25 the same manner as nondisabled members or former members.

26 (6) If a member received a pension under this section and is  
27 determined within the first three years of receiving disability benefit  
28 payments to no longer be disabled, the member may continue employment  
29 with the employer under the following conditions:

30 (a) If a vacancy exists in the fire department for which the member  
31 is qualified and the member wishes to return to the fire department, the



1 city shall employ the member to fill the vacancy at a pay grade of not  
2 less than the member's previous pay grade; or

3 (b) If no vacancy exists in the fire department and the member  
4 wishes to return to the fire department, the city shall place the member  
5 on a waiting list and employ the member at a pay grade of not less than  
6 the member's previous pay grade when a vacancy occurs for which the  
7 member is qualified. The provisions of this subsection shall not apply to  
8 a member whose disability benefit payments are terminated because of  
9 fraud on the part of the member.

10 Sec. 29. No member shall be entitled during any period of temporary  
11 disability to receive in full both the member's salary and benefits under  
12 the Nebraska Workers' Compensation Act. All workers' compensation  
13 benefits shall be payable in full to such member as provided in the  
14 Nebraska Workers' Compensation Act, but all amounts paid by the employer  
15 or its insurer under the Nebraska Workers' Compensation Act to any  
16 disabled member entitled to receive a salary during a period of  
17 disability shall be considered as payments on account of and credited as  
18 such salary. The remaining unpaid balance of such salary, if any, shall  
19 be payable as otherwise provided in the Cities of the First Class  
20 Firefighters Cash Balance Retirement Act.

21 Sec. 30. (1) For the calendar year ending December 31, 2025, and  
22 each subsequent calendar year, the actuary for the board shall perform an  
23 actuarial valuation of the retirement system using the entry age  
24 actuarial cost method. Under this method, the actuarially required  
25 funding rate is equal to the normal cost rate plus the contribution rate  
26 necessary to amortize the unfunded actuarial accrued liability on a  
27 level-payment basis. The normal cost under this method shall be  
28 determined for each individual member on a level percentage of salary  
29 basis. The normal cost amount is then totaled for all members. The  
30 initial unfunded actuarial accrued liability as of January 1, 2025, if  
31 any, shall be amortized over a twenty-five-year period. During each

1 subsequent actuarial valuation, changes in the unfunded actuarial accrued  
2 liability due to changes in benefits, actuarial assumptions, the asset  
3 valuation method, or actuarial gains or losses shall be measured and  
4 amortized over a twenty-five-year period beginning on the valuation date  
5 of such change. If the unfunded actuarial accrued liability under the  
6 entry age actuarial cost method is zero or less than zero on an actuarial  
7 valuation date, then all prior unfunded actuarial accrued liabilities  
8 shall be considered fully funded and the unfunded actuarial accrued  
9 liability shall be reinitialized and amortized over a twenty-five-year  
10 period as of the actuarial valuation date. If the actuarially required  
11 contribution rate exceeds the rate of the contributions required pursuant  
12 to subdivision (1)(b)(i) of section 7 of this act and section 10 of this  
13 act, the employee contribution rate shall be adjusted pursuant to  
14 subdivision (1)(b)(ii) of section 7 of this act so it is equal to the  
15 actuarially required contribution rate as annotated in the most recent  
16 valuation report prepared by the actuary retained for the retirement  
17 system.

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

31 Sec. 31. (1) Except as provided in section 42-1107, upon

1 termination of employment other than retirement or disability and after  
2 filing an application with the board, a member may receive:

3 (a) If not vested, a termination benefit equal to the amount of the  
4 member's employee account payable in a lump sum or an annuity with the  
5 lump-sum or first annuity payment made at any time after termination but  
6 no later than the required beginning date; or

7 (b) If vested, a termination benefit equal to:

8 (i) The amount of such member's member account. Such amount shall be  
9 payable in a lump sum or an annuity with the lump-sum or first annuity  
10 payment made at any time after termination but no later than the required  
11 beginning date; or

12 (ii)(A) The amount of such member's member account. Such amount  
13 shall be payable in a lump sum or an annuity with the lump-sum or first  
14 annuity payment made at any time after termination but no later than the  
15 required beginning date; and

16 (B) The amount of such member's employer account payable in a lump  
17 sum or an annuity with the lump-sum or first annuity payment made at any  
18 time after termination but no later than the required beginning date. The  
19 member account of a terminating member shall be retained by the board,  
20 and the termination benefit shall be deferred until a valid application  
21 for benefits has been received.

22 (2) At the option of the terminating member, any payment provided  
23 under subsection (1) of this section of (a) a lump sum of the member  
24 account or (b) an annuity, shall commence as of the first of the month at  
25 any time after such member has terminated employment with the employer  
26 and no later than the required beginning date.

27 (3) Members of the retirement system shall be fully vested after a  
28 total of seven years of participation in the retirement system as a  
29 member, including vesting credit. If the member has less than four years  
30 of participation, the vesting percentage is zero. The vesting percentage  
31 is forty percent at four years of participation, sixty percent at five

1 years of participation, and eighty percent at six years of participation.  
2 If a member retires pursuant to section 25 of this act, such member shall  
3 be fully vested in the retirement system regardless of the number of  
4 years of participation.

5 Sec. 32. (1) For a member who has terminated employment and is not  
6 fully vested, the balance of the member's employer account shall be  
7 forfeited. The forfeited account shall be credited to the Cities of the  
8 First Class Firefighters Cash Balance Retirement Fund. The money in such  
9 account shall first be used to meet the expense charges incurred by the  
10 board in connection with administering the retirement system. Such  
11 charges shall be credited to the Cities of the First Class Firefighters  
12 Cash Balance Retirement Expense Fund. The remainder of the money in such  
13 account, if any, shall be used to restore employer accounts. Except as  
14 provided in subsection (2) of section 30 of this act, no forfeited  
15 amounts shall be applied to increase the benefits any member would  
16 otherwise receive under the Cities of the First Class Firefighters Cash  
17 Balance Retirement Act.

18 (2) If a member ceases to be an employee due to the termination of  
19 the member's employment by the employer and a grievance or other appeal  
20 of such termination is filed, transactions involving forfeiture of such  
21 member's employer account and transactions for payment of benefits under  
22 sections 25 and 31 of this act shall be suspended pending the final  
23 outcome of the grievance or other appeal.

24 Sec. 33. (1) Except as otherwise provided in this section, a member  
25 of the retirement system who has a break in service of five years or more  
26 shall, upon reemployment, be considered a new employee with respect to  
27 the Cities of the First Class Firefighters Cash Balance Retirement Act  
28 and shall not receive credit for service prior to such member's  
29 reemployment date.

30 (2)(a) A member who ceases to be an employee before becoming  
31 eligible for retirement under section 25 of this act and again becomes a

1 permanent full-time employee prior to having a break in service of five  
2 years or more shall immediately be reenrolled in the retirement system  
3 and resume making contributions. For purposes of vesting employer  
4 contributions made prior to and after the reentry into the retirement  
5 system under subdivision (2) of section 31 of this act, years of  
6 participation include years of participation prior to such member's  
7 original termination. For a member who is not vested and has received a  
8 termination benefit pursuant to section 32 of this act, the years of  
9 participation prior to such member's original termination shall be  
10 limited in a ratio equal to the amount that the member repays divided by  
11 the termination benefit withdrawn pursuant to section 32 of this act.

12 (b) The reemployed member may repay the value of, or a portion of  
13 the value of, the termination benefit withdrawn pursuant to section 32 of  
14 this act. A reemployed member who elects to repay all or a portion of the  
15 value of the termination benefit withdrawn pursuant to section 32 of this  
16 act shall repay the actual earnings on such value. Repayment of the  
17 termination benefit shall commence within three years of reemployment and  
18 shall be completed within five years of reemployment or prior to  
19 termination of employment, whichever occurs first, through:

20 (i) Direct payments to the retirement system;

21 (ii) Installment payments made pursuant to a binding irrevocable  
22 payroll deduction authorization made by the member;

23 (iii) An eligible rollover distribution as provided under the  
24 Internal Revenue Code; or

25 (iv) A direct rollover distribution made in accordance with section  
26 401(a)(31) of the Internal Revenue Code.

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

1           (3) For a member who retired pursuant to section 25 of this act and  
2 becomes a permanent full-time employee with an employer more than one  
3 hundred twenty days after such member's retirement date, the member shall  
4 continue receiving retirement benefits. Such a retired member or a  
5 retired member who received a lump-sum distribution of such member's  
6 benefit shall be considered a new employee as of the date of reemployment  
7 and shall not receive credit for any service prior to the member's  
8 retirement for purposes of the Cities of the First Class Firefighters  
9 Cash Balance Retirement Act.

10           (4) A member who is reinstated as an employee pursuant to a  
11 grievance or appeal of such member's termination by the employer shall be  
12 a member upon reemployment and shall not be considered to have a break in  
13 service for such period of time that the grievance or appeal was pending.

14           Sec. 34. (1) If a member dies from causes other than in the line of  
15 duty and prior to the commencement of retirement benefits, except as  
16 provided in subsection (2) of this section, the entire member account  
17 shall be payable to the beneficiary or beneficiaries specified by the  
18 deceased member prior to such member's death or to the deceased member's  
19 estate in the event that no beneficiary was specified. The member account  
20 or portion thereof may be received by the beneficiary in the form of a  
21 single lump-sum payment, a straight life annuity, or any other optional  
22 form of benefit specified in the retirement system's funding medium. In  
23 the event that benefits are paid in the form of an annuity, such annuity  
24 shall be the amount provided by the annuity contract purchased or  
25 otherwise provided by the amount of retirement value to be paid to the  
26 beneficiary as of the date of the first payment. Upon the payment of a  
27 lump-sum distribution or the purchase and distribution of such annuity  
28 contract to the beneficiary, all obligations of the retirement system to  
29 the beneficiary shall terminate without exception.

30           (2) If a member enters and is still in military service and dies (a)  
31 from causes other than in the line of duty as an employee of the

1 employer, (b) after becoming fifty years of age, (c) before electing to  
2 retire, and (d) after serving in the paid fire department of such  
3 employer for at least twenty-one years, then a pension of at least  
4 twenty-five percent of such member's regular pay in the form of a  
5 straight life annuity shall be paid to the surviving spouse or minor  
6 children of such deceased member. If the deceased member is not survived  
7 by a spouse or in the event such surviving spouse dies before the minor  
8 children of such member attain the age of majority, such pension benefit  
9 shall be paid to the member's minor children until they have attained the  
10 age of majority. Each such child shall share equally in the total pension  
11 benefit to the age of majority, except that as soon as a child attains  
12 the age of majority, such pension benefit to such child shall cease and  
13 be reallocated among the remaining minor children until the last  
14 remaining child dies or reaches the age of majority. In the event that  
15 the actuarial equivalent of the pension benefit payable under this  
16 subsection exceeds the retirement value at the time of the first payment,  
17 the board shall utilize such money as may be necessary from the  
18 Firefighters Retirement System Death and Disability Fund to purchase or  
19 provide for the required pension benefit. In the event a deceased member  
20 described in this subsection is not survived by a spouse or minor  
21 children, such member's death benefits shall be provided under the  
22 provisions of subsection (1) of this section as if such member was not  
23 employed by the city on January 1, 1984.

24 (3) In the event the surviving spouse or minor children of such  
25 deceased member dies before the aggregate amount of pension payments  
26 received by the member and such member's surviving beneficiaries, if any,  
27 equals the total amount in the member's employee account at the time of  
28 the first benefit payment, the difference between such total amount in  
29 the employee's account and the aggregate amount of pension payments  
30 received by the retired member and such member's surviving beneficiaries,  
31 if any, shall be paid in a single lump-sum payment to the member's

1 surviving beneficiaries, or in the absence of a surviving beneficiary, to  
2 such member's estate.

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

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

10 Sec. 35. (1) Prior to commencement of retirement benefits, if any  
11 member dies in the line of duty or in case death is caused by or is the  
12 result of injuries received while in the line of duty and such member is  
13 not survived by a spouse or minor children, the entire member account  
14 shall be payable to the beneficiary or beneficiaries specified by the  
15 deceased member prior to such member's death or to the deceased member's  
16 estate in the event that no beneficiary was specified. The entire member  
17 account or a portion of the member account may be paid in the form of a  
18 single lump-sum payment, a straight life annuity, or any other optional  
19 form of benefit specified in the retirement system's funding medium. In  
20 the event that the actuarial equivalent of the pension benefit payable  
21 under this subsection exceeds the retirement value at the time of the  
22 first payment, the board shall utilize such funds as may be necessary  
23 from the Firefighters Retirement System Death and Disability Fund to  
24 purchase or provide for the required pension benefit. For a member who is  
25 survived by a spouse or minor children, a retirement pension of fifty  
26 percent of regular pay shall be paid to the surviving spouse or, upon the  
27 remarriage or death of the surviving spouse, to the minor child or  
28 children during such child's or children's minority subject to deduction  
29 of the amounts paid as workers' compensation benefits on account of death  
30 as provided in section 29 of this act. Each such child shall share  
31 equally in the total pension benefit to the age of majority, except that



1 as soon as a child attains the age of majority, such pension benefit to  
2 such child shall cease and be reallocated among the remaining minor  
3 children until the last remaining child dies or reaches the age of  
4 majority.

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

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

18 (4) To the extent that the retirement value at the date of death  
19 exceeds the amount required to purchase the specified retirement pension,  
20 reduced by any amounts paid as workers' compensation benefits, the excess  
21 shall be paid in the manner provided in subsection (1) of section 34 of  
22 this act.

23 Sec. 36. Annuities or benefits which any person shall be entitled  
24 to receive under the Cities of the First Class Firefighters Cash Balance  
25 Retirement Act shall not be subject to garnishment, attachment, levy, the  
26 operation of bankruptcy or insolvency laws, or any other process of law  
27 whatsoever and shall not be assignable except to the extent that such  
28 annuities or benefits are subject to a qualified domestic relations order  
29 under the Spousal Pension Rights Act.

30 Sec. 37. (1) Any member who, while an employee, entered into and  
31 served in the armed forces of the United States and who within ninety

1 days after honorable discharge or honorable separation from active duty  
2 again became an employee shall be credited, for the purposes of section  
3 18 of this act, with all of the time actually served in the armed forces  
4 as if such person had been an employee throughout such service in the  
5 armed forces pursuant to the terms and conditions of subsection (2) of  
6 this section.

7 (2) Under such rules and regulations as the board adopts and  
8 promulgates, a member who is reemployed pursuant to 38 U.S.C. 4301 et  
9 seq., may pay to the retirement system an amount equal to the sum of all  
10 deductions which would have been made from the member's compensation  
11 during such period of military service. Payment shall be made within the  
12 period required by law, not to exceed five years. If such payment is  
13 made:

14 (a) The member shall be treated as not having incurred a break in  
15 service for the period of military service;

16 (b) The period of military service shall be credited for the  
17 purposes of determining the nonforfeitability of the member's accrued  
18 benefits and the accrual of benefits under the plan; and

19 (c) The employer shall allocate the amount of employer contributions  
20 to the member's employer account in the same manner and to the same  
21 extent as allocations for other members during the period of service. For  
22 purposes of employee and employer contributions under this section, the  
23 member's compensation during the period of military service shall be the  
24 rate the member would have received but for the military service or, if  
25 not reasonably determinable, the average rate the member received during  
26 the twelve-month period immediately preceding military service.

27 (3) The employer shall pick up the employee contributions made  
28 through irrevocable payroll deduction authorizations pursuant to this  
29 section, and the contributions so picked up shall be treated as employer  
30 contributions in the same manner as contributions picked up under  
31 sections 7, 8, and 10 of this act.

1           Sec. 38. (1) For purposes of this section and section 39 of this  
2 act:

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

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

9           (c) Eligible retirement plan means:

10           (i) An individual retirement account described in section 408(a) of  
11 the Internal Revenue Code;

12           (ii) An individual retirement annuity described in section 408(b) of  
13 the Internal Revenue Code, except for an endowment contract;

14           (iii) A qualified plan described in section 401(a) of the Internal  
15 Revenue Code;

16           (iv) An annuity plan described in section 403(a) or 403(b) of the  
17 Internal Revenue Code;

18           (v) Except for purposes of section 29 of this act, an individual  
19 retirement plan described in section 408A of the Internal Revenue Code;  
20 and

21           (vi) A plan described in section 457(b) of the Internal Revenue Code  
22 that is maintained by a governmental employer. For eligible rollover  
23 distributions to a surviving spouse, an eligible retirement plan means  
24 subdivisions (1)(c)(i) through (vi) of this section; and

25           (d) Eligible rollover distribution means any distribution to a  
26 distributee of all or any portion of the balance to the credit of the  
27 distributee in the plan, except such term shall not include any  
28 distribution which is one of a series of substantially equal periodic  
29 payments, not less frequently than annually, made for the life of the  
30 distributee or joint lives of the distributee and the distributee's  
31 beneficiary or for the specified period of ten years or more and shall

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

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

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

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

23 (5) The board may adopt and promulgate rules and regulations for  
24 direct rollover procedures that are consistent with section 401(a)(31) of  
25 the Internal Revenue Code and that include the form and time of direct  
26 rollover distributions.

27 Sec. 39. (1) The retirement system may accept cash rollover  
28 contributions from a member who is making payments pursuant to section 33  
29 of this act if the contributions do not exceed the amount authorized to  
30 be paid by the member pursuant to such section, and the contributions  
31 represent:

1       (a) All or a portion of the balance of the member's interest in a  
2 qualified plan under section 401(a) of the Internal Revenue Code; or

3       (b) The interest of the member from an individual retirement account  
4 or an individual retirement annuity, the entire amount of which is  
5 attributable to a qualified total distribution as defined in the Internal  
6 Revenue Code, from a qualified plan under section 401(a) of the code and  
7 qualified as a tax-free rollover amount. The member's interest under  
8 subdivision (a) or (b) of this subsection must be transferred to the  
9 retirement system within sixty days from the date of the distribution  
10 from the qualified plan, individual retirement account, or individual  
11 retirement annuity.

12       (2) Cash transferred to the retirement system as a rollover  
13 contribution shall be deposited as other payments made under section 33  
14 of this act.

15       (3) Under the same conditions as provided in subsection (1) of this  
16 section, the retirement system may accept eligible rollover distributions  
17 from:

18       (a) An annuity contract described in section 403(b) of the Internal  
19 Revenue Code;

20       (b) A plan described in section 457(b) of the Internal Revenue Code  
21 that is maintained by a state, a political subdivision of a state, or any  
22 agency or instrumentality of a state or political subdivision of a state;  
23 and

24       (c) The portion of a distribution from an individual retirement  
25 account or individual retirement annuity described in sections 408(a) and  
26 408(b) of the Internal Revenue Code that is eligible to be rolled over  
27 and would otherwise be included in gross income. Amounts accepted  
28 pursuant to this subsection shall be deposited in the same manner as all  
29 other payments under this section.

30       (4) The retirement system may accept direct rollover distributions  
31 made from a qualified plan pursuant to section 401(a)(31) of the Internal

1 Revenue Code. The direct rollover distribution shall be deposited in the  
2 same manner as all other payments under this section.

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

6 Sec. 40. The retirement system may accept a direct trustee-to-  
7 trustee transfer as payment for withdrawn amounts made pursuant to the  
8 Cities of the First Class Firefighters Cash Balance Retirement Act. Such  
9 transfer shall be from the following:

10 (1) An eligible tax-sheltered annuity plan described in section  
11 403(b) of the Internal Revenue Code; or

12 (2) An eligible deferred compensation plan described in section  
13 457(b) of the Internal Revenue Code on behalf of a member who is making  
14 payments for such amounts. The amount transferred shall not exceed the  
15 amount withdrawn and such transferred amount shall qualify as a purchase  
16 by the member of permissive service credit as defined in section 415 of  
17 the Internal Revenue Code.

18 Sec. 41. Employees who become members of the retirement system  
19 shall not lose their status as members while they remain members of the  
20 retirement system.

21 Sec. 42. Any person who, knowing it to be false or fraudulent,  
22 presents or causes to be presented a false or fraudulent claim or benefit  
23 application, any false or fraudulent proof in support of such a claim or  
24 benefit, or false or fraudulent information which would affect a future  
25 claim or benefit application under the retirement system for the purpose  
26 of defrauding or attempting to defraud the retirement system shall be  
27 guilty of a Class II misdemeanor. The board shall deny any benefits that  
28 it determines are based on false or fraudulent information and shall have  
29 a cause of action against the member to recover any benefits already paid  
30 on the basis of such information.

31 Sec. 43. The retirement system may sue or be sued in the name of

1 the system. Every claim and demand under the Cities of the First Class  
2 Firefighters Cash Balance Retirement Act and against the retirement  
3 system or the board shall be forever barred unless the action is brought  
4 within two years of the time the claim accrued.

5 Sec. 44. Upon termination or partial termination of the retirement  
6 system or upon complete discontinuance of contributions under the  
7 retirement system, the rights of all affected members to the amounts  
8 credited to the members' accounts shall be nonforfeitable.

9 Sec. 45. Section 16-1020, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 16-1020 ~~Sections Except as provided in section 16-1039, sections~~  
12 16-1020 to 16-1038 shall apply to all firefighters of a city of the first  
13 class, except: -

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

15 (2) For any person employed as a firefighter by a city of the first  
16 class:

17 (a) First hired by such city on or after January 1, 2025; or

18 (b) First hired by such city prior to January 1, 2025, and who  
19 elected to participate in the Cities of the First Class Firefighters Cash  
20 Balance Retirement Act pursuant to section 5 of this act.

21 Sec. 46. If any section in this act or any part of any section is  
22 declared invalid or unconstitutional, the declaration shall not affect  
23 the validity or constitutionality of the remaining portions.

24 Sec. 47. Original section 16-1020, Reissue Revised Statutes of  
25 Nebraska, is repealed.

26 Sec. 48. Since an emergency exists, this act takes effect when  
27 passed and approved according to law.