

LEGISLATIVE BILL 574

Approved by the Governor June 1, 1995

Introduced by Wickersham, 49

AN ACT relating to the Internal Revenue Code; to amend sections 8-1,131, 8-318, 8-326, 10-1001, 18-1749, 21-1773.01, 21-19,107, 21-19,108, 25-1563.01, 25-21,190, 30-3215, 30-3216, 44-202, 44-404, 44-407.10, 44-704, 44-5802, 45-803, 48-628.03, 58-212, 58-440, 60-686, 68-602, 76-2,111, 77-907, 77-2002, 79-1046.01, 79-1049.06, 79-1056, 79-1522.04, 79-1522.05, 79-1531, 81-2017, 81-2027.01, 81-2027.02, 81-2032, 84-1308, 84-1311.01, 84-1311.02, 84-1503.01, 85-106, 85-320, 85-606.01, and 87-602, Reissue Revised Statutes of Nebraska, and sections 9-211, 9-217.01, 9-226, 9-309, 9-322, 9-418, 9-508, 9-620, 10-140, 13-203, 14-2111, 16-1002, 16-1004, 16-1005, 16-1019, 16-1021, 16-1023, 16-1024, 16-1038, 16-1042, 23-1118, 23-2307, 23-2310.01, 23-2310.02, 24-703, 24-703.01, 24-703.02, 24-710.02, 44-1640, 44-1643, 44-5256, 48-602, 48-604, 68-1047, 68-1605, 71-7412, 76-2102, 77-118, 77-120, 77-2101, 77-2101.01, 77-2101.02, 77-2103, 77-2104, 77-2115, 77-2702.09, and 77-3504, Revised Statutes Supplement, 1994; to provide for applicability of the code; to harmonize references to the code; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Except as provided by Article VIII, section 18, of the Constitution of Nebraska and in sections 77-2701.01, 77-2714 to 77-27.123, 77-27.191, 77-27.193, 77-4103, 77-4104, and 77-4108, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on the operative date of this section.

Sec. 2. Section 8-1,131, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,131. All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian within the provisions of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, ~~as amended~~, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the bank or in other banks. If any such retirement plan, within the judgment of the bank, constitutes a qualified plan under the Federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, ~~as amended~~, and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the bank may nevertheless continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No bank, in respect to savings made under this section, shall be required to segregate such savings from other assets of the bank. ~~The~~ ~~PROVIDED~~, ~~that~~ the bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Sec. 3. Section 8-318, Reissue Revised Statutes of Nebraska, is amended to read:

8-318. (1) Shares of stock in any association, or in any federal savings and loan association incorporated under the provisions of the Home Owners' Loan Act of 1933, with its principal office and place of business in this state, may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited and payments thereon received and receipted for by any minor in the same manner and with the same binding effect as though such person were of full age, except that the minor or his or her estate shall not be bound on his or her subscription to stock except to the extent of payments actually made thereon.

(2) All trustees, guardians, personal representatives, administrators, and conservators appointed by the courts of this state may invest and reinvest in, acquire, make withdrawals in whole or in part, hold, transfer, or make new or additional investments in or transfers of shares of stock in any (a) building and loan association organized under the laws of the State of Nebraska or (b) federal savings and loan association incorporated under the provisions of the Home Owners' Loan Act of 1933, having its

principal office and place of business in this state, without an order of approval from any court.

(3) Trustees created solely by the terms of a trust instrument may invest in, acquire, hold, and transfer such shares, and make withdrawals, in whole or in part, therefrom, without any order of court, unless expressly limited, restricted, or prohibited therefrom by the terms of such trust instrument.

(4) All building and loan associations referred to in this section are qualified to act as trustee or custodian within the provisions of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, ~~as amended~~; if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the association or in other associations. If any such retirement plan, within the judgment of the association, constitutes a qualified plan under the Federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, ~~as amended~~; and the regulations promulgated thereunder at the time the trust was established and accepted by the association, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the association may ~~nevertheless~~ continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No association, in respect to savings made under this section, shall be required to segregate such savings from other assets of the association. The association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Sec. 4. Section 8-326, Reissue Revised Statutes of Nebraska, is amended to read:

8-326. Every association organized under the laws of this state for the purposes set forth in section 8-302, except such associations as are conducted upon the serial plan and in which the various series are operated wholly separate and distinct from each other, shall provide a reserve fund for the payment of contingent losses, by setting aside at least five percent of the net earnings for each year to such fund until it reaches at least five percent of the total assets of the association exclusive of cash on hand. ~~Any~~ ~~PROVIDED~~; ~~that any~~ credit to a reserve account required by any federal agency shall be considered to apply to the ~~reserve fund~~ requirement of this section.

All losses shall be paid out of such fund until the same is exhausted, and whenever the amount in ~~said~~ the fund falls below five percent of the ~~total assets~~, ~~as aforesaid~~, it shall be replenished by annual appropriations of at least five percent of the net earnings, ~~as hereinbefore provided~~, until it again reaches ~~said~~ the amount. The board of directors shall have power to increase the reserve above five percent, but not to exceed twelve percent, if determined that it is to the best interest of the association and its shareholders. An association may establish such other and additional undivided profits accounts or special reserves as may be ordered by its board of directors. The board of directors may, for federal tax purposes, divide the reserve fund, surplus account, and undivided profits account, in accordance with the provisions of the Internal Revenue Code of 1954, ~~amendments thereto~~, and regulations adopted pursuant thereto. If, in the opinion of a majority of the board of directors of any such association, ~~said~~ a reserve fund of twelve percent ~~be is~~ insufficient at any time to cover the probable losses among the assets, or if for other good and sufficient reason they ~~shall~~ determine it to be for the best interests of the association and its shareholders that the reserve fund be maintained or increased, they shall have power to maintain or increase ~~said~~ the fund from the net earnings to an amount not greater than the sum of such probable losses or greater than sufficient to best serve the interest of the association and its shareholders as by them determined. Such special increase of the reserve fund shall first be approved by the Department of Banking and Finance, and if, in the opinion of the department after an examination, ~~as hereinafter provided~~, such special increase of the reserve fund is deemed necessary or advisable for the protection of stockholders, the department may order such reserve fund increased in like manner and within the same limits as aforesaid. Such reserve fund may at any time, with the consent of the department, be reduced to not less than five percent of the assets, ~~aforesaid~~.

Sec. 5. Section 9-211, Revised Statutes Supplement, 1994, is amended to read:

9-211. (1) Lawful purpose, for a licensed organization or a qualifying nonprofit organization making a donation of its profits derived

from the conduct of bingo solely for its own organization, shall mean donating such profits for any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization or a qualifying nonprofit organization making a donation of its profits derived from the conduct of bingo outside of its organization, shall mean donating such profits only to:

(a) The State of Nebraska or any political subdivision of the state but only if the donation is made exclusively for public purposes;

(b) A corporation, trust, community chest, fund, or foundation:

(i) Created or organized under the laws of Nebraska which has been in existence for five consecutive years immediately preceding the date of the donation and which has its principal office located in Nebraska;

(ii) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition;

(iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual;

(iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, by reason of attempting to influence legislation; and

(v) Which does not participate in any political campaign on behalf of any candidate for political office; or

(c) A post or organization of war veterans or an auxiliary unit or society of, trust for, or foundation for any such post or organization:

(i) Organized in the United States or in any territory or possession thereof; and

(ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(3) No donation of profits under this section shall (a) inure to the benefit of any individual member of the organization making the donation except to the extent it is in furtherance of the purposes described in this section or (b) be used for any activity which attempts to influence legislation or for any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(4) Upon dissolution of a licensed organization or if a previously licensed organization does not renew its license to conduct bingo, its license renewal application is denied, or its license is canceled, suspended, or revoked, all remaining profits derived from the conduct of bingo shall be utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. The disbursement of such remaining profits shall be subject to approval by the department.

Sec. 6. Section 9-217.01, Revised Statutes Supplement, 1994, is amended to read:

9-217.01. (1) Qualifying nonprofit organization, for the purpose of special event bingo, shall mean a nonprofit organization:

(a) Which holds a certificate of exemption under section 501 of the Internal Revenue Code of 1986, as amended, or the major activities of which, exclusive of conducting gaming activities regulated under Chapter 9, are conducted for charitable or community betterment purposes; and

(b) Which has been in existence in this state for a period of at least five years immediately preceding its application for a permit.

(2) Qualifying nonprofit organization shall not mean or include any organization which holds a license pursuant to the Nebraska Bingo Act.

Sec. 7. Section 9-226, Revised Statutes Supplement, 1994, is amended to read:

9-226. The department shall have the following powers, functions, and duties:

(1) To issue licenses, temporary licenses, and permits;

(2) To deny any license or permit application or renewal license application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant, licensee, or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant, licensee, or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal

Revenue Code of 1986, as amended; from such applicant for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant, licensee, or permittee;

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act or any rules or regulations adopted and promulgated pursuant to the acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts;

(c) Obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed or for which a permit is required under the Nebraska Bingo Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed or granted a permit in accordance with the Nebraska Bingo Act;

(i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

(j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(k) Failed to demonstrate good character, honesty, and integrity; or

(l) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation, cancellation, or suspension of a license or permit shall include instances in which the licensee or permittee individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the licensee or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, as amended, from such licensee or permittee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee or permittee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(c) Obtained a license or permit pursuant to the act by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon the charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure

to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed or for which a permit is required under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the act;

(i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(j) Failed to demonstrate good character, honesty, and integrity; or
(k) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued;

(4) To issue and cause to be served upon any licensee or permittee an order requiring the licensee or permittee to cease and desist from violations of the Nebraska Bingo Act. The order shall give reasonable notice of the rights of the licensee or permittee to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days of the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the licensee or permittee to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee or permittee shall be deemed in default and the proceeding may be determined against the licensee or permittee upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or rules and regulations adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a result of the violation. If an administrative fine is levied, the fine shall not be paid from bingo gross receipts of an organization and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo activity required to be licensed or for which a permit is required under the act is being conducted to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated under the act have been or are being violated and at such time to examine such premises;

(7) To require periodic reports of bingo activity from licensees under the act as the department deems necessary to carry out the act;

(8) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to bingo activities of any licensee or permittee, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to acquire proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the

court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid to the state as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(10) To confiscate and seize bingo supplies and equipment pursuant to section 9-262.01; and

(11) To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the Nebraska Bingo Act.

Sec. 8. Section 9-309, Revised Statutes Supplement, 1994, is amended to read:

9-309. (1) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards solely for its own organization, shall mean donating such net profits for any activity which benefits and is conducted by the organization, including any charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization making a donation of its net profits derived from its lottery by the sale of pickle cards outside of its organization, shall mean donating such net profits only to:

(a) The State of Nebraska or any political subdivision thereof, but only if the contribution or gift is made exclusively for public purposes;

(b) A corporation, trust, community chest, fund, or foundation;

(i) Created or organized under the laws of Nebraska which has been in existence for five consecutive years immediately preceding the date of the donation and which has its principal office located in Nebraska;

(ii) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition;

(iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual;

(iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, by reason of attempting to influence legislation; and

(v) Which does not participate in any political campaign on behalf of any candidate for political office; or

(c) A post or organization of war veterans or an auxiliary unit or society of, trust for, or foundation for any such post or organization:

(i) Organized in the United States or in any territory or possession thereof; and

(ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(3) No donation of net profits under this section shall (a) inure to the benefit of any individual member of the licensed organization making the donation except to the extent it is in furtherance of the purposes described in this section or (b) be used for any activity which attempts to influence legislation or for any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(4) Upon dissolution of a licensed organization or in the event a previously licensed organization does not renew its license to conduct a lottery by the sale of pickle cards, its license renewal application is denied, or its license is canceled, suspended, or revoked, all remaining net profits derived from the conduct of a lottery by the sale of pickle cards under the Nebraska Pickle Card Lottery Act shall be utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. The disbursement of such remaining net profits shall be subject to approval by the department.

Sec. 9. Section 9-322, Revised Statutes Supplement, 1994, is amended to read:

9-322. The department shall have the following powers, functions, and duties:

(1) To issue licenses and temporary licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application for or renewal of a license shall

include instances in which the applicant individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant or licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, ~~as amended~~, from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act or any rules or regulations adopted and promulgated pursuant to such acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts;

(c) Obtained a license or permit pursuant to such acts by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the Nebraska Pickle Card Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska Pickle Card Lottery Act;

(i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

(j) Failed to pay an administrative fine imposed pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(k) Failed to demonstrate good character, honesty, and integrity; or

(l) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually or, in the case of a business entity or a nonprofit organization, any officer, director, employee, or limited liability company member of the licensee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, ~~as amended~~, from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Pickle Card Lottery Act or any rules or regulations adopted and promulgated pursuant to the act;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or

regulations adopted and promulgated pursuant to the act;

(c) Obtained a license pursuant to the act by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where pickle card activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the act;

(i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(j) Failed to demonstrate good character, honesty, and integrity; or
(k) Failed to demonstrate, either individually or, in the case of a business entity or a nonprofit organization, through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued;

(4) To issue and cause to be served upon any license holder an order requiring the license holder to cease and desist from violations of the Nebraska Pickle Card Lottery Act. The order shall give reasonable notice of the rights of the license holder to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days of the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a result of the violation. If an administrative fine is levied, the fine shall not be paid from pickle card lottery gross proceeds of a licensed organization and shall be remitted by the licensee to the department within thirty days from the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where lottery by the sale of pickle cards activity required to be licensed under the act is being conducted to determine whether any of the provisions of such act or any rules or regulations adopted and promulgated under such act have been or are being violated and at such time to examine such premises;

(7) To require periodic reports of lottery by the sale of pickle cards activity from licensed manufacturers, distributors, nonprofit organizations, sales agents, pickle card operators, and any other persons, organizations, limited liability companies, or corporations as the department deems necessary to carry out the act;

(8) To require annual registration of coin-operated and currency-operated devices used for the dispensing of pickle cards, to issue registration decals for such devices, and to prescribe all forms necessary for

the registration of such devices;

(9) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of lottery by the sale of pickle cards of any licensee, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(10) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 9-344 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(11) To inspect pickle cards and pickle card units as provided in section 9-339;

(12) To confiscate, seize, or seal pickle cards, pickle card units, or coin-operated or currency-operated pickle card dispensing devices pursuant to section 9-350;

(13) To adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out the Nebraska Pickle Card Lottery Act; and

(14) To employ staff, including auditors and inspectors, as necessary to carry out the act.

Sec. 10. Section 9-418, Revised Statutes Supplement, 1994, is amended to read:

9-418. The department shall have the following powers, functions, and duties:

(1) To issue licenses and permits;

(2) To deny any license or permit application or renewal application for cause. Cause for denial of an application or renewal of a license or permit shall include instances in which the applicant individually or, in the case of a nonprofit organization, any officer, director, employee, or limited liability company member of the applicant, licensee, or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant, licensee, or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, as amended, from such applicant, licensee, or permittee for past or present services in a consulting capacity or otherwise, the licensee, the permittee, or any person with a substantial interest in the applicant, licensee, or permittee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act or any rules or regulations adopted and promulgated pursuant to such acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts;

(c) Obtained a license or permit pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle activity required to be licensed under the Nebraska Lottery and Raffle Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska Lottery and Raffle Act;

(i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

(j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(k) Failed to demonstrate good character, honesty, and integrity; or
 (l) Failed to demonstrate, either individually or, in the case of a nonprofit organization, through its managers or employees, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license or permit. Cause for revocation, cancellation, or suspension of a license or permit shall include instances in which the licensee or permittee individually or, in the case of a nonprofit organization, any officer, director, employee, or limited liability company member of the licensee or permittee, other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee or permittee which directly or indirectly receives compensation other than distributions from a bona fide retirement plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, ~~as amended~~, from such licensee or permittee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee or permittee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Lottery and Raffle Act or any rules or regulations adopted and promulgated pursuant to the act;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(c) Obtained a license or permit pursuant to the act by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where lottery or raffle activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the act;

(i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(j) Failed to demonstrate good character, honesty, and integrity; or
 (k) Failed to demonstrate, either individually or, in the case of a nonprofit organization, through its managers or employees, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued;

(4) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books,

papers, records, or memoranda relating to lottery or raffle activities required to be licensed pursuant to the Nebraska Lottery and Raffle Act, to require by summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(5) To levy an administrative fine of not more than one thousand dollars on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which an individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation and the extent to which the violator derived financial gain as a result of the violation. If an administrative fine is levied, the fine shall not be paid from lottery or raffle gross proceeds of a licensed organization and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

(6) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid to the state as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(7) To confiscate and seize lottery or raffle tickets or stubs pursuant to section 9-432; and

(8) To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the Nebraska Lottery and Raffle Act.

Sec. 11. Section 9-508, Revised Statutes Supplement, 1994, is amended to read:

9-508. Qualifying nonprofit organization shall mean any nonprofit organization holding a certificate of exemption under section 501 of the Internal Revenue Code of 1986, as amended, or whose major activities, exclusive of conducting any lottery or raffle, are conducted for charitable and community betterment purposes. A qualifying nonprofit organization shall have its principal office located in this state and shall conduct a majority of its activities in Nebraska.

Sec. 12. Section 9-620, Revised Statutes Supplement, 1994, is amended to read:

9-620. The department shall have the following powers, functions, and duties:

(1) To issue licenses;

(2) To deny any license application or renewal application for cause. Cause for denial of an application or renewal of a license shall include instances in which the applicant individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the applicant or licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such applicant or licensee which directly or indirectly receives compensation, other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, as amended, from such applicant or licensee for past or present services in a consulting capacity or otherwise, the licensee, or any person with a substantial interest in the applicant or licensee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, the State Lottery Act, or any rules or regulations adopted and promulgated pursuant to such acts;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of such acts or any rules or regulations adopted and promulgated pursuant to such acts;

(c) Obtained a license or permit pursuant to such acts by fraud,

misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the Nebraska County and City Lottery Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to prove by clear and convincing evidence his, her, or its qualifications to be licensed in accordance with the Nebraska County and City Lottery Act;

(i) Failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

(j) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(k) Failed to demonstrate good character, honesty, and integrity; or

(l) Failed to demonstrate, either individually or in the case of a business entity through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to establish or maintain the activity for which the application is made.

No license renewal shall be issued when the applicant for renewal would not be eligible for a license upon a first application;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which the licensee individually, or in the case of a business entity, any officer, director, employee, or limited liability company member of the licensee other than an employee whose duties are purely ministerial in nature, any other person or entity directly or indirectly associated with such licensee which directly or indirectly receives compensation, other than distributions from a bona fide retirement or pension plan established pursuant to Chapter 400 1, subchapter D of the Internal Revenue Code of 1986, as amended, from such licensee for past or present services in a consulting capacity or otherwise, or any person with a substantial interest in the licensee:

(a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska County and City Lottery Act or any rules or regulations adopted and promulgated pursuant to the act;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the act or any rules or regulations adopted and promulgated pursuant to the act;

(c) Obtained a license pursuant to the act by fraud, misrepresentation, or concealment;

(d) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any offense or crime, whether a felony or a misdemeanor, involving any gambling activity or fraud, theft, willful failure to make required payments or reports, or filing false reports with a governmental agency at any level;

(e) Was convicted of, forfeited bond upon a charge of, or pleaded guilty or nolo contendere to any felony other than those described in subdivision (d) of this subdivision within the ten years preceding the filing of the application;

(f) Denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law, rule, or regulation;

(g) Made a misrepresentation of or failed to disclose a material fact to the department;

(h) Failed to pay any taxes and additions to taxes, including

penalties and interest, required by the act;

(i) Failed to pay an administrative fine levied pursuant to the Nebraska Bingo Act, the Nebraska County and City Lottery Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act;

(j) Failed to demonstrate good character, honesty, and integrity; or
(k) Failed to demonstrate, either individually or in the case of a business entity through its managers, employees, or agents, the ability, experience, or financial responsibility necessary to maintain the activity for which the license was issued;

(4) To issue and cause to be served upon any licensee an order requiring the licensee to cease and desist from violations of the Nebraska County and City Lottery Act. The order shall give reasonable notice of the rights of the licensee to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days of the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the rules and regulations adopted and promulgated by the department. If the licensee to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the licensee shall be deemed in default and the proceeding may be determined against the licensee upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(5) To levy an administrative fine on an individual, partnership, limited liability company, corporation, or organization for cause. For purposes of this subdivision, cause shall include instances in which the individual, partnership, limited liability company, corporation, or organization violated the provisions, requirements, conditions, limitations, or duties imposed by the act or any rule or regulation adopted and promulgated pursuant to the act. In determining whether to levy an administrative fine and the amount of the fine if any fine is levied, the department shall take into consideration the seriousness of the violation, the intent of the violator, whether the violator voluntarily reported the violation, whether the violator derived financial gain as a result of the violation and the extent thereof, and whether the violator has had previous violations of the act and regulations. A fine levied on a violator under this section shall not exceed twenty-five thousand dollars for each violation of the act or any rules and regulations adopted and promulgated pursuant to the act. If an administrative fine is levied, the fine shall not be paid from lottery gross proceeds of the county, city, or village and shall be remitted by the violator to the department within thirty days from the date of the order issued by the department levying such fine;

(6) To enter or to authorize any law enforcement officer to enter at any time upon any premises where lottery activity required to be licensed under the act is being conducted to determine whether any of the provisions of the act or any rules or regulations adopted and promulgated under it have been or are being violated and at such time to examine such premises;

(7) To require periodic reports of lottery activity from licensed counties, cities, villages, manufacturer-distributors, and lottery operators and any other persons, organizations, limited liability companies, or corporations as the department deems necessary to carry out the act;

(8) To audit, examine, or cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to the conduct of a lottery, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. If the documents requested by the department are in the custody of a limited liability company, the court order may be directed to any member when management is reserved to the members or otherwise to any manager. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(9) Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid as taxes pursuant to section 9-648 in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967;

(10) To confiscate and seize lottery equipment or supplies pursuant to section 9-649;

(11) To investigate the activities of any person applying for a license under the Nebraska County and City Lottery Act or relating to the conduct of any lottery activity under the act. Any license applicant or licensee shall produce such information, documentation, and assurances as may be required by the department to establish by a preponderance of the evidence the financial stability, integrity, and responsibility of the applicant or licensee, including, but not limited to, bank account references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, business entity and personal accounting records, and check records and ledgers. Any such license applicant or licensee shall authorize the department to examine bank accounts and other such records as may be deemed necessary by the department;

(12) To adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out the act; and

(13) To employ staff, including auditors and inspectors, as necessary to carry out the act.

Sec. 13. Section 10-140, Revised Statutes Supplement, 1994, is amended to read:

10-140. Within thirty days after the initial issuance and delivery of all fully registered bonds, the issuer shall record the issuance in the office of the Auditor of Public Accounts by filing in the office of the Auditor of Public Accounts (1) the following information: (a) The name of the issuer; (b) the title or designation of the bonds; (c) the total principal amount of such bonds initially issued; (d) the date or dates of maturity of principal and the amount of principal maturing on such date or dates; (e) the interest rate or rates and the date or dates such interest is payable; (f) the place or places where the principal of and interest on the bonds are payable; (g) the costs of issuance paid and to whom; and (h) the principal purpose for which such bonds were issued and (2) a copy of the form filed for the bonds pursuant to section 149(e) of the Internal Revenue Code, of 1986, as amended. No certificate or other evidence of such recording shall be required to be placed or endorsed on any fully registered bond. The issuer shall not be required to file a copy of the transcript of the issuance with the auditor. No fully registered bond shall be required to be registered in any office of any public official except as required by section 10-201.

Sec. 14. Section 10-1001, Reissue Revised Statutes of Nebraska, is amended to read:

10-1001. To permit the orderly continuation of the issuance of private activity bonds pursuant to the Internal Revenue Code, of 1986, the Governor may by executive order:

(1) Allocate or establish a method for the allocation of the private activity bond state ceiling set forth in the Internal Revenue Code of 1986 among any or all entities in the State of Nebraska having the authority to issue private activity bonds or governmental bonds; and

(2) Delegate any administrative authority vested in him or her under this section to any state agency or any instrumentality which exercises essential public functions.

Sec. 15. Section 13-203, Revised Statutes Supplement, 1994, is amended to read:

13-203. For purposes of the Community Development Assistance Act, unless the context otherwise requires:

(1) Business firm shall mean any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, a corporation having an election in effect under Chapter 1, subchapter S of the Internal Revenue Code subject to the state income tax imposed by section 77-2715 or 77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;

(2) Community services shall mean any type of the following in a community development area: (a) Employment training; (b) human services; (c) medical services; (d) physical facility and neighborhood development services; (e) recreational services or activities; (f) educational services; (g) crime prevention activities, including, but not limited to, (i) the instruction of any individual in the community development area that enables him or her to acquire vocational skills, (ii) counseling and advice, (iii) emergency services, (iv) community, youth, day care, and senior citizen centers, (v) in-home services, (vi) home improvement services and programs, and (vii) any legal enterprise which aids in the prevention or reduction of crime; or (h) purchasing shares in a business development corporation formed to carry out

section 58-440;

(3) Department shall mean the Department of Economic Development;

(4) Director shall mean the Director of Economic Development;

(5) Community development area shall mean any village, city, county, or part thereof which has been designated by the department as an area of chronic economic distress;

(6) Community assistance shall mean furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of a community development area;

(7) Community betterment organization shall mean (a) any organization performing community services or offering community assistance in a community development area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury, (b) a business development corporation formed to carry out section 58-440, and (c) a county, city, or village performing community services or offering community assistance in a community development area; and

(8) Area of chronic economic distress shall mean an area of the state which meets a majority of the following categories:

(a) An unemployment rate which exceeds the statewide average unemployment rate;

(b) Vacant and substandard housing stock which exceeds the statewide average percentage for vacant and substandard housing stock;

(c) Depressed housing valuations which exceed the statewide average rate for depressed housing valuations;

(d) A crime rate which exceeds the statewide average crime rate; or

(e) A per capita income below the statewide average per capita income.

Sec. 16. Section 14-2111, Revised Statutes Supplement, 1994, is amended to read:

14-2111. (1) The board of directors of any metropolitan utilities district may also provide benefits for, insurance of, and annuities for the present and future employees and appointees of the district covering accident, disease, death, total and permanent disability, and retirement, all or any of them, under such terms and conditions as the board may deem proper and expedient from time to time. Any retirement plan adopted by the board of directors shall be upon some contributory basis requiring contributions by both the district and the employee or appointee, except that the district may pay the entire cost of the fund necessary to cover service rendered prior to the adoption of any new retirement plan. Any retirement plan shall take into consideration the benefits provided for employees and appointees of metropolitan utilities districts under the Social Security Act, and any benefits provided under a contributory retirement plan shall be supplemental to the benefits provided under the Social Security Act as defined in section 68-602 if the employees entitled to vote in a referendum vote in favor of old age and survivors' insurance coverage. To effectuate any plan adopted pursuant to this authority, the board of directors of the district is empowered to establish and maintain reserves and funds, provide for insurance premiums and costs, and make such delegation as may be necessary to carry into execution the general powers granted by this section. Payments made to employees and appointees, under the authority in this section, shall be exempt from attachment or other legal process and shall not be assignable.

(2) Any retirement plan adopted by the board of directors of any metropolitan utilities district may allow the district to pick up the employee contribution required by this section for all compensation paid on or after January 1, 1986, 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 employer shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The employer shall pick up the 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. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

Sec. 17. Section 16-1002, Revised Statutes Supplement, 1994, is amended to read:

16-1002. For 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 rate of interest earned each calendar year commencing January 1, 1984, 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) 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 July 15, 1992, 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) 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) 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) 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 contract shall mean the contract or contracts issued by one or more life insurance companies 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) 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. 18. Section 16-1004, Revised Statutes Supplement, 1994, is amended to read:

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. Upon the passage of sections 16-1001 to 16-1019 all of the contributions made by a police officer prior to January 1, 1984, will be transferred to the police officer's 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. 19. Section 16-1005, Revised Statutes Supplement, 1994, is amended to read:

16-1005. (1) Each police officer participating in the retirement system 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 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 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 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. 20. Section 16-1019, Revised Statutes Supplement, 1994, is amended to read:

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. Section 16-1021, Revised Statutes Supplement, 1994, is amended to read:

16-1021. For the purposes of sections 16-1020 to 16-1042, 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 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. Such 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 equivalency of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by such contract. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Annuity contract shall mean the contract or contracts issued by one or more life insurance companies or designated trusts and purchased by the retirement system in order to provide any of the benefits described in such sections. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

(3) Beneficiary shall mean the person or persons designated by a

firefighter, pursuant to a written instrument filed with the retirement committee before the firefighter's death, to receive death benefits which may be payable under the retirement system;

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

(5) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1984, 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. The retirement committee shall annually report the amount of regular interest earned for such year;

(6) Regular pay shall mean the salary of a firefighter at the date such firefighter elects to retire or terminate employment with the city;

(7) Retirement committee shall mean the retirement committee created pursuant to section 16-1034;

(8) Retirement system shall mean a retirement system established pursuant to sections 16-1020 to 16-1042;

(9) Retirement value shall mean the accumulated value of the firefighter's employee account and employer account. The retirement value at any time shall consist of the sum of the contributions made or transferred to such accounts by the firefighter and by the city on the firefighter's behalf and the regular interest credited to the accounts through such date, reduced by any realized losses which were not taken into account in determining regular interest in any year, and as further adjusted each year to reflect the accounts' pro rata share of the appreciation or depreciation of the assets of the retirement system as determined by the retirement committee at their fair market values, including any account under subsection (2) of section 16-1036. Such valuation shall be undertaken at least annually as of December 31 of each year and at such other times as may be directed by the retirement committee. The value of each account shall be reduced each year by the appropriate share of the investment costs as provided in section 16-1036.01. The retirement value shall be further reduced by the amount of all distributions made to or on the behalf of the firefighter from the retirement system;

(10) Salary shall mean the base rate of pay, excluding overtime, callback pay, clothing allowances, and other such benefits as reported on the participant's federal income tax withholding statement including the firefighters' contributions picked up by the city as provided in subsection (2) of section 16-1024 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, and

(11) 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. 22. Section 16-1023, Revised Statutes Supplement, 1994, is amended to read:

16-1023. (1) Commencing on January 1, 1984, each city of the first class having a paid fire department shall keep and maintain a Firefighters 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 exclusively for the purposes of the retirement system and for the benefit of participating firefighters and their beneficiaries and so as to establish the fund as a trust under the law of this state for all purposes of section 401(a) of the Internal Revenue Code, of 1986, as amended. Upon the passage of sections 16-1020 to 16-1038 all of the contributions made by a firefighter under section 35-203.01 as it formerly existed and interest accrued at five percent per annum on such contributions prior to January 1, 1984, shall be transferred to the firefighter's employee account. Regular interest shall begin to accrue on the contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16-1036.

(2) The city shall establish a medium for funding the retirement system which, with the approval of the retirement committee, 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 16-1036 and to provide the retirement, death, and disability benefits for firefighters granted by sections 16-1020 to 16-1042. The trustee or custodian of any trust fund shall be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, an appropriate city officer authorized to administer funds of the

city, or a combination thereof.

Sec. 23. Section 16-1024, Revised Statutes Supplement, 1994, is amended to read:

16-1024. (1) Each firefighter participating in the retirement system shall contribute to the retirement system a sum equal to six and one-half 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 firefighters participating in a retirement system shall pick up the firefighters' 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 income tax treatment under the Internal Revenue Code, of 1986, as amended, except that the city shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, of 1986, as amended, such contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. The city shall pay the employee contributions from the same source of funds which is used in paying compensation to the employee. The city shall pick up the employee 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. In no event shall a firefighter 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 firefighter 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 employee account and shall thereafter be credited with regular interest. A voluntary contribution shall become a part of the Firefighters 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. 24. Section 16-1038, Revised Statutes Supplement, 1994, is amended to read:

16-1038. (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, section 401(a)(25) relating to the specification of actuarial assumptions, and section 401(a)(31) relating to direct rollover distribution from qualified retirement plans. 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 16-1020 to 16-1042, 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 firefighter 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 16-1020 to 16-1042, 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. 25. Section 16-1042, Revised Statutes Supplement, 1994, is amended to read:

16-1042. In the event that after four or more years of employment a firefighter terminates his or her employment for the purpose of becoming a firefighter employed by another city of the first class in Nebraska and such new employment commences within ninety days of such termination, such firefighter shall be entitled to transfer to the Firefighters 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 vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system from which the firefighter transferred shall have no further obligation to such firefighter or his or her beneficiary. Following the commencement of new employment, the transferring firefighter shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Beginning January 1, 1993, a firefighter who is to receive an eligible rollover distribution, within the meaning of section 401(a)(31) of the Internal Revenue Code, of 1986, as amended, from the retirement system may choose to have such distribution made in the form of a direct transfer to the trustee or custodian of a retirement plan eligible to receive the transfer under the code if the election is made in the form and within the time period required by the retirement committee and the plan to which such transfer is to be made will accept such transfer.

Sec. 26. Section 18-1749, Reissue Revised Statutes of Nebraska, is amended to read:

18-1749. Any city or village of this state may pick up the employee contributions required by a pension or retirement plan for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining the federal tax treatment under the United States Internal Revenue Code, except that the city or village shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The city or village shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The city or village shall pick up the 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. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

Sec. 27. Section 21-1773.01, Reissue Revised Statutes of Nebraska, is amended to read:

21-1773.01. (1) All credit unions chartered under the laws of Nebraska shall be qualified to act as trustee or custodian within the provisions of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, as amended, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the credit union or other credit unions.

(2) If any such retirement plan, in the judgment of the credit union, constitutes a qualified plan under the Federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, as amended, and the regulations promulgated thereunder at the time the trust was established and accepted by the credit union, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the credit union may continue to act as trustee of any deposits which have been

made under such plan and to dispose of such deposits in accordance with the directions of the member and beneficiaries thereof.

(3) No credit union, in respect to savings made under this section, shall be required to segregate such savings from other assets of the credit union, but the credit union shall keep appropriate records showing in detail all transactions engaged in pursuant to this section.

Sec. 28. Section 21-19,107, Reissue Revised Statutes of Nebraska, is amended to read:

21-19,107. In the absence of an express provision in its articles of incorporation to the contrary, a corporation organized as a not-for-profit corporation under Chapter 21, article 19, which is a private foundation as defined in section 509 of the Internal Revenue Code, of 1954, during the period it is a private foundation:

(1) Shall not engage in any act of self-dealing as defined in section 4941(d) of such code;

(2) Shall distribute the income of the not-for-profit corporation for each taxable year at such time and in such manner as not to subject the not-for-profit corporation to the tax on undistributed income imposed by section 4942 of such code;

(3) Shall not retain any excess business holdings as defined in section 4943(c) of such code;

(4) Shall not make any investment in such manner as to subject the trust to tax under section 4944 of such code; and

(5) Shall not make any taxable expenditure as defined in section 4945(d) of such code.

The prohibitions and requirements imposed upon such a not-for-profit corporation by subdivisions (1) through (5) of this section shall, in the absence of an express provision in its articles of incorporation to the contrary, be deemed to be included within the governing instrument of every not-for-profit corporation which is a private foundation as defined in this section.

Sec. 29. Section 21-19,108, Reissue Revised Statutes of Nebraska, is amended to read:

21-19,108. The provisions of section 21-19,107 shall not apply to any corporation to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the articles of incorporation or other instrument governing such corporation or governing the administration of charitable funds held by it and that the same may not properly be changed to conform to the sections of the Internal Revenue Code of 1954 specified in section 21-19,107.

Sec. 30. Section 23-1118, Revised Statutes Supplement, 1994, is amended to read:

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.

(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 July 15, 1992. 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 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.

(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. Section 23-2307, Revised Statutes Supplement, 1994, is amended to read:

23-2307. Each employee who is a member of the retirement system shall pay to the county or have picked up by the county a sum equal to four percent of his or her compensation for each pay period. The county shall pick up the employee 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 employee until such time as they are distributed or made available. The county shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The county shall pick up these contributions by a compensation deduction either through a reduction in the cash compensation of the employee or a combination of a reduction in compensation and offset against a future compensation increase. Employee contributions picked up shall be treated for all purposes of the County Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 32. Section 23-2310.01, Revised Statutes Supplement, 1994, is amended to read:

23-2310.01. For purposes of this section and section 23-2310.02:

(1) 415 compensation shall mean a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code of 1986, as amended, for purposes of income tax withholding. 415 compensation shall include any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and employee contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year shall mean the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 33. Section 23-2310.02, Revised Statutes Supplement, 1994, is amended to read:

23-2310.02. (1) Notwithstanding any other provision of the County Employees Retirement Act, the sum of the annual additions to a member's

account for any limitation year shall not exceed the lesser of: (a) Thirty thousand dollars or, if greater, one-fourth of the defined benefit dollar limitation set forth in section 415(b)(1)(A) of the Internal Revenue Code of 1986, ~~as amended~~, as in effect for the limitation year, or (b) twenty-five percent of the member's 415 compensation for the entire limitation year.

(2) The term annual additions to a member's account for any limitation year shall mean the sum of:

(a) The member's allocable share of employer contributions for the limitation year;

(b) The amount of the member's contributions for the limitation year; and

(c) The member's allocable share of forfeitures, if any, credited to the member within the limitation year.

(3) Solely for purposes of this section, the determination of a member's contributions for a limitation year shall exclude the items set forth in 26 C.F.R. 1.415-6(b)(3)(i) through (iv), and the determination of a member's allocable share of employer contributions and forfeitures, if any, for a limitation year shall exclude any employer contributions and forfeitures, if any, allocated to the member for any of the reasons set forth in 26 C.F.R. 1.415-6(b)(2)(ii) through (vi), except as otherwise provided in such regulations.

(4) If it is determined that the annual additions to a member's account for any limitation year will exceed the limitations contained in this section, the annual additions shall be reduced to the extent necessary to meet the limitations contained in this section in accordance with income tax regulations by reducing the member's employee contributions.

(5) If the amount of any member's contributions is reduced in accordance with subsection (4) of this section, the amount of the reduction shall be refunded to the member.

(6) In the event that any member is also a member under any other defined contribution plan maintained by a controlled group member, the total amount of annual additions to the member's accounts under all such defined contribution plans shall not exceed the limitations set forth in this section. If the total amount of annual additions to a member's accounts under all such defined contribution plans does exceed the limitations set forth in this section, then the annual additions to a member's account shall be reduced subsequent to a reduction in the annual additions under any other defined contribution plan.

(7) If a member is or has been a participant in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member, determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by section 415(b)(1)(A) of the code, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(b)(1)(B) of the code for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(8) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(9) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the Internal Revenue Code of 1986, as amended, and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 34. Section 24-703, Revised Statutes Supplement, 1994, is amended to read:

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. Any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and 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 Treasurer for credit 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, of 1986, as amended, 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 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. 35. Section 24-703.01, Revised Statutes Supplement, 1994, is amended to read:

24-703.01. For purposes of this section and section 24-703.02:

(1) 415 compensation shall mean a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code of 1986, as amended, for purposes of income tax withholding. 415 compensation shall include any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year shall mean the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 36. Section 24-703.02, Revised Statutes Supplement, 1994, is amended to read:

24-703.02. (1) Notwithstanding any other provision of sections 24-701 to 24-714, the benefit provided with respect to any member may not exceed an annual benefit computed in accordance with the limitations prescribed by this section.

(2) The maximum annual benefit payable in any limitation year to a member may not exceed the lesser of:

(a) Ninety thousand dollars as adjusted; or

(b) One hundred percent of a member's 415 compensation averaged over the three consecutive limitation years, or the actual number of limitation years for a member whose total service is less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the employer.

(3)(a) For purposes of this section, annual benefit shall mean a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit shall not include employee after-tax contributions. Such benefit shall include employee contributions picked up by the employer.

(b) If the retirement benefit is in any form other than a straight life annuity or if after-tax contributions are made by the employee, the benefit shall be adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit. The interest rate assumption for such adjustment shall be not less than the greater of five percent or the rate specified in the plan.

(c) No adjustment shall be required for a qualified joint and survivor annuity, preretirement disability and death benefits, postretirement medical benefits, or postretirement cost-of-living increases in accordance with section 415(d) of the Internal Revenue Code, of 1986, as amended.

(4) Benefits provided to a member under this section and under any defined benefit plan or plans maintained by an employer shall be aggregated for purposes of determining whether the limitations in subsection (2) of this section are met. If the aggregate benefits otherwise payable from any qualified plans created under sections 24-701 to 24-714 and any other defined benefit plan or plans maintained by an employer otherwise exceed the limitations of this section, the reductions in benefits shall first be made to the extent possible from the other plan or plans.

(5) The adjustments on retirement shall be the following:

(a) If the annual benefit begins before a member attains age sixty-two, the ninety-thousand-dollar limitation, as adjusted, shall be reduced in a manner prescribed by the Secretary of the Treasury of the United States. The adjustment shall not reduce the member's annual benefit below seventy-five thousand dollars if the member's benefit begins at or after age fifty-five or below the actuarial equivalent of seventy-five thousand dollars for age fifty-five if benefits begin before age fifty-five; and

(b) If the annual benefit begins after a member attains age sixty-five, the ninety-thousand-dollar limitation, as adjusted, shall be increased so that it is the actuarial equivalent of the ninety-thousand-dollar limitation at age sixty-five.

(6)(a) The dollar limitation on annual benefits provided by subsection (2) of this section, but not the seventy-five-thousand-dollar

limitation provided by subsection (5) of this section, shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States. The adjusted limitation shall be effective as of January 1 of each calendar year and shall be applicable to limitation years ending with or within that calendar year.

(b) The limitations provided by this section for a member who has separated from service with a vested right to a pension shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States.

(7) The following interest rate assumptions shall be used in computing the limitations under this section:

(a) For the purpose of adjusting the ninety-thousand-dollar limitation before a member attains age sixty-two, the interest rate assumption shall be not less than the greater of five percent or the rate specified in the plan; and

(b) For the purpose of adjusting the ninety-thousand-dollar limitation after a member attains age sixty-five, the interest rate assumption shall not be greater than the lesser of five percent or the rate specified in the plan.

(8) An annual benefit may be paid to any member in excess of the member's maximum annual benefit otherwise allowed if:

(a) The annual benefit derived from the employer contributions under the retirement system and all defined benefit plans maintained by the employer does not in the aggregate exceed ten thousand dollars for the limitation year or for any prior limitation year; and

(b) The member has not at any time participated in a defined contribution plan maintained by the employer. For purposes of this section, member contributions to the plan shall not be considered a separate defined contribution plan maintained by the employer.

(9) If a member has less than ten years of participation in the retirement system at the time the member begins to receive benefits, the ninety-thousand-dollar limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of participation in the plan and the denominator is ten, except that the fraction may not be less than one-tenth. The one-hundred-percent limitation under subdivision (2)(b) of this section, the ten-thousand-dollar limitation of subsection (8) of this section, and the limitation calculated pursuant to subsection (10) of this section shall be reduced in the same manner as provided by this subsection, except that the numerator shall be the number of years of employment with the employer rather than years of participation.

(10) If a member is or has participated in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member, determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by subdivision (2)(a) of this section, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under subdivision (2)(b) of this section for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year beginning before January 1, 1987.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(11) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(12) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the code and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 37. Section 24-710.02, Revised Statutes Supplement, 1994, is amended to read:

24-710.02. All annuities or benefits which any person shall be entitled to receive under sections 24-701 to 24-714 shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code, ~~of 1986, as amended.~~

Sec. 38. Section 25-1563.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-1563.01. In bankruptcy and in the collection of a money judgment, the following benefits shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors: To the extent reasonably necessary for the support of the debtor and any dependent of the debtor, an interest held under a stock bonus, pension, profit-sharing, or similar plan or contract payable on account of illness, disability, death, age, or length of service unless:

(1) Within two years prior to bankruptcy or to entry against the individual of a money judgment which thereafter becomes final, such plan or contract was established or was amended to increase contributions by or under the auspices of the individual or of an insider that employed the individual at the time the individual's rights under such plan or contract arose; or

(2) Such plan or contract does not qualify under section 401(a), 403(a), 403(b), or 408 of the Internal Revenue Code, ~~of 1986 or the successors of such sections.~~

For purposes of this section, unless the context otherwise requires, insider shall have the meaning provided in 11 U.S.C. 101(30).

Sec. 39. Section 25-21,190, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,190. As used in sections 25-21,190 to 25-21,193, unless the context otherwise requires, not-for-profit organization shall mean any not-for-profit entity which is exempt from federal income taxation pursuant to section 501(a) of the Internal Revenue Code, ~~as amended~~, and listed as an exempt organization in section 501(c)(2), (3), (4), (5), (6), (7), (8), (11), or (19) of the Internal Revenue Code, ~~as amended~~, and which is engaged in one or more activities within this state in furtherance of a purpose for which it is organized.

Sec. 40. Section 30-3215, Reissue Revised Statutes of Nebraska, is amended to read:

30-3215. Notwithstanding any provision to the contrary in the governing instrument or under any other law of this state and except as otherwise provided by court decree entered after April 30, 1971, a trust, whenever created, which is a private foundation or a split-interest trust as defined in sections 509 and 4947, respectively, of the Internal Revenue Code, ~~of 1954~~, during the period it is a private foundation or split-interest trust as so defined:

(1) Shall not engage in any act of self-dealing as defined in section 4941(d) of such code;

(2) Shall distribute the trust income for each taxable year at such time and in such manner as not to subject the trust to the tax on undistributed income imposed by section 4942 of such code;

(3) Shall not retain any excess business holdings as defined in section 4943(c) of such code;

(4) Shall not make any investment in such manner as to subject the trust to tax under section 4944 of such code; and

(5) Shall not make any taxable expenditure as defined in section 4945(d) of such code.

Except as otherwise provided by court decree entered after April 30, 1971, the prohibitions and requirements imposed upon such a trust by subdivisions (1) ~~to~~ through (5) of this section shall be deemed to be included within the governing instrument of every private foundation or split-interest trust, as defined in this section.

Sec. 41. Section 30-3216, Reissue Revised Statutes of Nebraska, is amended to read:

30-3216. The trustee of a trust, whenever created, which is a private foundation or a split-interest trust as defined in sections 509 and 4947, respectively, of the Internal Revenue Code of 1954, may, notwithstanding any provision to the contrary in the governing instrument or under any other law of this state and except as otherwise provided by court decree entered after April 30, 1971, amend the terms of the governing instrument to the extent necessary to bring the trust into conformity with the requirements for:

(1) Termination of private foundation status in the manner described in section 507 of such code, and exemption of the trust from the taxes imposed by sections 4941 to 4945, inclusive, thereof; or

(2) Exclusion of the trust from private foundation status under section 509(a)(3) of such code; and to this end may release any power contained in the governing instrument, may reduce or limit the charitable organizations or classes of charitable organizations in whose favor a power to select may be exercised, and may appoint new or additional trustees. If the trust is for the benefit of one or more named charitable organizations, the trustee shall first obtain the consent of those organizations before making any amendment under this subdivision.

Sec. 42. Section 44-202, Reissue Revised Statutes of Nebraska, is amended to read:

44-202. (1) Companies may be formed upon the stock or mutual plan to transact any line or lines of insurance authorized by section 44-201, upon the assessment plan to transact any line or lines of insurance specified in subdivisions (4), (5), (7), and (18) of such section, or upon the fraternal plan to transact insurance as authorized in Chapter 44, article 10. An assessment association may, in addition to any line or lines of insurance described in subdivisions (4), (5), (7), and (18) of section 44-201, be authorized to transact any line or lines of insurance which a mutual company may transact when such association has accumulated and thereafter at all times maintains the same reserves, surplus, and contingency funds required to be maintained by a mutual company organized to transact the same line or lines of insurance.

(2) A domestic company may, notwithstanding limitations otherwise

applicable and if it maintains books and records which account for such business, engage directly in any of the following businesses: (a) Rendering investment advice; (b) rendering services related to the functions involved in the operation of its insurance business, including, but not limited to, actuarial, loss prevention, marketing and sales, safety engineering, data processing, accounting, claims, appraisal, and collection services; (c) acting as trustee or fiduciary in the administration of pension, profit-sharing, and other benefit plans for employees and self-employed persons and individual retirement accounts or annuities, if, in the judgment of the company, such plans constitute qualified plans under the Internal Revenue Code, of 1986, as amended; (d) acting as administrative agent for a governmental instrumentality which is performing an insurance function for a health or welfare program; and (e) any other business activity reasonably complementary or supplementary to its insurance business, either to the extent necessarily or properly incidental to the insurance business which the company is authorized to do in this state or to the extent approved by the Director of Insurance and subject to any limitations he or she may prescribe for the protection of the interests of the policyholders of the company taking into account the effect of such business on the company's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business, and the risks inherent in such business as well as the relative advantages to the company and its policyholders of conducting such business directly instead of through a subsidiary.

Sec. 43. Section 44-404, Reissue Revised Statutes of Nebraska, is amended to read:

44-404. This section shall apply to only those policies and contracts issued on or after the operative date defined in section 44-407.07 (the Standard Nonforfeiture Law for Life Insurance), except as otherwise provided in subdivision (b) of this section for all annuities and pure endowments purchased on or after the operative date of such subdivision (b) under group annuity and pure endowment contracts issued prior to such operative date defined in section 44-407.07.

(a) Except as otherwise provided in subdivisions (b) and (c) of this section, the minimum standard for the valuation of all such policies and contracts issued prior to August 30, 1981, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subdivisions (b) and (c) of this section, the minimum standard for the valuation of all such policies and contracts shall be the Commissioners Reserve Valuation Methods defined in subdivisions (d), (e), and (h) of this section; five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other such policies and contracts, or in the cases of policies and contracts, other than annuity and pure endowment contracts, issued on or after September 2, 1973, four percent interest for such policies issued prior to August 24, 1979, and four and one-half percent interest for such policies issued on or after August 24, 1979; and the following tables: (i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,--the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of section 44-407.08 (Standard Nonforfeiture Law for Life Insurance), the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date and prior to the operative date of section 44-407.24; PROVIDED, that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies on or after the operative date of section 44-407.24 (a) the Commissioners 1980 Standard Ordinary Mortality Table, or (b) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (c) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such policies; (ii) for all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,--the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 44-407.09 (Standard Nonforfeiture Law for Life Insurance), and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining

the minimum standard of valuation for such policies; (iii) for individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,--the 1937 Standard Annuity Mortality Table, or at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Department of Insurance; (iv) for group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,--the Group Annuity Mortality Table for 1951, any modification of such table approved by the Department of Insurance, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts; (v) for total and permanent disability benefits in or supplementary to ordinary policies or contracts--for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies; (vi) for accidental death benefits in or supplementary to policies--for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies; and (vii) for group life insurance, life insurance issued on the substandard basis and other special benefits--such tables as may be approved by the Department of Insurance.

(b) Except as provided in subdivision (c) of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioners Reserve Valuation Methods defined in subdivisions (d) and (e) of this section and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to August 24, 1979, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Department of Insurance, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts;

(ii) For individual single premium immediate annuity contracts issued on or after August 24, 1979, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and seven and one-half percent interest;

(iii) For individual annuity and pure endowment contracts issued on or after August 24, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts;

(iv) For all annuities and pure endowments purchased prior to August 24, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts--the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Department of Insurance, and six percent interest; and

(v) For all annuities and pure endowments purchased on or after August 24, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts--the 1971 Group Annuity Mortality Table, or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest.

(c) The calendar year statutory valuation interest rates as defined in this subdivision shall be used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year, on or after the operative date of section 44-407.02; all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1 of the calendar year next following August 30, 1981; all annuities and pure endowments purchased in a particular calendar year on or after January 1 of the calendar year next following August 30, 1981, under group annuity and pure endowment contracts; and the net increase, if any, in a particular calendar year after January 1 of the calendar year next following August 30, 1981, in amounts held under guaranteed interest contracts.

The calendar year statutory valuation interest rates shall be determined as provided in this paragraph and the results rounded to the nearer one-quarter of one percent: (i) For life insurance, the calendar year statutory valuation interest rate shall be equal to the sum of (a) three percent; (b) the weighting factor defined in this subdivision multiplied by the difference between (1) the lesser of the reference interest rate defined in this subdivision and nine percent, and (2) three percent; and (c) one-half the weighting factor defined in this subdivision multiplied by the difference between (1) the greater of the reference interest rate defined in this subdivision and nine percent, and (2) nine percent. (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options, the calendar year statutory valuation interest rates shall be equal to the sum of (a) three percent and (b) the weighting factor defined in this subdivision multiplied by the difference between (1) the reference interest rate defined in this subdivision and (2) three percent. (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in (ii) above, the formula for life insurance in (i) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities in (ii) above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less. (iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities in (ii) above shall apply. (v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities in (ii) above shall apply. (vi) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when section 44-407.24 becomes operative.

The weighting factors referred to in the formulas stated in this subdivision are as follows: (i) For life insurance, with a guarantee duration of ten years or less, the weighting factor is .50; with a guarantee duration of more than ten years but not more than twenty years, the weighting factor is .45; and with a guarantee duration of more than twenty years, the weighting factor is .35. For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy. (ii) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from

other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80. (iii) The weighting factors for other annuities and for guaranteed interest contracts, except as stated in (ii) above, are as follows, according to plan type as defined in this subdivision: (a) For annuities and guaranteed interest contracts valued on an issue-year basis with a guarantee duration of five years or less, the weighting factor is .80 for plan type A, .60 for plan type B, and .50 for plan type C; with a guarantee duration of more than five years but not more than ten years, the weighting factor is .75 for plan type A, .60 for plan type B, and .50 for plan type C; with a guarantee duration of more than ten years but not more than twenty years, the weighting factor is .65 for plan type A, .50 for plan type B, and .45 for plan type C; and with more than twenty years guarantee duration the weighting factor is .45 for plan type A, .35 for plan type B, and .35 for plan type C. (b) For annuities and guaranteed interest contracts valued on an issue-year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase, the weighting factors are the factors shown in (iii)(a) above increased by .05 for all plan types. (c) For annuities and guaranteed interest contracts valued on a change in fund basis, the weighting factors are the factors as computed in (iii)(b) above increased by .10 for plan type A, increased by .20 for plan type B, and not increased for plan type C. (d) For annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the weighting factors are the factors as computed in (iii)(c) above increased by .05 for all plan types. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

Plan types used in this subdivision are defined as follows: Under plan type A, at any time a policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, without such an adjustment but in installments over five years or more, or as an immediate life annuity, or no withdrawal may be permitted. Under plan type B, before expiration of the interest rate guarantee, a policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company or without such an adjustment but in installments over five years or more, or no withdrawal may be permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years. Under plan type C, a policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either without an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this subdivision, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

The reference interest rate referred to in this subdivision shall be defined as follows: (i) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of the reference monthly average as defined in this subdivision. (ii) For single premium immediate annuities and for annuity benefits involving life

contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of the reference monthly average as defined in this subdivision. (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration in excess of ten years the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (ii) above, the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of the reference monthly average as defined in this subdivision.

The reference monthly average referred to in this subdivision shall mean a monthly bond yield average which is published by a national financial statistical organization, recognized by the National Association of Insurance Commissioners, in current general use in the insurance industry, and designated by the Director of Insurance. In the event that the National Association of Insurance Commissioners determines that an alternative method for determination of the reference interest rate is necessary, an alternative method, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the Department of Insurance, may be substituted.

(d) Except as otherwise provided in subdivisions (e) and (h) of this section, reserves according to the Commissioners Reserve Valuation Methods, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii), as follows: (i) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; PROVIDED, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy; (ii) a net one year term premium for such benefits provided for in the first policy year.

For any life insurance policy issued on or after January 1 of the fourth calendar year commencing after August 30, 1981, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioners Reserve Valuation Methods as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subdivision (h) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph, and the reserve as of such policy anniversary calculated as described in the preceding paragraph but with (i) the net level annual premium calculated as described in the preceding paragraph being reduced by fifteen percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without

reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions (a) and (c) of this section shall be used.

Reserves according to the Commissioners Reserve Valuation Methods for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subdivision, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(e) This subdivision shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, ~~as now or hereafter amended.~~

Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations shall be the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(f) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions (d), (e), (h), and (i) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(g) Reserves for all policies and contracts issued prior to August 30, 1981, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts, or benefits as established by the Department of Insurance, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(h) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract, but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the

actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subdivision are those standards stated in subdivisions (a) and (c) of this section.

For any life insurance policy issued on or after January 1 of the fourth calendar year commencing after August 30, 1981, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subdivision shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subdivision (d) of this section, ignoring the second paragraph of subdivision (d) of this section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subdivision (d) of this section, including the second paragraph of that subdivision, and the minimum reserve calculated in accordance with this subdivision.

(i) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subdivisions (d), (e), and (h) of this section, the reserves which are held under any such plan must (i) be appropriate in relation to the benefits and the pattern of premiums for that plan, and (ii) be computed by a method which is consistent with the principles of this section as determined by regulations promulgated by the Department of Insurance.

Sec. 44. Section 44-407.10, Reissue Revised Statutes of Nebraska, is amended to read:

44-407.10. (1) Sections 44-407.10 to 44-407.23 shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(2) Such sections shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, ~~as amended~~, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

Sec. 45. Section 44-704, Reissue Revised Statutes of Nebraska, is amended to read:

44-704. (1) Except as provided in subsection (2) of this section, no policy of insurance shall be issued upon the person of any individual except upon the application of the individual insured or with the written consent of the individual insured. Nothing in this section shall be deemed to prohibit the immediate transfer or assignment of a life insurance policy or annuity contract so issued.

(2) Notwithstanding the provisions of subsection (1) of this section, (a) a husband or wife may effectuate a policy of insurance upon the person of the other and (b) any person may effectuate a policy of insurance upon the person of a child.

(3) The term policy of insurance as used in this section shall include any life insurance policy, annuity contract, and contract of sickness and accident insurance but shall not include a contract of group life insurance or a contract of blanket or group sickness and accident insurance.

(4) Nothing in Chapter 44 shall prohibit an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, ~~as amended~~, from procuring, effectuating, or causing to be procured or effectuated the ownership of any life insurance policy or annuity contract upon the life of an individual if such individual gives written consent to the issuance of such policy or contract when such organization is the original owner of such policy or contract. Nothing in Chapter 44 shall require such organization to have an insurable interest as defined in section 44-103 in the life of such individual in order for a policy or contract to be procured or effectuated pursuant to this subsection. This subsection shall apply to all policies and contracts in force on or after April 16, 1992.

(5) Except as provided in subsection (4) of this section, nothing in this section shall be construed to permit a person to procure, effectuate, or

cause to be procured or effectuated, directly or by assignment or otherwise, any policy of insurance upon the person of a child or other individual unless the benefits under such policy are payable to the child or other individual insured, to his or her personal representative, or to a person having, at the time such policy is issued, an insurable interest in the child or other individual insured.

Sec. 46. Section 44-1640, Revised Statutes Supplement, 1994, is amended to read:

44-1640. An employer or employer trust group policy or contract delivered or issued for delivery in this state which provides coverage to a group which, based on the number of employees, is not a group subject to section 4980B of the Internal Revenue Code of 1986, ~~as amended~~, and which provides hospital, surgical, or major medical coverage, or any combination of such coverages, on an expense-incurred or service basis by an insurance company or health maintenance organization for employees or their families, but not a policy or contract which provides benefits for specific diseases or for accidental injuries only, shall provide that an employee whose hospital, surgical, or major medical coverage under the group policy or contract would otherwise be terminated because of the involuntary termination of employment of such employee, for reasons other than misconduct in connection with employment, shall be entitled to continue such coverage subject to the provisions of the group policy or contract and the following conditions:

(1) Such coverage shall be continued on a monthly renewal basis until the earliest of the following dates:

(a) The date of expiration of a period of six months following the date the coverage of the terminated employee would otherwise be terminated;

(b) The date the terminated employee becomes eligible for other group hospital, surgical, or medical coverage, whether insured or self-insured, or the date the terminated employee becomes eligible for medicare;

(c) The date of expiration of the monthly period for which premiums were paid in the event of a nonpayment of premium;

(d) The date the terminated employee exercises the privilege provided under the group policy or contract for conversion to an individual or family policy or contract; or

(e) The date on which the group insurance policy or health maintenance organization agreement is terminated or the date the employer or employer trust trustee terminates participation under such policy or agreement;

(2) The monthly premium rate to be charged for such coverage shall not exceed one hundred two percent of the total premium which would have been charged for such coverage had the terminated employee still been a member of the insured group. Such total premium rate shall be paid by the terminated employee. The experience of such coverage shall be charged to the group policy or contract which is in force; and

(3) The interruption of employment due to a labor dispute shall not be considered to be an involuntary termination of employment.

Sec. 47. Section 44-1643, Revised Statutes Supplement, 1994, is amended to read:

44-1643. An employer or employer trust group policy or contract delivered, issued for delivery, or renewed in this state which provides coverage to a group which, based on the number of employees, is not a group subject to section 4980B of the Internal Revenue Code of 1986, ~~as amended~~, and which provides hospital, surgical, or major medical coverage, or any combination of such coverages, on an expense-incurred or service basis by an insurance company or health maintenance organization for employees and their dependents, but not including any policy or contract which provides benefits for specific diseases or for accidental injuries only, shall provide that the covered surviving spouse or covered surviving dependent children whose hospital, surgical, or major medical coverage under the group policy or contract would otherwise be terminated because of the death of such employee shall be entitled to continue such coverage subject to the provisions of the group policy or contract and the following conditions:

(1) Such coverage shall be continued on a monthly renewal basis until the earliest of the following dates:

(a) The date the covered surviving spouse or covered surviving dependent children become eligible for other group hospital, surgical, or major medical coverage, whether insured or self-insured, and with respect to the covered surviving spouse, the date such spouse remarries or the date such spouse becomes eligible for medicare or is covered by medicaid;

(b) The date of expiration of the monthly period for which premiums were paid for the covered surviving spouse or covered surviving dependent

children in the event of nonpayment of premium;

(c) The date the covered surviving spouse or covered surviving dependent children exercise any privilege provided under the group policy or contract for conversion to an individual or family policy or contract;

(d) The date on which the group insurance policy or health maintenance organization agreement is terminated or the date the employer or employer trust trustee terminates participation under such policy or agreement; or

(e) The date of expiration of a period of one year following the date the coverage of the deceased employee would otherwise terminate; and

(2) The monthly premium rate to be charged for such coverage shall not exceed one hundred two percent of the total premium which would have been established for such coverage for the covered surviving spouse or covered surviving dependent children had the deceased employee still been a member of the insured group. Such total premium rate shall be paid by the covered surviving spouse or covered surviving dependent children. The experience of such coverage shall be charged to the group policy or contract which is in force.

Sec. 48. Section 44-5256, Revised Statutes Supplement, 1994, is amended to read:

44-5256. (1) The Small Employer Health Insurance Availability Act shall apply to any health benefit plan that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(a) Any portion of the premium or benefits is paid by or on behalf of the small employer;

(b) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium; or

(c) The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of section 106, 125, or 162 of the Internal Revenue Code, ~~of 1986, as amended.~~

(2)(a) The act shall not apply to individual health benefit plans issued to employees of a small employer if the arrangements with the small employer meet any of the conditions set forth in subsection (1) of this section and were established prior to January 1, 1995.

(b) The act shall apply to individual health benefit plans issued on or after such date if any of the conditions set forth in subsection (1) of this section are met.

(3)(a) Except as provided in subdivision (b) of this subsection, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by the act shall apply as if all health benefit plans delivered or issued for delivery to small employers in this state by such affiliated carriers were issued by one carrier.

(b) An affiliated carrier that is a health maintenance organization having a certificate of authority pursuant to the Health Maintenance Organization Act may be considered to be a separate carrier for the purposes of the Small Employer Health Insurance Availability Act.

(c) Unless otherwise authorized by the director, a small employer carrier shall not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to small employers in this state if such arrangements would result in less than fifty percent of the insurance obligation or risk for such health benefit plans being retained by the ceding carrier. The Assumption Reinsurance Act shall apply if a small employer carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to small employers in this state.

(4)(a) A Taft-Hartley trust, or a carrier with the written authorization of such a trust, may make a written request to the director for a waiver from the application of any of the provisions of subsection (1) of section 44-5258 with respect to a health benefit plan provided to the trust.

(b) The director may grant such a waiver if the director finds that application of such subsection with respect to the trust would:

(i) Have a substantial adverse effect on the participants and beneficiaries of such trust; and

(ii) Require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.

(c) A waiver granted under this section shall not apply to an individual if the person participates in such a trust as an associate member of an employee organization.

Sec. 49. Section 44-5802, Reissue Revised Statutes of Nebraska, is

amended to read:

44-5802. For purposes of the Third-Party Administrator Act:

(1) Affiliate or affiliated shall mean any entity or person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a specified entity or person;

(2) Control shall have the same meaning as in section 44-2121;

(3) Director shall mean the Director of Insurance;

(4) Insurance or insurance coverage shall mean any coverage offered or provided by an insurer;

(5) Insurer shall mean any person undertaking to provide life insurance, sickness and accident insurance, workers' compensation insurance coverage, or annuities in this state. Insurer shall include an authorized insurance company, a prepaid hospital or medical care plan, a health maintenance organization, or any other person providing a plan of insurance subject to state insurance regulation. Insurer shall include an employer who is approved by the Nebraska Workers' Compensation Court as a self-insurer. Insurer shall not include a bona fide employee benefit plan established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974;

(6) Third-party administrator shall mean a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state or residents of another state from offices in this state, in connection with life insurance, sickness and accident insurance, workers' compensation insurance coverage, or annuities, except any of the following:

(a) An employer on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of such employer;

(b) A union on behalf of its members;

(c) An insurer which is authorized to transact the business of insurance in this state with respect to a policy lawfully issued and delivered in and pursuant to the laws of this state or another state;

(d) An agent or broker licensed to sell life insurance, sickness and accident insurance, workers' compensation insurance coverage, or annuities in this state whose activities are limited exclusively to the sale of insurance;

(e) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(f) A trust and its trustees, agents, and employees acting pursuant to such trust established in conformity with 29 U.S.C. 186;

(g) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, of 1986, as amended, its trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code, of 1986, as amended;

(h) A credit union or a financial institution which is subject to supervision or examination by federal or state banking authorities or a mortgage lender, to the extent it collects and remits premiums to licensed insurance agents or authorized insurers in connection with loan payments;

(i) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized collection if the company does not adjust or settle claims;

(j) A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life insurance, sickness and accident insurance, workers' compensation insurance coverage, or annuities;

(k) A person who acts solely as a third-party administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974; or

(l) A person licensed as a managing general agent in this state whose activities are limited exclusively to the scope of activities allowed under such license; and

(7) Underwrite or underwriting shall include, but not be limited to, the acceptance of employer or individual applications for insurance coverage of individuals in accordance with the written rules of the insurer, the overall planning and coordinating of an insurance program, and the ability to procure bonds and excess insurance.

Sec. 50. Section 45-803, Reissue Revised Statutes of Nebraska, is amended to read:

45-803. (1) The following shall be exempt from the Credit Services Organization Act:

(a) A person authorized to make loans or extensions of credit under

the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the National Housing Act, 12 U.S.C. 1701 et seq.;

(b) A bank or savings and loan association whose deposit or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or a subsidiary of such a bank or savings and loan association;

(c) A credit union doing business in this state;

(d) A nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code; ~~of 1986;~~

(e) A person licensed as a real estate broker or salesperson under the Nebraska Real Estate License Act acting within the course and scope of that license;

(f) A person licensed to practice law in this state acting within the course and scope of the person's practice as an attorney;

(g) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission acting within the course and scope of that regulation;

(h) A consumer reporting agency;

(i) A person whose primary business is making loans secured by liens on real property;

(j) A person, firm, corporation, or association licensed as a collection agency in this state or a person holding a solicitor's certificate in this state acting within the course and scope of that license or certificate; and

(k) A person licensed to engage in the business of debt management pursuant to sections 69-1201 to 69-1217.

(2) The burden of proving an exemption under this section shall be on the person claiming the exemption.

Sec. 51. Section 48-602, Revised Statutes Supplement, 1994, is amended to read:

48-602. For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the commissioner may prescribe by rule and regulation that base period shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(2) Benefits shall mean the money payments payable to an individual with respect to his or her unemployment;

(3) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(4) Calendar quarter shall mean the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(5) Combined tax shall mean the employer liability consisting of contributions and commencing January 1, 1996, the state unemployment insurance tax;

(6) Combined tax rate shall mean the rate which is applied to wages to determine the combined taxes due;

(7) Commissioner shall mean the Commissioner of Labor;

(8) Contribution rate shall mean the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(9) Contributions shall mean that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(10) Department shall mean the Department of Labor;

(11) Employee leasing company shall mean an independently established business entity which engages in the business of providing leased

employees to a client-lessee. Client-lessee shall mean any other employer, individual, organization, partnership, limited liability company, corporation, or other legal entity;

(12) Employment office shall mean a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(13) Fund shall mean the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(14) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health as a hospital;

(15) Institution of higher education shall mean an institution which: (a) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; (b) is legally authorized in this state to provide a program of education beyond high school; (c) provides an educational program for which it awards a bachelor's degree or higher or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and (d) is a public or other nonprofit institution; notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

(16) Insured work shall mean employment for employers;

(17) Leave of absence shall mean any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled to as a matter of state or federal law;

(18) Payments in lieu of contributions shall mean the money payments to the Unemployment Compensation Fund required by sections 48-649, 48-652, 48-660.01, and 48-661;

(19) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(20) State unemployment insurance tax shall mean that portion of the combined tax commencing January 1, 1996, which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649;

(21) State unemployment insurance tax rate shall mean the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(22) Unemployed shall mean an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but shall not include any individual on a leave of absence;

(23) Unemployment Trust Fund shall mean the trust fund in the Treasury of the United States of America established under section 904 of the Social Security Act which receives credit from the state Unemployment Compensation Fund;

(24) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations prescribed by the commissioner. After December 31, 1985, wages shall include tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code, of 1954, as amended. With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604 or in domestic service as is provided in subdivision (4)(d) of section 48-604, wages shall mean cash remuneration for such services, except that as used in sections 48-648 and 48-649 only, the term wages shall not include that part of the remuneration which, after remuneration equal to seven thousand dollars has been paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the

remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

The term wages shall not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code, of 1954, as amended;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code, of 1954;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan; and

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(25) Week shall mean such period of seven consecutive days as the commissioner may by rule and regulation prescribe; and

(26) Week of unemployment with respect to any individual shall mean any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount.

Sec. 52. Section 48-604, Revised Statutes Supplement, 1994, is amended to read:

48-604. As used in the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed after June 30, 1941, including service in interstate commerce, for wages or under any contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (i) the service is performed entirely within such state or (ii) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to the Employment Security Law if the commissioner approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to such law;

(b) Services of an individual wherever performed within the United States or Canada if (i) such service is not covered under the employment compensation law of any other state or Canada and (ii) the place from which the service is directed or controlled is in this state;

(c)(i) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under subdivisions (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if:

(A) The employer's principal place of business in the United States is located in this state;

(B) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; the employer is a corporation or limited liability company which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of subdivisions (A) and (B) of this subdivision are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the laws of this state.

(ii) American employer, for the purposes of this subdivision, shall mean: (A) An individual who is a resident of the United States; (B) a partnership if two-thirds or more of the partners are residents of the United States; (C) a trust if all the trustees are residents of the United States; or (D) a corporation or limited liability company organized under the laws of the United States or of any state.

(iii) The term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed prior to January 1, 1978, which is or was service in employment for this state or any instrumentality thereof immediately prior to September 2, 1977, including service performed after December 31, 1971, in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; and service performed after December 31, 1977, in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of that act and is not otherwise excluded under this section;

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (i) The service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(8) of that act and is not otherwise excluded under this section; and (ii) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c)(i) Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (6)(a) of this section when:

(A) Such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment

of time; and

(B) Such service is not performed in agricultural labor if performed before January 1, 1984, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

(ii) For purposes of this subdivision:

(A) Any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not an employee of such other person within the meaning of any other provisions of this section;

(B) In case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (A) of this subdivision, such other person and not the crew leader shall be treated as the employer of such individual and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and

(C) The term crew leader shall mean an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person; and

(d) Service performed after December 31, 1977, by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages shall be deemed to be employment unless it is shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include:

(a) Agricultural labor, except as provided in subdivision (4)(c) of this section, including all services performed;

(i) On a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;

(ii) In the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm;

(iii) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended; in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the

commodity with respect to which such service is performed, or (B) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (A) of this subdivision, but only if such operators produced more than one-half of the commodity with respect to which such service is performed. Subdivisions (A) and (B) of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business.

As used in this section, the term farm includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(b) Domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;

(c) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (1) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother;

(e) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state is not certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code, of 1954, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected;

(f) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) in a position which, under or pursuant to the state law, is designated a major nontenured policymaking or advisory position, or a policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week;

(g) For the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed:

(i) In the employ of (A) a church or convention or association of churches or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is

not an institution of higher education;

(iv) In a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market or by an individual receiving such rehabilitation or remunerative work;

(v) As part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(vi) Prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution;

(h) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code, of 1954, other than an organization described in section 401(a) of the Internal Revenue Code, of 1954, or under section 521 thereof, if the remuneration for such service is less than fifty dollars;

(j) Service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university or (ii) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and (B) such employment will not be covered by any program of unemployment insurance;

(k) Service performed as a student nurse in the employ of a hospital or nurses training school by an individual who is enrolled and is regularly attending classes in a nurses training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(l) Service performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission;

(m) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(n) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers and magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(o) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers;

(p) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital;

(q) Service performed for a motor carrier, as defined in 49 U.S.C. 10102(13) as amended or subdivision (8) of section 75-302 as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a lease executed pursuant to 49 C.F.R. 1057 as amended or Title 291, Chapter 3, as amended, of the rules and regulations of the Public Service Commission with the motor carrier as lessee. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of

the service performed for the lessee. The existence of such a lease either prior to, on the date of, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after September 1, 1982;

(r) Service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual. The performance of such service prior to, on, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after January 1, 1983; and

(s) Service performed by an individual as a volunteer research subject who is paid on a per study basis for scientific, medical, or drug-related testing for any organization other than one described in section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or any governmental entity;

(7) If the services performed during one-half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subdivision, the term pay period means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her when any of such service is excepted by subdivision (6)(h) of this section;

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Employment Security Law; and

(9) Any extension of the definition of employment by this section to include services heretofore excluded shall not be effective until after December 31, 1977, and section 48-604 as it existed prior to its amendments by Laws 1977, LB 509, shall be applicable to services performed prior to January 1, 1978.

Sec. 53. Section 48-628.03, Reissue Revised Statutes of Nebraska, is amended to read:

48-628.03. (1) An individual shall be ineligible for payment of extended benefits for any week of unemployment in his or her eligibility period if the commissioner finds that during such period (a) he or she failed to accept any offer of suitable work or failed to apply for any suitable work to which he or she was referred by the commissioner or (b) he or she failed to actively engage in seeking work as prescribed under subsection (5) of this section.

(2) Any individual who has been found ineligible for extended benefits by reason of subsection (1) of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until (a) he or she has been employed in each of four subsequent weeks, whether or not consecutive, and (b) has earned remuneration equal to not less than four times the extended weekly benefit amount.

(3) For purposes of this section, the term suitable work shall mean, with respect to any individual, any work which is within such individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of the individual's average weekly benefit amount as determined under subdivision (9)(c) of section 48-628.02, plus the amount, if any, of supplemental unemployment benefits as defined in section 501(c)(17)(d) of the Internal Revenue Code of 1986, payable to such individual for such week. Such work must also pay wages equal to the higher of the federal minimum wage or the applicable state or local minimum wage. No individual shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitability contained in this subsection if (a) the position was not offered to such individual in writing or was not listed with the employment service, (b) such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in subdivision (c) of section 48-628, to the extent that the criteria of suitability in that section are not inconsistent with the

provisions of this subsection, or (c) the individual furnishes satisfactory evidence to the commissioner that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in subdivision (c) of section 48-628 without regard to the definition specified by this subsection.

(4) Notwithstanding the provisions of subsection (3) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth under subdivision (c)(2) of section 48-628, nor shall an individual be denied benefits if such benefits would be deniable by reason of the provision set forth in subdivision (c)(3) of section 48-628.

(5) For the purposes of subsection (1) of this section, an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week and the individual furnishes tangible evidence that he or she has engaged in such effort during such week.

(6) The state employment service shall refer any claimant entitled to extended benefits under this section to any suitable work which meets the criteria prescribed in subsection (3) of this section.

(7) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if such individual has been disqualified for benefits under subdivision (a), (b), or (c) of section 48-628 unless such individual has earned wages for services performed in subsequent employment in an amount not less than four hundred dollars.

(8) Subsections (1) through (7) of this section shall be suspended for weeks of unemployment beginning after March 6, 1993, and before January 1, 1995.

Sec. 54. Section 58-212, Reissue Revised Statutes of Nebraska, is amended to read:

58-212. Hospital or nursing home shall mean (1) any private nonprofit hospital, nonprofit nursing home, corporation, association, or institution, (2) any public hospital, public nursing home, or institution authorized by law to provide or operate health facilities in this state, and (3) any cooperative hospital service organization which is described in section 501(c) of the Internal Revenue Code of 1954, as amended, or any similar nonprofit corporation, whether or not such corporation is exempt from federal income taxation pursuant to section 501(e) of the Internal Revenue Code, of 1954, as amended.

Sec. 55. Section 58-440, Reissue Revised Statutes of Nebraska, is amended to read:

58-440. The authority and an existing corporation, the income of which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, which (1) operates within one or more of the target areas, (2) provides managerial, financial, and technical assistance to small businesses, and (3) operates an investment committee which includes representatives of more than one local financial institution shall form a business development corporation.

The board of directors of the business development corporation shall include two representatives from the authority, three representatives from the existing corporation forming the business development corporation, and six members appointed by the representatives from such existing corporation. Each of the six members so appointed shall be a member of a racial minority and shall be employed as a professional person or shall be a business owner. No more than three of the appointed members shall belong to the same political party. At least three of the appointed members shall reside or be employed within one of the target areas.

Such appointments shall be for terms of four years, except that of the initial appointees, three shall serve for terms of two years and three for terms of four years. No such appointed member shall serve more than two consecutive terms.

The business development corporation shall provide debt financing and equity financing to eligible businesses starting or expanding in or expanding into target areas. For purposes of sections 58-440 to 58-442, eligible business shall mean a business engaged in construction, manufacturing, research and development, retail sales, service, transportation, warehousing, or wholesaling.

An eligible business receiving financing from a business development corporation and employing more than fifteen individuals within the boundaries of the target area shall be required to guarantee that during any twelve-month

period at least one-third of the individuals employed for activities of the eligible business carried on within the target area will be residents of the target area.

Sec. 56. Section 60-686, Reissue Revised Statutes of Nebraska, is amended to read:

60-686. (1) When any person is required to post bond under any provision of the Nebraska Rules of the Road, such bond may consist of an unexpired guaranteed arrest bond certificate or a similar written instrument by its terms of current force and effect signed by such person and issued to him or her by an automobile club or a similar association or insurance company or a corporation, organized under the laws of this state, not for profit, which has been exempted from the payment of federal income taxes, as provided by section 501(c)(4), (6), or (8) of the Internal Revenue Code, of 1986, jointly and severally with a corporate surety duly authorized to transact fidelity or surety insurance business in this state or with an insurance company duly authorized to transact both automobile liability and fidelity and surety insurance business in this state to guarantee the appearance of such person at any hearing upon any arrest or apprehension or any violation or, in default of any such appearance, the prompt payment by or on behalf of such person of any fine or forfeiture imposed for such default not in excess of two hundred dollars.

(2) The provisions of subsection (1) of this section shall not apply to any person who is charged with a felony.

Sec. 57. Section 68-602, Reissue Revised Statutes of Nebraska, is amended to read:

68-602. For purposes of sections 68-601 to 68-618 and 68-621 to 68-630, unless the context otherwise requires:

(1) Wages shall mean all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that wages shall not include that part of such remuneration which, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of the act;

(2) Employment shall mean any service performed by an employee in the employ of the State of Nebraska or any political subdivision thereof for such employer except (a) service which, in the absence of an agreement entered into under sections 68-601 to 68-618 and 68-621 to 68-630, would constitute employment as defined in the Social Security Act or (b) service which under the act may not be included in an agreement between the state and the Secretary of Health and Human Services entered into under sections 68-601 to 68-618 and 68-621 to 68-630. Service which under the act may be included in an agreement only upon certification by the Governor in accordance with section 218(d)(3) of the act shall be included in the term employment if and when the Governor issues, with respect to such service, a certificate to the Secretary of Health and Human Services pursuant to subsection (2) of section 68-624;

(3) Employee shall include an officer of the state or a political subdivision thereof;

(4) State agency shall mean the Director of Administrative Services;

(5) Secretary of Health and Human Services shall include any individual to whom the Secretary of Health and Human Services has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions and, with respect to any action taken prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom such administrator had delegated any such function;

(6) Political subdivision shall include an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is essentially legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision;

(7) Social Security Act shall mean the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the Social Security Act, including regulations and requirements issued pursuant thereto, as such act has been amended or recodified to December 25, 1969, and may from time to time hereafter be amended or recodified; and

(8) Federal Insurance Contributions Act shall mean ~~subchapter A of Chapter 9 of the Internal Revenue Code of 1939 and Chapter 21, subchapters A, and B, and C of Chapter 21 of the Internal Revenue Code of 1954; as such codes have been and may from time to time be amended or recodified,~~ and the term employee tax shall mean the tax imposed by section 1400 of such code of 1939 and section 3101 of such code, of 1954; as such codes have been and may

be from time to time amended or recodified.

Sec. 58. Section 68-1047, Revised Statutes Supplement, 1994, is amended to read:

68-1047. (1) A provision in a trust created after June 10, 1993, purporting to make assets or income unavailable to a beneficiary if the beneficiary applies for or is determined eligible for any public assistance program administered by the Department of Social Services, including the medical assistance program, shall be void and unenforceable, except that a court of competent jurisdiction may order, for good cause shown, that trust assets or income be set aside for specific goods and services not covered by such public assistance program. Specific goods and services not covered by such public assistance program may include such goods and services as are necessary for rehabilitation of the beneficiary or for any special needs of the beneficiary. Notice of such a proceeding before a court of competent jurisdiction shall be given to the department which shall have standing to appear at such proceeding as an interested party. This subsection shall not apply to trusts created for beneficiaries from assets of a person not legally responsible for the care and maintenance of the beneficiary.

(2) The following trusts, created after June 10, 1993, shall become revocable to the extent of the transferor-beneficiary's interest in the trust, by operation of law, upon the filing of an application by or on behalf of such beneficiary for any public assistance program administered by the department, including the medical assistance program:

(a) Any irrevocable trust established by or on behalf of a person from such person's own assets, if such person is a beneficiary of the trust; and

(b) Any irrevocable trust established on behalf of a person from the proceeds of litigation or settlement of claims against a party or parties brought by or on behalf of such person.

Such revocability shall remain in effect only for such time as the application for public assistance is pending or benefits are being paid.

(3) The provisions of subsection (2) of this section shall not affect the federal income, gift, or estate tax status of any charitable remainder or charitable lead trust that is qualified under any of the provisions of the federal Internal Revenue Code.

Sec. 59. Section 68-1605, Revised Statutes Supplement, 1994, is amended to read:

68-1605. (1) The department shall use the funds in the Homeless Shelter Assistance Trust Fund to finance grants for projects or programs that provide for persons or families with special housing needs.

(2) Projects and programs to which funds shall be provided include eligible community, neighborhood-based, housing-assistance organizations, institutions, associations, and societies or corporations that:

(a) Are exempt from taxation under section 501(c)(3) of the Internal Revenue Code, of 1986, as amended;

(b) Do not discriminate on the basis of age, religion, sex, race, color, or national origin;

(c) Provide twenty-four-hour residential housing;

(d) Conduct an annual certified external audit; and

(e) Operate a drug-free premises.

(3) The housing advisory committee established pursuant to section 81-1281 shall advise and assist the department in establishing criteria, priorities, and guidelines for eligibility requirements, application requirements and dates, public notification, and monitoring and shall assist the department in adopting and promulgating rules and regulations for providing grants from the fund.

(4) An application submitted by an organization representing a number of eligible applicants may be considered even though the representing organization may itself not qualify under this section.

(5) In making grants pursuant to the Homeless Shelter Assistance Trust Fund Act, the department shall consider, but not be limited to, the following factors:

(a) The number of night-lodging units provided by the applicant as measured by the number of persons housed per night;

(b) The number of meals provided by the applicant;

(c) Other verifiable units of service provided by the applicant; and

(d) The geographic distribution of funds.

Sec. 60. Section 71-7412, Revised Statutes Supplement, 1994, is amended to read:

71-7412. Wholesale drug distribution shall mean distribution of prescription drugs to a person other than a consumer or patient. Wholesale drug distribution shall not include:

(1) Intracompany sales which shall mean any transaction or transfer between any division, subsidiary, or parent company and an affiliated or related company under common ownership or common control;

(2) The purchase or other acquisition of a drug by a hospital or other health care entity that is a member of a group purchasing organization from such organization or from other members of such organization for the use of the purchasing or acquiring hospital or entity;

(3) The sale, purchase, or trade of or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code, of 1986, as amended, a state, a political subdivision, or another governmental agency to a nonprofit affiliate of the organization, to the extent otherwise permitted by law;

(4) The sale, purchase, or trade of or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;

(5) The sale, purchase, or trade of or an offer to sell, purchase, or trade a drug for emergency medical reasons;

(6) The sale, purchase, or trade of, an offer to sell, purchase, or trade, or the dispensing of a drug pursuant to a prescription;

(7) The distribution of drug samples by representatives of a manufacturer or of a wholesale drug distributor; or

(8) The sale, purchase, or trade of blood and blood components intended for transfusion.

Sec. 61. Section 76-2,111, Reissue Revised Statutes of Nebraska, is amended to read:

76-2,111. As used in sections 76-2,111 to 76-2,118 the Conservation and Preservation Easements Act, unless the context otherwise requires:

(1) Conservation easement shall mean a right, whether or not stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality, or other natural resources, or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code, of 1954, as amended;

(2) Preservation easement shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code, of 1954, as amended; and

(3) Holder shall mean anyone acquiring a conservation or preservation easement by purchase, exchange, gift, or devise and having the right to enforce it by its terms, which may be:

(a) Any governmental body empowered to hold an interest in real property in this state under the laws of this state or the United States having among its purposes the subject matter of the easement;

(b) In the case of a conservation easement, any charitable corporation or trust whose purposes include retaining or protecting the natural, scenic, or open condition of real property, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use or protecting air quality, water quality, or other natural resources; or

(c) In the case of a preservation easement, any charitable corporation or trust whose purposes include the preservation of the historical, architectural, archaeological, or cultural aspects of real property.

Sec. 62. Section 76-2102, Revised Statutes Supplement, 1994, is amended to read:

76-2102. For purposes of the Membership Campground Act:

(1) Advertisement shall mean an attempt by publication, dissemination, solicitation, or circulation to induce, directly or indirectly, any person to enter into an obligation or acquire a title or interest in a membership camping contract;

(2) Affiliate shall mean any person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under

common control with the person specified;

(3) Blanket encumbrance shall mean any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, judgment lien, federal or state tax lien, or other material lien or encumbrance which secures or evidences the obligation to pay money or to sell or convey all or part of a campground located in this state, made available to purchasers by the membership camping operator, and which authorizes, permits, or requires the foreclosure or other disposition of the campground. Blanket encumbrance shall include the lessor's interest in a lease of all or part of a campground which is located in this state and which is made available to purchasers by a membership camping operator. Blanket encumbrance shall not include a lien for taxes or assessments levied by a public body which are not yet due and payable;

(4) Business day shall mean any day except Saturday, Sunday, or a legal holiday;

(5) Campground shall mean real property made available to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device, and shall include the outdoor recreational facilities located on the real property. Campground shall not include a mobile home park as defined in section 76-1464;

(6) Campsite shall mean a space:

(a) Designed and promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, or other similar device used for camping; and

(b) With no permanent dwelling on it;

(7) Commission shall mean the State Real Estate Commission;

(8) Controlling persons of a membership camping operator shall mean each director and officer and each owner of twenty-five percent or more of the stock of the operator, if the operator is a corporation, each general partner and each owner of twenty-five percent or more of the partnership or other interests, if the operator is a general or limited partnership or other person doing business as a membership camping operator, and each member owning twenty-five percent or more of the limited liability company, if the operator is a limited liability company;

(9) Facilities shall mean any of the following amenities provided and located on the campground: Campsites; rental trailers; swimming pools; sport courts; recreation buildings and trading posts; or grocery stores;

(10) Membership camping contract shall mean an agreement offered or sold within this state evidencing a purchaser's right to use a campground of a membership camping operator for more than thirty days during the term of the agreement;

(11) Membership camping operator or operator shall mean any person, other than one who is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, who owns or operates a campground and offers or sells membership camping contracts paid for by a fee or periodic payments. Membership camping operator shall not include the operator of a mobile home park as defined in section 76-1464;

(12) Offer shall mean an inducement, solicitation, or attempt to encourage a person to acquire a membership camping contract;

(13) Person shall mean any individual, partnership, limited liability company, firm, corporation, or association;

(14) Purchaser shall mean a person who enters into a membership camping contract with a membership camping operator and obtains the right to use the campground owned or operated by the membership camping operator;

(15) Sale or sell shall mean entering into or other disposition of a membership camping contract for value. For purposes of this subdivision, value shall not include a fee to offset the reasonable costs of a transfer of a membership camping contract; and

(16) Salesperson shall mean any individual, other than a membership camping operator, who is engaged in obtaining commitments of persons to enter into membership camping contracts by making a direct sales presentation to the person but shall not include any individual engaged in the referral of persons without making any representations about the camping program or a direct sales presentation to such persons.

Sec. 63. Section 77-118, Revised Statutes Supplement, 1994, is amended to read:

77-118. Nebraska adjusted basis shall mean the adjusted basis of property as determined under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date, increased by the total amount allowed under the code for depreciation or amortization or pursuant to an election to expense depreciable property under section 179 of the code, as amended.

Sec. 64. Section 77-120, Revised Statutes Supplement, 1994, is

amended to read:

77-120. (1) Net book value of property for taxation shall mean that portion of the Nebraska adjusted basis of the property as of the assessment date for the applicable recovery period in the table set forth in this subsection.

| Year | NET BOOK VALUE AS A PERCENT OF NEBRASKA ADJUSTED BASIS | | | | | |
|------|---|-------|-------|-------|-------|-------|
| | Recovery Period (in years) | | | | | |
| | 3 | 5 | 7 | 10 | 15 | 20 |
| 1 | 75.00 | 85.00 | 89.29 | 92.50 | 95.00 | 96.25 |
| 2 | 37.50 | 59.50 | 70.16 | 78.62 | 85.50 | 89.03 |
| 3 | 12.50 | 41.65 | 55.13 | 66.83 | 76.95 | 82.35 |
| 4 | 0.00 | 24.99 | 42.88 | 56.81 | 69.25 | 76.18 |
| 5 | | 8.33 | 30.63 | 48.07 | 62.32 | 70.46 |
| 6 | | 0.00 | 18.38 | 39.33 | 56.09 | 65.18 |
| 7 | | | 6.13 | 30.59 | 50.19 | 60.29 |
| 8 | | | 0.00 | 21.85 | 44.29 | 55.77 |
| 9 | | | | 13.11 | 38.38 | 51.31 |
| 10 | | | | 4.37 | 32.48 | 46.85 |
| 11 | | | | 0.00 | 26.57 | 42.38 |
| 12 | | | | | 20.67 | 37.92 |
| 13 | | | | | 14.76 | 33.46 |
| 14 | | | | | 8.86 | 29.00 |
| 15 | | | | | 2.95 | 24.54 |
| 16 | | | | | 0.00 | 20.08 |
| 17 | | | | | | 15.62 |
| 18 | | | | | | 11.15 |
| 19 | | | | | | 6.69 |
| 20 | | | | | | 2.23 |
| 21 | | | | | | 0.00 |

Net book value as a percent of Nebraska adjusted basis shall be calculated using the one-hundred-fifty-percent declining balance method, switching to straight line, with a one-half-year convention.

(2) The applicable recovery period for any item of property shall be determined as follows:

(a) Three-year property shall include property with a class life of four years or less;

(b) Five-year property shall include property with a class life of more than four years and less than ten years;

(c) Seven-year property shall include property with a class life of ten years or more but less than sixteen years;

(d) Ten-year property shall include property with a class life of sixteen years or more but less than twenty years;

(e) Fifteen-year property shall include property with a class life of twenty years or more but less than twenty-five years; and

(f) Twenty-year property shall include property with a class life of twenty-five years or more.

(3) Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Tax Commissioner under the Internal Revenue Code, of 1986, as amended, as the code exists on the assessment date.

(4) One-half-year convention shall be a convention which treats all property placed in service during any tax year as placed in service on the midpoint of such tax year.

(5) The percent shown for year one shall be the percent used for January 1 of the year following the year of acquisition of the property.

Sec. 65. Section 77-907, Reissue Revised Statutes of Nebraska, is amended to read:

77-907. As used in Chapter 77, article 9, unless the context otherwise requires:

(1) Domestic, foreign, and alien insurance companies shall have the meanings as set forth in section 44-103 and shall include reciprocal or interinsurance exchanges and their designated attorneys in fact as defined in Chapter 44, article 12;

(2) Department shall mean the Department of Insurance;

(3) Director shall mean the Director of Insurance;

(4) Premiums shall mean the consideration paid to insurance companies for insurance and shall include policy fees, assessments, dues, or other similar payments, except that premiums on all annuity contracts and pension, profit-sharing, individually sponsored retirement plans, and other pension plan contracts which are described in section 818(a) of the Internal Revenue Code of 1986, as amended, shall be exempt from taxation;

(5) License shall mean certificate of authority as contemplated by section 44-105; and

(6) Direct writing shall mean insurance as defined in section 44-102, but shall not include reinsurance as defined in section 44-103.

Sec. 66. Section 77-2002, Reissue Revised Statutes of Nebraska, is amended to read:

77-2002. (1) Any interest in property whether created or acquired prior or subsequent to August 27, 1951, shall be subject to tax at the rates prescribed by sections 77-2004 to 77-2006, except property exempted by the provisions of Chapter 77, article 20, if it shall be transferred by deed, grant, sale, or gift, in trust or otherwise, and: (a) Made in contemplation of the death of the grantor; (b) intended to take effect in possession or enjoyment, after his or her death; (c) by reason of death, any person shall become beneficially entitled in possession or expectation to any property or income thereof; or (d) held as joint owners or joint tenants by the decedent and any other person in their joint names, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or property, except ~~PROVIDED~~, that where ~~when~~ such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or property, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person or, where ~~when~~ any property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint owners or joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint owners or joint tenants.

(2) For the purpose of subsection (1) of this section, if the decedent, within a period of three years ending with the date of his or her death, except in the case of a bona fide sale for an adequate and full consideration for money or money's worth, transferred an interest in property for which a federal gift tax return is required to be filed under the provisions of the Internal Revenue Code, of 1954, as amended, such transfer shall be deemed to have been made in contemplation of death within the meaning of subsection (1) of this section; no such transfer made before such three-year period shall be treated as having been made in contemplation of death in any event.

Sec. 67. Section 77-2101, Revised Statutes Supplement, 1994, is amended to read:

77-2101. For purposes of sections 77-2101 to 77-2115:

(1) Estate tax shall mean the tax due to the state with respect to a taxable transfer that gives rise to federal estate tax liability under Chapter 11 of the Internal Revenue Code, of 1986, as amended, including any credit allowable as a result of the imposition of an additional tax under section 2032A of the Internal Revenue Code, of 1986, as amended.

(2) Generation-skipping transfer tax shall mean the tax due to the state with respect to a taxable transfer that gives rise to federal generation-skipping transfer tax liability under Chapter 13 of the Internal Revenue Code, of 1986, as amended; and

(3) Transfer tax shall mean the estate tax and generation-skipping transfer tax.

Sec. 68. Section 77-2101.01, Revised Statutes Supplement, 1994, is amended to read:

77-2101.01. In addition to the inheritance taxes imposed by the laws of the State of Nebraska, there is levied and imposed an estate or excise tax upon the transfer of the estate of every resident decedent and upon the value of any interest in Nebraska real estate and tangible personal property situated in Nebraska of a nonresident decedent. The amount of such tax shall be the maximum state tax credit allowance upon the tax imposed by Chapter 11 of the Internal Revenue Code of 1986, as amended, reduced by the lesser of (1) the aggregate amount of all estate, inheritance, legacy, or succession taxes paid to any state or territory, the District of Columbia, or any possession of the United States in respect of any property subject to such tax or (2) the sum of (a) the amount determined by multiplying the maximum state tax credit allowance with respect to the taxable transfer by the percentage which the gross value of the transferred property not situated in Nebraska bears to the gross value of the transferred property and (b) the amount of Nebraska inheritance taxes paid.

Sec. 69. Section 77-2101.02, Revised Statutes Supplement, 1994, is

amended to read:

77-2101.02. There is hereby imposed a generation-skipping transfer tax upon the generation-skipping transfer or distribution of property of every resident of this state and upon the generation-skipping transfer of Nebraska real estate and tangible personal property situated in Nebraska by a nonresident. The amount of the generation-skipping transfer tax shall be the maximum state tax credit allowance upon the tax imposed by Chapter 13 of the Internal Revenue Code of 1986, ~~as amended~~, reduced by the lesser of (1) the aggregate amount of all transfer taxes paid to any state or territory, the District of Columbia, or any possession of the United States in respect of any property subject to the generation-skipping transfer tax or (2) the amount determined by multiplying the maximum state tax credit allowance with respect to the taxable transfer by the percentage which the gross value of the transferred property not situated in Nebraska bears to the gross value of the transferred property.

Sec. 70. Section 77-2103, Revised Statutes Supplement, 1994, is amended to read:

77-2103. If the amount of the transfer tax imposed by Chapters 11 and 13 of the Internal Revenue Code of 1986, ~~as amended~~, is increased or decreased as affecting a transfer taxable under sections 77-2101 to 77-2115, the tax imposed upon such transfer under such sections shall be changed accordingly. In no event shall the transfer tax payable under such sections exceed the amount, if any, by which the maximum credit allowable to the estate against the federal estate tax or generation-skipping transfer tax exceeds the credits provided for in such sections.

Sec. 71. Section 77-2104, Revised Statutes Supplement, 1994, is amended to read:

77-2104. The rules and regulations for determining the amount of net transfer upon which the transfer or excise tax imposed under sections 77-2101 to 77-2115 shall be based, shall, insofar as applicable, be the same rules and regulations adopted by the Commissioner of Internal Revenue for determining the net transfer under Chapters 11 and 13 of the Internal Revenue Code, of 1986, ~~as amended~~.

Sec. 72. Section 77-2115, Revised Statutes Supplement, 1994, is amended to read:

77-2115. (1) If the Tax Commissioner or any official or employee of the Tax Commissioner makes known in any manner the value of any estate or any particular set forth or disclosed in any report, state tax return, federal tax return, or other tax information required to be filed with the Tax Commissioner under the provisions of Nebraska's transfer tax laws, except so far as may be necessary for the enforcement and collection of the transfer tax provided for by the laws of this state, such person shall be guilty of a Class I misdemeanor.

(2) Federal tax returns, copies of such returns, and return information as defined under section 6103(d) of the Internal Revenue Code of 1986, ~~as amended~~, and state transfer tax returns and inheritance tax returns which are required to be filed with the Tax Commissioner for the enforcement of the inheritance and transfer tax laws of this state shall be deemed to be confidential by the Tax Commissioner.

(3) Nothing in this section shall be construed to prohibit:

(a) The delivery or inspection of such returns or tax information by:

(i) The personal representative or legal representative of the decedent's estate or representative of the transferor;

(ii) The county attorney of the county in which the decedent's or transferor's property is located;

(iii) The judge of the county court in which the decedent's or transferor's property is located; or

(iv) The Attorney General's office or other legal representative of the Tax Commissioner when such returns or tax information are relevant to any action or proceeding instituted by or against the transferor or the personal or legal representative of the decedent's estate or transferor;

(b) The furnishing of such information to the United States Government or to other states allowing similar privileges to the Tax Commissioner; or

(c) The publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof.

Sec. 73. Section 77-2702.09, Revised Statutes Supplement, 1994, is amended to read:

77-2702.09. Occasional sale shall mean:

(1) A sale, but not a lease or rental, of property which is the subject of any intercompany sale or transfer involving any parent, subsidiary,

or brother-sister company relationship under section 77-2704.28 and which was either originally acquired prior to June 1, 1967, or, if acquired thereafter, the seller or transferor directly or indirectly has previously paid a sales or use tax thereon, including:

(a) From one corporation to another corporation pursuant to a reorganization. For purposes of this subdivision, reorganization shall mean a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation or of its parent or subsidiary corporation;

(b) In connection with the winding up, dissolution, or liquidation of a corporation only when there is a distribution of the property of such corporation to the shareholders in kind if the portion of the property so distributed to the shareholder is substantially in proportion to the share of stock or securities held by the shareholder;

(c) To a corporation for the purpose of organization of such corporation or the contribution of additional capital to such corporation when the former owners of the property transferred are immediately after the transfer in control of the corporation and the stock or securities received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(d) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer members of such partnership and the interest in the partnership received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(e) From a partnership to the members thereof when made in kind in the dissolution of such partnership if the portion of the property so distributed to the members of the partnership is substantially in proportion to the interest in the partnership held by the members;

(f) To a limited liability company in the organization of such limited liability company if the former owners of the property transferred are immediately after the transfer members of such limited liability company and the interest in the limited liability company received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(g) From a limited liability company to the members thereof when made in kind in the dissolution of such limited liability company if the portion of the property so distributed to the members of the limited liability company is substantially in proportion to the interest in the limited liability company held by the members;

(h) From one limited liability company to another limited liability company pursuant to a reorganization; or

(i) Any transaction between two persons that qualifies as a tax-free transaction under the Internal Revenue Code, of 1986, as amended;

(2) A sale of household goods and personal effects if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such sales are by an individual at his or her residence or if more than one individual's property is involved such sales are by one of the individuals involved at the residence of one of the individuals;

(b) Such sales do not occur at any residence for more than three days during a calendar year;

(c) Such individual or individuals or any member of any of their households does not conduct or engage in a trade or business in which similar items are sold;

(d) Such property sold was originally acquired for and used for personal use; and

(e) Such property is not otherwise excepted from the definition of occasional sale;

(3) Commencing with any transaction occurring on or after October 1, 1985, any sale of business or farm machinery and equipment if each of the following conditions is met and if any one condition is not met the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such machinery or equipment was used by the seller or seller's predecessor in a sale described in subdivision (1) of this section as a depreciable capital asset in connection with the farm or business for a period of at least one year;

(b) Such property was originally acquired prior to June 1, 1967, or if acquired thereafter, the seller or seller's predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon; and

(c) Such property is not otherwise excepted from the definition of occasional sale;

(4) Commencing October 1, 1985, a sale by an organization created exclusively for religious purposes or an agent of the organization for such sale if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) All sales occur during an activity conducted by such organization or, if more than one organization is involved, by one of the organizations owning property being sold;

(b) The organization only sells property it owns during one such activity in a calendar year; and

(c) The activity does not last longer than three consecutive days; and

(5) Any sale that is made in connection with the sale to a single buyer of all or substantially all of a trade or business if the seller or seller's predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon. This subdivision shall apply to any transaction occurring on or after October 1, 1985.

Commencing October 1, 1985, occasional sale shall not include any sale directly by or any sale which is supervised or aided by an auctioneer or an agent or employee of an auctioneer.

Except for a sale listed in subdivision (1) of this section, an occasional sale shall not mean any sale of motor vehicles, trailers, and semitrailers as defined in section 60-301 or, on or after January 1, 1997, any sale of a motorboat as defined in section 37-1204.

Sec. 74. Section 77-3504, Revised Statutes Supplement, 1994, is amended to read:

77-3504. Household income shall mean the total federal adjusted gross income, as defined in the Internal Revenue Code, of the United States; plus (1) any Nebraska adjustments increasing the total federal adjusted gross income, (2) any interest or dividends received by the owner regarding obligations of the State of Nebraska or any political subdivision, authority, commission, or instrumentality thereof to the extent excluded in the computation of gross income for federal income tax purposes, and (3) any social security or railroad retirement benefit to the extent excluded in the computation of gross income for federal income tax purposes, of the claimant and spouse, and any additional owners who are natural persons and who occupy the homestead, for the taxable year of the claimant immediately prior to the year for which the claim for exemption is made.

Sec. 75. Section 79-1046.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-1046.01. Notwithstanding any other provision of sections 79-1032 to 79-1060, no member of the retirement system shall receive in any calendar year an annuity benefit derived from contributions of the board which if received in the form of a straight life annuity with no ancillary benefits would exceed the lesser of: (1) A dollar limitation of ninety thousand dollars, adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code, ~~of 1954, as amended,~~ or (2) a compensation limit of one hundred percent of the average compensation paid to the member during the three consecutive calendar years of employment with the board, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. The limitations provided in this section shall not apply to any board-derived annuity benefit which is less than ten thousand dollars.

The limitations provided in this section shall be adjusted as follows:

(a) If the annuity begins prior to the sixty-second birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-second birthday of the member, but not less than seventy-five thousand dollars;

(b) If the annuity begins after the sixty-fifth birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-fifth birthday of the member; and

(c) If the annuity begins prior to the member having ten years of creditable service, the dollar limitation as well as the one hundred percent of average compensation limitation and the exception for an annuity benefit which is less than ten thousand dollars shall be reduced by a fraction, the

numerator of which is the total full fractional parts of years of creditable service and the denominator of which is ten.

For purposes of the limitations provided in this section, the actuarial equivalent shall be determined from the actuarial tables used for the retirement allowance for early retirement, except that in the case of the adjustment for an annuity which begins after the sixty-fifth birthday of a member, the interest rate to be used in determining the actuarial equivalency shall be five percent compounded annually. The value of the joint and survivorship feature of an annuity shall not be taken into account in applying the limitations provided in this section.

This section is intended to meet the requirements of section 415 of the Internal Revenue Code of 1954, as amended, and shall be construed in accordance with such section and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

Sec. 76. Section 79-1049.06, Reissue Revised Statutes of Nebraska, is amended to read:

79-1049.06. The system may accept cash rollover contributions from a member who is making payments for additional service credits pursuant to section 79-1043, 79-1045, or 79-1049 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such sections and:

(1) The contributions represent all or any portion of the member's interest in a plan of a former employer which is qualified under section 401(a) of the United States Internal Revenue Code and such interest may be transferred to the system as a qualifying rollover contribution under the United States Internal Revenue Code; or

(2) The contributions represent the interest of a member from an individual retirement account or individual retirement annuity, the entire amount of which is attributable to a qualified total distribution as defined in the United States Internal Revenue Code from a source described in subdivision (1) of this section and thus qualified as a tax-free rollover amount, and the interest is transferred to the system within sixty days from the date of distribution of the individual retirement account or individual retirement annuity.

Cash transferred to the system as a rollover contribution shall be deposited as a commingled asset of the system and shall not be separately accounted for or invested for the member's benefit. Rollover contributions made by any member shall be treated as qualifying payments under section 79-1043, 79-1045, or 79-1049 and as employee contributions for all other purposes of this section and sections 79-1032 to 79-1060 except in determining federal and state tax treatment of distributions from the system.

The system, the board, the trustees, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the system pursuant to this section, and the trustees may require as a condition to the system's acceptance of any rollover contribution satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the United States Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such transfer.

Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the United States Internal Revenue Code, from the system may, in accordance with such rules, regulations, and limitations as may be established by the board of trustees, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the United States Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the board of trustees.

All distributions from the system shall be subject to all withholdings required by federal or state tax laws.

Sec. 77. Section 79-1056, Reissue Revised Statutes of Nebraska, is amended to read:

79-1056. (1) If, at any future time, a majority of the eligible members of the system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-1044, shall thereafter be reduced from one

and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. The contributions by the school district shall be such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under sections 79-1032 to 79-1060. After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-1041 not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement. Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-1515, shall receive the state service annuity provided by sections 79-1522 to 79-1523.

(2) The school district shall pick up the employee 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 school district 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 employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district 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. Employee contributions picked up shall be treated for all purposes of sections 79-1032 to 79-1060 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 78. Section 79-1522.04, Reissue Revised Statutes of Nebraska, is amended to read:

79-1522.04. For purposes of this section and section 79-1522.05:

(1) 415 compensation shall mean a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code of 1986, ~~as amended~~, for purposes of income tax withholding. 415 compensation shall include any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and employee contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year shall mean the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 79. Section 79-1522.05, Reissue Revised Statutes of Nebraska, is amended to read:

79-1522.05. (1) Notwithstanding any other provision of the School Employees Retirement Act, the benefit provided with respect to any member may not exceed an annual benefit computed in accordance with the limitations prescribed by this section.

(2) The maximum annual benefit payable in any limitation year to a member may not exceed the lesser of:

(a) Ninety thousand dollars, as adjusted; or

(b) One hundred percent of a member's 415 compensation averaged over the three consecutive limitation years, or the actual number of limitation years for a member whose total service is less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the employer.

(3)(a) For purposes of this section, annual benefit shall mean a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit shall not include employee after-tax contributions. Such benefit shall include employee contributions picked up by the employer.

(b) If the retirement benefit is in any form other than a straight life annuity or if after-tax contributions are made by the employee, the benefit shall be adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit. The interest rate assumption for such adjustment shall be not less than the greater of five percent or the rate specified in the plan.

(c) No adjustment shall be required for a qualified joint and survivor annuity, preretirement disability and death benefits, postretirement medical benefits, or postretirement cost-of-living increases in accordance with section 415(d) of the Internal Revenue Code, ~~of 1986, as amended~~.

(4) Benefits provided to a member under this section and under any defined benefit plan or plans maintained by an employer shall be aggregated for purposes of determining whether the limitations in subsection (2) of this section are met. If the aggregate benefits otherwise payable from any qualified plans created under the School Employees Retirement Act and any other defined benefit plan or plans maintained by an employer otherwise exceed the limitations of this section, the reductions in benefits shall first be made to the extent possible from the other plan or plans.

(5) The adjustments on retirement shall be the following:

(a) If the annual benefit begins before a member attains age sixty-two, the ninety-thousand-dollar limitation, as adjusted, shall be reduced in a manner prescribed by the Secretary of the Treasury of the United States. The adjustment shall not reduce the member's annual benefit below seventy-five thousand dollars if the member's benefit begins at or after age fifty-five or below the actuarial equivalent of seventy-five thousand dollars for age fifty-five if benefits begin before age fifty-five; and

(b) If the annual benefit begins after a member attains age sixty-five, the ninety-thousand-dollar limitation, as adjusted, shall be

increased so that it is the actuarial equivalent of the ninety-thousand-dollar limitation at age sixty-five.

(6)(a) The dollar limitation on annual benefits provided by subsection (2) of this section, but not the seventy-five-thousand-dollar limitation provided by subsection (5) of this section, shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States. The adjusted limitation shall be effective as of January 1 of each calendar year and shall be applicable to limitation years ending with or within that calendar year.

(b) The limitations provided by this section for a member who has separated from service with a vested right to a pension shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States.

(7) The following interest rate assumptions shall be used in computing the limitations under this section:

(a) For the purpose of adjusting the ninety-thousand-dollar limitation before a member attains age sixty-two, the interest rate assumption shall be not less than the greater of five percent or the rate specified in the plan; and

(b) For the purpose of adjusting the ninety-thousand-dollar limitation after a member attains age sixty-five, the interest rate assumption shall not be greater than the lesser of five percent or the rate specified in the plan.

(8) An annual benefit may be paid to any member in excess of the member's maximum annual benefit otherwise allowed if:

(a) The annual benefit derived from the employer contributions under the retirement system and all defined benefit plans maintained by the employer does not in the aggregate exceed ten thousand dollars for the limitation year or for any prior limitation year; and

(b) The member has not at any time participated in a defined contribution plan maintained by the employer. For purposes of this section, member contributions to the plan shall not be considered a separate defined contribution plan maintained by the employer.

(9) If a member has less than ten years of participation in the retirement system at the time the member begins to receive benefits, the ninety-thousand-dollar limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of participation in the plan and the denominator is ten, except that the fraction may not be less than one-tenth. The one-hundred-percent limitation under subdivision (2)(b) of this section, the ten-thousand-dollar limitation of subsection (8) of this section, and the limitation calculated pursuant to subsection (10) of this section shall be reduced in the same manner as provided by this subsection, except that the numerator shall be the number of years of employment with the employer rather than years of participation.

(10) If a member is or has participated in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member, determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by subdivision (2)(a) of this section, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under subdivision (2)(b) of this section for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's

account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year beginning before January 1, 1987.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(11) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(12) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the code and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 80. Section 79-1531, Reissue Revised Statutes of Nebraska, is amended to read:

79-1531. (1) For the purpose of providing the funds to be transferred from the School Employees Savings Account for formula annuities, every employee shall be required to make deposits in the School Retirement Fund. Such deposits shall be a percentage of total compensation and shall be transmitted at the same time and in the same manner as required employer contributions. For each fiscal year, such percentage shall be set by the retirement board, taking into consideration the recommendation of the actuary, and shall be equal to forty-nine and seventy-five hundredths percent of the amount determined by deducting from the then actuarial present value of all future liabilities to be funded by transfers from the School Employers Deposit Account and the School Employees Savings Account the amount then credited to such accounts and dividing the remainder by the actuarial present value of one percent of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employers Deposit Account for formula annuities, every employer shall be required to make deposits in the School Retirement Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, of 1986, as amended, except that the employer 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 code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction either through a reduction in the cash 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 the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

Sec. 81. Section 81-2017, Reissue Revised Statutes of Nebraska, is amended to read:

81-2017. (1) Prior to July 1, 1995, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eight percent of his or her monthly compensation. Commencing July 1, 1995, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to ten percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (2) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board. In addition there shall be transferred from the General Fund monthly by the State Treasurer a sum equal to the amount of such compensation deductions each month which shall be credited to the State Patrol Retirement Fund. The fund shall further be supplemented annually by an appropriation in such amount, if any, as may be determined on the basis of an actuarial valuation prepared by a member of the American Academy of Actuaries to be sufficient to fully fund (a) the unfunded accrued liability of the system as of June 30, 1988, by January 1, 2005, (b) any change in the unfunded accrued liabilities due to benefit or assumption changes during the average expected future service of the active members of the 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 system, and (c) any other increase or decrease in the unfunded accrued liability occurring after June 30, 1988, that is not attributable to changes in benefits or assumptions over the expected future service of the active member group as part of the normal cost. If the unfunded accrued liability determined under the entry age actuarial cost method is zero or less than zero on any actuarial valuation date, then all prior unfunded accrued liabilities shall be considered fully funded. 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.

(2) The state 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, of 1986, as amended, except that the state 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 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 shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a compensation deduction either through a reduction in the cash 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 81-2014 to 81-2036 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 82. Section 81-2027.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-2027.01. For purposes of this section and section 81-2027.02:

(1) 415 compensation shall mean a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code of 1986, ~~as amended~~, for purposes of income tax withholding. 415 compensation shall include any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and employee contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year shall mean the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 83. Section 81-2027.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-2027.02. (1) Notwithstanding any other provision of sections 81-2014 to 81-2036, the benefit provided with respect to any member may not exceed an annual benefit computed in accordance with the limitations prescribed by this section.

(2) The maximum annual benefit payable in any limitation year to a member may not exceed the lesser of:

(a) Ninety thousand dollars, as adjusted; or

(b) One hundred percent of a member's 415 compensation averaged over the three consecutive limitation years, or the actual number of limitation years for a member whose total service is less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the employer.

(3)(a) For purposes of this section, annual benefit shall mean a benefit which is payable annually in the form of a straight life annuity under a plan. Such benefit shall not include employee after-tax contributions. Such benefit shall include employee contributions picked up by the employer.

(b) If the retirement benefit is in any form other than a straight life annuity or if after-tax contributions are made by the employee, the benefit shall be adjusted to a straight life annuity beginning at the same age which is the actuarial equivalent of such benefit. The interest rate assumption for such adjustment shall be not less than the greater of five percent or the rate specified in the plan.

(c) No adjustment shall be required for a qualified joint and survivor annuity, preretirement disability and death benefits, postretirement medical benefits, or postretirement cost-of-living increases in accordance with section 415(d) of the Internal Revenue Code, of 1986, ~~as amended~~.

(4) Benefits provided to a member under this section and under any defined benefit plan or plans maintained by an employer shall be aggregated for purposes of determining whether the limitations in subsection (2) of this section are met. If the aggregate benefits otherwise payable from any qualified plans created under sections 81-2014 to 81-2036 and any other defined benefit plan or plans maintained by an employer otherwise exceed the limitations of this section, the reductions in benefits shall first be made to the extent possible from the other plan or plans.

(5) The adjustments on retirement shall be the following:

(a) If the annual benefit begins before a member attains age sixty-two, the ninety-thousand-dollar limitation, as adjusted, shall be reduced in a manner prescribed by the Secretary of the Treasury of the United States. Except as provided in subdivision (5)(c) of this section, the adjustment shall not reduce the member's annual benefit below seventy-five thousand dollars if the member's benefit begins at or after age fifty-five or below the actuarial equivalent of seventy-five thousand dollars for age fifty-five if benefits begin before age fifty-five;

(b) If the annual benefit begins after a member attains age sixty-five, the ninety-thousand-dollar limitation, as adjusted, shall be increased so that it is the actuarial equivalent of the ninety-thousand-dollar limitation at age sixty-five; and

(c) For a member with at least fifteen years of service as a full-time employee of the Nebraska State Patrol, including credit for full-time service in the armed forces of the United States, the adjustment under subdivision (5)(a) of this section shall not reduce the benefit limitation below fifty thousand dollars, as adjusted by the Secretary of the Treasury of the United States under section 415(d) of the code.

(6)(a) The dollar limitation on annual benefits provided by subsection (2) of this section and the fifty-thousand-dollar limitation

provided by subsection (5) of this section, but not the seventy-five-thousand-dollar limitation provided by such subsection, shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States. The adjusted limitation shall be effective as of January 1 of each calendar year and shall be applicable to limitation years ending with or within that calendar year.

(b) The limitations provided by this section for a member who has separated from service with a vested right to a pension shall be adjusted annually as provided by section 415(d) of the code and the regulations prescribed by the Secretary of the Treasury of the United States.

(7) The following interest rate assumptions shall be used in computing the limitations under this section:

(a) For the purpose of adjusting the ninety-thousand-dollar limitation before a member attains age sixty-two, the interest rate assumption shall be not less than the greater of five percent or the rate specified in the plan; and

(b) For the purpose of adjusting the ninety-thousand-dollar limitation after a member attains age sixty-five, the interest rate assumption shall not be greater than the lesser of five percent or the rate specified in the plan.

(8) An annual benefit may be paid to any member in excess of the member's maximum annual benefit otherwise allowed if:

(a) The annual benefit derived from the employer contributions under the retirement system and all defined benefit plans maintained by the employer does not in the aggregate exceed ten thousand dollars for the limitation year or for any prior limitation year; and

(b) The member has not at any time participated in a defined contribution plan maintained by the employer. For purposes of this section, member contributions to the plan shall not be considered a separate defined contribution plan maintained by the employer.

(9) If a member has less than ten years of participation in the retirement system at the time the member begins to receive benefits, the ninety-thousand-dollar limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of participation in the plan and the denominator is ten, except that the fraction may not be less than one-tenth. The one-hundred-percent limitation under subdivision (2)(b) of this section, the ten-thousand-dollar limitation of subsection (8) of this section, and the limitation calculated pursuant to subsection (10) of this section shall be reduced in the same manner as provided by this subsection, except that the numerator shall be the number of years of employment with the employer rather than years of participation.

(10) If a member is or has participated in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by subdivision (2)(a) of this section, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under subdivision (2)(b) of this section for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of the annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with

the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year beginning before January 1, 1987.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(11) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(12) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the code and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 84. Section 81-2032, Reissue Revised Statutes of Nebraska, is amended to read:

81-2032. All annuities or benefits which any person shall be entitled to receive under sections 81-2014 to 81-2036 shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order as such term is defined in section 414(p) of the Internal Revenue Code, of 1986, as amended.

Sec. 85. Section 84-1308, Reissue Revised Statutes of Nebraska, is amended to read:

84-1308. (1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to three and six-tenths percent of his or her monthly compensation until such time as he or she has paid during any calendar year a total of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths percent of his or her monthly compensation for the remainder of such calendar year. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

(2) The employer shall pick up the employee 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 employer 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 employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction either through a reduction in the cash compensation of the employee or a combination of a reduction in compensation and offset against a future compensation increase. Employee contributions picked up shall be treated for all purposes of the State Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 86. Section 84-1311.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1311.01. For purposes of this section and section 84-1311.02:

(1) 415 compensation shall mean a member's total compensation for services to the extent such compensation constitutes wages as defined in section 3401(a) of the Internal Revenue Code of 1986, as amended, for purposes of income tax withholding. 415 compensation shall include any compensation not included as section 3401(a) wages because of any special rule of section 3401 of the code which excludes compensation based on the nature or location of the services performed. In the event that section 415 of the code is amended to permit the inclusion of certain elective deferrals pursuant to sections 125, 401(k), and 403(b) of the code, deferred compensation pursuant to section 457 of the code, and employee contributions picked up pursuant to section 414(h) of the code, 415 compensation shall include such amounts; and

(2) Limitation year shall mean the twelve-consecutive-month period beginning on January 1 and ending on December 31. All qualified plans maintained by an employer shall use the same limitation year.

Sec. 87. Section 84-1311.02, Reissue Revised Statutes of Nebraska, is amended to read:

84-1311.02. (1) Notwithstanding any other provision of the State Employees Retirement Act, the sum of the annual additions to a member's account for any limitation year shall not exceed the lesser of: (a) Thirty thousand dollars or, if greater, one-fourth of the defined benefit dollar limitation set forth in section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, as in effect for the limitation year, or (b) twenty-five percent of such member's 415 compensation for the entire limitation year.

(2) The term annual additions to a member's account for any limitation year shall mean the sum of:

(a) The member's allocable share of employer contributions for the limitation year;

(b) The amount of the member's contributions for the limitation year; and

(c) The member's allocable share of forfeitures, if any, credited to the member within the limitation year.

(3) Solely for purposes of this section, the determination of a member's contributions for a limitation year shall exclude the items set forth in 26 C.F.R. 1.415-6(b)(3)(i) through (iv), and the determination of a member's allocable share of employer contributions and forfeitures, if any, for a limitation year shall exclude any employer contributions and forfeitures, if any, allocated to the member for any of the reasons set forth in 26 C.F.R. 1.415-6(b)(2)(ii) through (vi), except as otherwise provided in such regulations.

(4) If it is determined that the annual additions to a member's account for any limitation year will exceed the limitations contained in this section, the annual additions shall be reduced to the extent necessary to meet the limitations contained in this section in accordance with income tax regulations by reducing the member's employee contributions.

(5) If the amount of any member's contributions is reduced in accordance with subsection (4) of this section, the amount of the reduction shall be refunded to the member.

(6) In the event that any member is also a member under any other defined contribution plan maintained by a controlled group member, the total amount of annual additions to the member's accounts under all such defined contribution plans shall not exceed the limitations set forth in this section. If the total amount of annual additions to a member's accounts under all such defined contribution plans does exceed the limitations set forth in this section, then the annual additions to a member's account shall be reduced subsequent to a reduction in the annual additions under any other defined contribution plan.

(7) If a member is or has been a participant in one or more defined benefit plans and one or more defined contribution plans maintained by the employer, the following provisions shall apply:

(a) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0;

(b) The defined benefit plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the projected annual benefit of a member, determined as of the close of the limitation year; and

(ii) The denominator is the lesser of:

(A) The product of 1.25 and the maximum dollar limitation provided by section 415(b)(1)(A) of the code, as adjusted, for the limitation year; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(b)(1)(B) of the code for the limitation year.

If the member was a member as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the employer which were in existence on May 6, 1986, the denominator of this fraction shall not be less than one hundred twenty-five percent of the sum of annual benefits under such plans which the member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after May 6, 1986;

(c) The defined contribution plan fraction for any limitation year shall be a fraction in which:

(i) The numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and

(ii) The denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the employer:

(A) The product of 1.25 and the dollar limitation in effect under section 415(c)(1)(A) of the code for the limitation year, determined without regard to section 415(c)(6) of the code; or

(B) The product of 1.4 and the amount that may be taken into account under section 415(c)(1)(B) of the code for the limitation year.

If the member was a member as of the end of the first day of the first limitation year beginning after December 31, 1986, in one or more defined contribution plans maintained by the employer which were in existence on May 6, 1986, the numerator of this fraction shall be adjusted if the sum of this fraction and the defined benefit fraction would otherwise exceed 1.0. Under the adjustment, an amount equal to the product of the excess of the sum of the fractions over 1.0 times the denominator of this fraction shall be permanently subtracted from the numerator of this fraction. The adjustment shall be calculated using the fractions as they would be computed as of the end of the last limitation year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plan made after May 5, 1986, but using the section 415 limitation of the code applicable to the first limitation year beginning on or after January 1, 1987. The annual addition for any limitation year beginning before January 1, 1987, shall not be recomputed to treat all employee contributions as annual additions; and

(d) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the retirement system, the board shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0, the board shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.

(8) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the employer, shall be treated as one defined contribution plan.

(9) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times comply with the requirements of section 415 of the ~~code Internal Revenue Code of 1986~~, as amended, and all regulations promulgated under the code. If any provision of section 415 of the code is repealed or is not enforced by the Internal Revenue Service pursuant to a published notice, rule, or regulation, that provision may not reduce the

benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

Sec. 88. Section 84-1503.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1503.01. The Public Employees Retirement Board shall develop a mechanism for identifying and monitoring members whose annual benefits or annual additions may exceed the 415 limitations contained in sections 23-2310.02, 24-703.02, 79-1522.05, 81-2027.02, and 84-1311.02. Such mechanism may include, but shall not be limited to, the review of a member's wages and a member's contributions to a plan established pursuant to sections 125, 401(k), 403(b), and 457 of the Internal Revenue Code, of 1986, as amended. The board shall adopt and promulgate rules and regulations to carry out this section. In accordance with such rules and regulations, each county, school district, or appropriate state agency shall submit to the board annual information on member wages and contributions.

Sec. 89. Section 85-106, Reissue Revised Statutes of Nebraska, is amended to read:

85-106. The Board of Regents shall have the power:

(1) To enact laws for the government of the university;
 (2) To elect a president, vice presidents, chancellors, vice chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally of the university and to provide for academic tenure for professors, associate professors, and assistant professors;

(3) To prescribe the duties of such persons not inconsistent with section 85-1.105;

(4) To fix their compensation;

(5) To provide, in its discretion, retirement benefits for present and future employees of the university, subject to the following:

(a) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the university budget in the same way as any other operating expense;

(b) The university contribution under any such retirement plan shall be (i) the rate established by the Board of Regents and not more than eight percent of each university employee's full-time salary or wage earnings for any calendar year before any agreement for reduction of salary or wage earnings and (ii) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings;

(c) Each employee's contribution shall be the rate established by the Board of Regents and shall not be required to exceed the university's contribution under subdivision (5)(b)(i) of this section, except that in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the Board of Regents of annuity contracts for such employee, under the provisions of the Internal Revenue Code, as amended; but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to March 29, 1972;

(d) The retirement benefits of any employee for service prior to September 1, 1961, shall be those provided under the retirement plan then in force, which benefits shall not be abridged, except that such retirement benefits shall become fully vested in the event of an employee's termination of employment if such employee has at least ten years of service at the date of termination;

(e) Continued contributions to the system until the date of retirement as provided in section 85-606; and

(f) The investment of retirement funds shall be pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, but no change in the type of investment of such funds shall be made without the prior approval of the Board of Regents;

(6) To equalize and provide for uniform benefits for all present and future employees, including group life insurance, group hospital-medical insurance, group long-term disability income insurance, and retirement benefits;

(7) To provide, through the University Extension Division, for the holding of classes at various localities throughout the state avoiding unnecessary duplication of courses offered by other educational institutions in such localities and consistent with the orders of the Coordinating Commission for Postsecondary Education issued pursuant to sections 85-1413 and 85-1414;

(8) To remove the president, vice presidents, chancellors, vice

chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally, when the interests of the university require it; and

(9) To pay expenses for recruitment of academic, administrative, professional, and managerial personnel.

The Board of Regents shall institute a continuing program of preventive maintenance and a program of deferred maintenance consistent with the provisions of the Deferred Building Renewal Act and shall consult with the Nebraska Arts Council and acquire works of art for the original construction of any public building under its supervision consistent with sections 82-317 to 82-329 and 85-106.01 to 85-106.03.

Sec. 90. Section 85-320, Reissue Revised Statutes of Nebraska, is amended to read:

85-320. The Board of Trustees of the Nebraska State Colleges shall have power, in its discretion, to provide retirement benefits for present and future employees of the board, subject to the following: (1) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the budgets in the same way as any other operating expense, (2) the state contribution under such retirement plan shall be (a) the amount established by the board before any agreement for reduction of salary or wage earnings, and (b) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings, (3) each employee's contribution shall be the amount established by the board and shall not be required to exceed the state's contribution under subdivision (2)(a) of this section, ~~except~~ ~~7~~ ~~PROVIDED~~, that in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the board of annuity contracts for such employee, under the provisions of the Internal Revenue Code, ~~as amended~~, but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to January 1, 1973, (4) continued contributions to the system shall be made until the date of retirement as provided in section 85-606, and (5) the retirement benefits of any employee for service prior to the effective date of any retirement plan established under the provisions of this section shall be those provided under the retirement plan then in force which benefits shall not be abridged. The investment for such a retirement plan shall be made by the state investment officer, but the state investment officer shall not change the type of investment for such retirement plan without the approval of the Board of Trustees of the Nebraska State Colleges.

Sec. 91. Section 85-606.01, Reissue Revised Statutes of Nebraska, is amended to read:

85-606.01. The Board of Trustees of the Nebraska State Colleges, any community college area board, and the Board of Regents of the University of Nebraska shall have the authority to purchase retirement annuity contracts for any or all of their employees at the direction of the state investment officer pursuant to ~~sections 72-1237 to 72-1259~~ the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and may enter into contracts with their employees providing for the purchase of such retirement annuity contracts under the provisions of the Internal Revenue Code, ~~7~~ ~~as amended~~. Such employment contracts may provide that the amounts contributed by the employer for such annuity contracts shall be the result of an agreement of the employee to take a reduction in salary or to forego an increase in salary, but only to the extent such amounts are earned by the employee after the agreement becomes effective. Such an agreement must be legally binding and irrevocable with respect to amounts earned while the agreement is in effect. The right of an employee to such an annuity contract is nonforfeitable, except for failure to pay future premiums. Such an annuity contract is nontransferable.

Sec. 92. Section 87-602, Reissue Revised Statutes of Nebraska, is amended to read:

87-602. For purposes of the Invention Development Services Disclosure Act:

(1) Contract for invention development services shall mean a contract by which an invention developer undertakes invention development services for a customer;

(2) Customer shall mean any person, firm, partnership, limited liability company, corporation, or other entity that enters into a contract for invention development services, except any firm, limited liability company, corporation, or other entity, other than a natural person, purchasing invention development services as an adjunct to the traditional commercial enterprises in which it engages as a livelihood;

(3) Invention shall mean a discovery, process, machine, design, formulation, product, concept, or idea, or any combination thereof, whether patentable or not;

(4) Invention developer shall mean any person, firm, partnership, limited liability company, or corporation and any agent, employee, officer, partner, member, or independent contractor thereof who offers to perform or performs for a customer any invention development services. Invention developer shall not include:

(a) Any department or agency of the federal, state, or local government;

(b) Any nonprofit, charitable, scientific, or educational organization described in section 170(b)(1)(A) of the Internal Revenue Code, ~~of 1986, as amended;~~

(c) Any attorney acting within the scope of the attorney's professional license;

(d) Any person duly registered before the United States Patent and Trademark Office acting within the scope of that person's professional license; or

(e) Any person, firm, limited liability company, corporation, association, or other entity that does not charge a fee for invention development services other than any payment made from a portion of the income received by a customer by virtue of such acts performed by such entity. For purposes of this subdivision, fee shall include any payment made by the customer to such entity including reimbursement for expenditures made or costs incurred by such entity; and

(5) Invention development services shall mean any act involved in the evaluation of an invention for commercial potential and the marketing, brokering, or promoting of such an invention done by or for an invention developer for the purpose of procuring a licensee or buyer for an intellectual property right in the invention.

Sec. 93. Sections 32, 33, 35, 36, 78, 79, 82, 83, 86, 87, and 95 of this act become operative on January 1, 1996. The other sections of this act become operative on their effective date.

Sec. 94. Original sections 8-1,131, 8-318, 8-326, 10-1001, 18-1749, 21-1773.01, 21-19,107, 21-19,108, 25-1563.01, 25-21,190, 30-3215, 30-3216, 44-202, 44-404, 44-407.10, 44-704, 44-5802, 45-803, 48-628.03, 58-212, 58-440, 60-686, 68-602, 76-2,111, 77-907, 77-2002, 79-1046.01, 79-1049.06, 79-1056, 79-1531, 81-2017, 81-2032, 84-1308, 84-1503.01, 85-106, 85-320, 85-606.01, and 87-602, Reissue Revised Statutes of Nebraska, and sections 9-211, 9-217.01, 9-226, 9-309, 9-322, 9-418, 9-508, 9-620, 10-140, 13-203, 14-2111, 16-1002, 16-1004, 16-1005, 16-1019, 16-1021, 16-1023, 16-1024, 16-1038, 16-1042, 23-1118, 23-2307, 24-703, 24-710.02, 44-1640, 44-1643, 44-5256, 48-602, 48-604, 68-1047, 68-1605, 71-7412, 76-2102, 77-118, 77-120, 77-2101, 77-2101.01, 77-2101.02, 77-2103, 77-2104, 77-2115, 77-2702.09, and 77-3504, Revised Statutes Supplement, 1994, are repealed.

Sec. 95. Original sections 79-1522.04, 79-1522.05, 81-2027.01, 81-2027.02, 84-1311.01, and 84-1311.02, Reissue Revised Statutes of Nebraska, and sections 23-2310.01, 23-2310.02, 24-703.01, and 24-703.02, Revised Statutes Supplement, 1994, are repealed.