

LEGISLATIVE BILL 686

Approved by the Governor April 15, 2024

Introduced by Walz, 15; Conrad, 46; Vargas, 7; Blood, 3.

A BILL FOR AN ACT relating to retirement; to amend sections 16-1020, 16-1021, 16-1023, 16-1024, 16-1025, 16-1030, 16-1033, 16-1034, 16-1036, 16-1037, 16-1038, 16-1041, 18-1723, and 68-621, Reissue Revised Statutes of Nebraska, and sections 35-1001 and 81-8,317, Revised Statutes Cumulative Supplement, 2022; to name the Cities of the First Class Firefighters Retirement Act; to change provisions relating to retirement plans for firefighters employed by a city of the first class; to define and redefine terms; to eliminate obsolete provisions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 16-1020, Reissue Revised Statutes of Nebraska, is amended to read:

16-1020 (1) Sections 16-1020 to 16-1042 shall be known and may be cited as the Cities of the First Class Firefighters Retirement Act.

(2) Except as provided in section 16-1039, sections 16-1020 to 16-1038 shall apply to all firefighters of a city of the first class.

Sec. 2. Section 16-1021, Reissue Revised Statutes of Nebraska, is amended to read:

16-1021 For the purposes of the Cities of the First Class Firefighters Retirement Act ~~sections 16-1020 to 16-1042~~, unless the context otherwise requires:

(1) Absolute coverage group means an absolute coverage group as described in 20 C.F.R. 404.1205 as such regulation existed on January 1, 2024;

(2) ~~(1)~~ Actuarial equivalent means 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. 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;

(3) ~~(2)~~ Annuity contract means 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 the Cities of the First Class Firefighters Retirement Act ~~such sections~~. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

(4) ~~(3)~~ Beneficiary means 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;

(5) ~~(4)~~ Funding agent means 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;

(6) ~~(5)~~ Regular interest means 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 means 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;

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

(8) ~~(7)~~ Retirement committee means the retirement committee created pursuant to section 16-1034;

(9) ~~(8)~~ Retirement system means a retirement system established pursuant to the Cities of the First Class Firefighters Retirement Act ~~sections 16-1020 to 16-1042~~;

(10) ~~(9)~~ Retirement value means 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;

(11)(a) Salary means all amounts paid to a participating firefighter by the employing city for personal services as reported on the participant's federal income tax withholding statement, including overtime, call-in, and call-back pay and the firefighter's contributions picked up by the city as provided in subsection (2) of section 16-1024 and any salary reduction contributions that are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code; and

(b) Salary does not include clothing allowances;

~~(10) Salary means 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;~~

(12) (11) Sex-neutral basis means the benefit calculation provided to the city of the first class by a licensed domestic or foreign insurance or annuity company with a product available for purchase in Nebraska that utilizes a blended, non-gender-specific rate for actuarial assumptions, mortality assumptions, and annuity conversion rates for a particular participant, except that if a blended, non-gender-specific rate is not available for purchase in Nebraska, the benefit calculation shall be performed using the arithmetic mean of the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates and the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates, as applicable, for a particular participant, and the arithmetic mean shall be determined by adding the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates to the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates applicable to a particular participant and dividing the sum by two; and

(13) (12) Straight life annuity means 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. 3. Section 16-1023, Reissue Revised Statutes of Nebraska, 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. 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 the Cities of the First Class Firefighters Retirement Act 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. 4. Section 16-1024, Reissue Revised Statutes of Nebraska, is amended to read:

16-1024 (1)(a) Each firefighter participating in the retirement system shall contribute to the retirement system a sum equal to:

(i) Until September 30, 2024, six and one-half percent of his or her salary;

(ii) Beginning October 1, 2024, and until September 30, 2025, eight and seven-tenths percent of his or her salary;

(iii) Beginning October 1, 2025, and until September 30, 2026, ten and seven-tenths percent of his or her salary; and

(iv) Beginning October 1, 2026, twelve and seven-tenths percent of his or her salary.

(b) 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.

(c) Beginning July 20, 2024, each firefighter covered by an absolute coverage group and participating in the retirement system shall receive an

offset from his or her retirement system contribution equal to six and two-tenths percent of his or her salary. This subdivision (1)(c) shall not apply to any firefighter, covered by an absolute coverage group, employed as a firefighter by a city with a population of more than sixty thousand inhabitants located in a county with a population of more than one hundred thousand inhabitants.

~~(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, 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, 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. 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. 5. Section 16-1025, Reissue Revised Statutes of Nebraska, is amended to read:

16-1025 (1)(a) ~~(1)~~ Beginning January 1, 1984, each city of the first class with firefighters participating in a retirement system shall contribute to the retirement system a sum equal to:

(i) Until September 30, 2025, thirteen percent of each such participating firefighter's periodic salary; -

(ii) Beginning October 1, 2025, and until September 30, 2026, fourteen percent of each such participating firefighter's periodic salary; and

(iii) Beginning October 1, 2026, fifteen percent of each such participating firefighter's periodic salary.

(b) Such payment shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any firefighter employed by the city on January 1, 1984, an amount equal to the employee's contributions, without interest, that were made to the city prior to January 1, 1984, with such contribution to be made at the time the firefighter retires or terminates employment with the city. The city may contribute such amount before the firefighter's retirement or termination of employment or credit interest on such contribution.

(c) Beginning July 20, 2024, each city of the first class with firefighters covered by an absolute coverage group and participating in a retirement system shall receive an offset from the retirement system contribution equal to six and two-tenths of each such participating firefighter's periodic salary. This subdivision (1)(c) shall not apply to any city with a population of sixty thousand or more inhabitants located in a county with a population of one hundred thousand or more inhabitants with firefighters covered by an absolute coverage group.

(2) Each such city shall contribute any additional amounts necessary to fund retirement or other retirement plan benefits not provided by employee contributions or city contributions to the employer account required by subsection (1) of this section. Such additional contributions shall be accumulated in an unallocated employer account of the Firefighters Retirement System Fund and used to provide the benefits, if any, specified in sections 16-1027 and 16-1029 to 16-1031 which are not otherwise funded by the firefighter's retirement value. Funds needed to provide for a firefighter's benefits shall be transferred from the unallocated employer account when and as such funds are needed. All funds committed by the city to the funding of a firefighter pension system on January 1, 1984, that are not transferred to the firefighters employee accounts shall be transferred to the unallocated employer account.

Sec. 6. Section 16-1030, Reissue Revised Statutes of Nebraska, is amended to read:

16-1030 (1) When prior to commencement of retirement benefits any firefighter participating in the retirement system dies in the line of duty or in case death is caused by or is the result of injuries received while in the

line of duty and such firefighter is not survived by a spouse or minor children, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be paid in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's funding medium. For a firefighter who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1032. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

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

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

(4) In the event the surviving spouse remarries and there are no minor children at the time of remarriage, and the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, is less than the total amount in the firefighter's employee account at the time of remarriage, the difference between the total amount in the employee account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the surviving spouse who remarried.

(5) To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1029.

Sec. 7. Section 16-1033, Reissue Revised Statutes of Nebraska, is amended to read:

16-1033 (1) In the event a firefighter quits or is discharged before his or her retirement date as defined in subsection (3) of section 16-1028, the firefighter may request and receive, as a lump-sum payment, an amount equal to the value of his or her employee account as determined at the valuation date preceding his or her termination of employment pursuant to subdivision (10) (9) of section 16-1021. Such firefighter, if vested, may, in lieu thereof, receive a deferred pension benefit or lump-sum benefit in an amount purchased or provided by the vested retirement value at the date of retirement. The retirement value at such retirement date shall consist of the then accumulated value of the firefighter's employee account at the date of the retirement as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the firefighter's employer account at the date of retirement. The vesting schedule shall be as follows:

(a) (1) If the terminating firefighter has been a member of the system for less than four years, the vesting percentage shall be zero; and

(b) (2) If the terminating firefighter has been a member of the paid department of the city for at least four years, the vesting percentage shall be forty percent. The vesting percentage shall be sixty percent after five years, eighty percent after six years, and one hundred percent after seven years.

(2) The deferred pension benefit shall be payable on the first of the month immediately following the terminating firefighter's fifty-fifth birthday. At the option of the firefighter, such pension benefit may be paid as of the first of the month after he or she attains the age of fifty. Such election may be made by the firefighter any time prior to the payment of the pension benefits.

(3) The deferred pension benefit shall be paid in the optional benefit forms specified at subsection (1) of section 16-1027 as elected by the firefighter. Notwithstanding anything in ~~sections 16-1020 to 16-1042~~ to the contrary under the Cities of the First Class Firefighters Retirement Act, if the firefighter's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, such firefighter shall, upon request within one year of such termination, be paid his or her vested retirement value in the form of a single lump-sum payment.

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

(5) Upon any lump-sum payment of a terminating firefighter's retirement

value under this section, such firefighter will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such firefighter or his or her beneficiaries any benefits under the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042.

(6) In the event that the terminating firefighter is not credited with one hundred percent of his or her employer account, the remaining nonvested portion of the account shall be forfeited and shall be deposited in the unallocated employer account. If the actuarial analysis required by section 16-1037 shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities, such forfeitures shall instead be used to meet the expenses incurred by the city in connection with administering the retirement system, and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Sec. 8. Section 16-1034, Reissue Revised Statutes of Nebraska, is amended to read:

16-1034 (1) A retirement committee shall be established to supervise the general operation of the retirement system. The city council shall be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. All costs incurred with regard to the administration of the retirement system shall be paid by the city from the unallocated employer account as provided in section 16-1036.01.

(2) The city and retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system. Whenever the Cities of the First Class Firefighters Retirement Act fails sections 16-1020 to 16-1042 fail to address the allocation of duties or powers in the administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee.

Sec. 9. Section 16-1036, Reissue Revised Statutes of Nebraska, is amended to read:

16-1036 (1) The funds in the Firefighters Retirement System Fund shall be invested by the retirement committee. The city, subject to the approval of the retirement committee, shall contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042. The retirement committee, subject to the approval of the city, may also select an investment manager. The city, subject to approval of the retirement committee, may contract with investment managers registered under the federal Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or retirement committee.

(2) The retirement committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account to the various investment options or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account in any proportion, including full allocation, in any investment option offered by the plan. Upon the direction of the city, firefighters employed on January 1, 1984, may have the option to allocate their employer account to various investment options or combinations of investment options in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

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

(4) The retirement committees of two or more cities of the first class may, by written agreement and approval by the retirement committee of each such city of the first class, agree to pool investments and administration of plan benefits with a single administrative and investment agent. Such agreement shall be made using an interlocal agreement that expressly states that the city shall not be liable for ongoing management of pooled investments or any liability relating to such management. City general funds, forfeiture funds held by the city, and funds held for an account of any firefighter employed by the city on January 1, 1984, shall not be eligible for use for such pooling agreement or the operation of such pooling agreement.

Sec. 10. Section 16-1037, Reissue Revised Statutes of Nebraska, is amended to read:

16-1037 (1) It shall be the duty of the retirement committee to:

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

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

(c) Conduct meetings pursuant to the Open Meetings Act;

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

(e) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to

receive; and

(f) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

~~(2) Beginning December 31, 1998, through December 31, 2017:~~

~~(a) The chairperson of the retirement committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to sections 16-1020 to 16-1042 and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:~~

~~(i) The number of persons participating in the retirement plan;~~

~~(ii) The contribution rates of participants in the plan;~~

~~(iii) Plan assets and liabilities;~~

~~(iv) The names and positions of persons administering the plan;~~

~~(v) The names and positions of persons investing plan assets;~~

~~(vi) The form and nature of investments;~~

~~(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and~~

~~(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.~~

~~If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits; and~~

~~(b) If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the retirement committee shall cause to be prepared an annual report and the chairperson shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the city. All costs of the audit shall be paid by the city. The report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.~~

~~(2)(a) For any (3)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan, by December 31 each year the chairperson of the retirement committee or his or her designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:~~

~~(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and~~

~~(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.~~

~~(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the retirement committee. All costs of the audit shall be paid by the retirement committee.~~

Sec. 11. Section 16-1038, Reissue Revised Statutes of Nebraska, 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. 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, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed and section 401(a)(9)(G) relating to incidental death benefit requirements, 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, section 401(a)(31) relating to direct rollover distribution from eligible retirement plans, and section 401(a)(37) relating to the death benefit of a firefighter who dies while performing qualified military service. Any requirements for compliance with section 401(a) of the Internal Revenue Code 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 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 the Cities of the First Class Firefighters Retirement Act 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 the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Sec. 12. Section 16-1041, Reissue Revised Statutes of Nebraska, is amended to read:

16-1041 Nothing in the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042 shall in any manner affect the right of any person now receiving or entitled to receive, now or in the future, pension or other benefits provided for in sections 35-201 to 35-216, as they exist immediately prior to January 1, 1984, to receive such pension or other benefits in all respects the same as if such sections remained in full force and effect.

Sec. 13. Section 18-1723, Reissue Revised Statutes of Nebraska, is amended to read:

18-1723 Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of the Police Officers Retirement Act, sections 15-1012 to 15-1027, and the Cities of the First Class Firefighters Retirement Act 16-1020 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December 25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Sec. 14. Section 35-1001, Revised Statutes Cumulative Supplement, 2022, is amended to read:

35-1001 (1) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of cancer, including, but not limited to, breast cancer, ovarian cancer, and cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, or prostate systems, evidence which

demonstrates that (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of cancer, (b) such firefighter or firefighter-paramedic was exposed to a known carcinogen, as defined on July 19, 1996, by the International Agency for Research on Cancer, while in the service of the fire department, and (c) such carcinogen is reported by the agency to be a suspected or known cause of the type of cancer the firefighter or firefighter-paramedic has, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while in the line of duty for the purposes of the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(2) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus, evidence which demonstrates that (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus, and (b) such firefighter or firefighter-paramedic has engaged in the service of the fire department within ten years before the onset of the disease, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while in the line of duty for the purposes of the Cities of the First Class Firefighters Retirement Act sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(3) The prima facie evidence presumed under this section shall extend to death or disability as a result of cancer as described in this section, a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant Staphylococcus aureus after the firefighter or firefighter-paramedic separates from his or her service to the fire department if the death or disability occurs within three months after such separation.

(4) For purposes of this section, blood-borne infectious disease means human immunodeficiency virus, acquired immunodeficiency syndrome, and all strains of hepatitis.

Sec. 15. Section 68-621, Reissue Revised Statutes of Nebraska, is amended to read:

68-621 For purposes of sections 68-621 to 68-630:

(1) ~~Referendum A referendum group means , as referred to in sections 68-621 to 68-630, shall consist of the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering such employees, except that: (a) The employees of the University of Nebraska shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the School Employees Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Correctional Services and the Department of Health and Human Services, and employees subordinate to the State Board of Education, shall constitute a referendum group; and (d) all employees of school districts of the State of Nebraska, county superintendents, and county school administrators, who are or may be members of the School Employees Retirement System of the State of Nebraska, shall constitute a single referendum group.~~

(2) ~~Managing The managing authority means of a political subdivision or educational institution shall be the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-631 may be applicable to county superintendents and county school administrators, managing authority means shall mean the board of county commissioners or county supervisors of the county in which the county superintendent was elected or with which the county school administrator contracted.~~

(3) ~~Eligible employees means , as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision of the state thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required by sections 68-621 to 68-630, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.~~

(4) ~~State agreement means , as referred to in sections 68-621 to 68-630,~~

~~shall mean~~ the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

Sec. 16. Section 81-8,317, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-8,317 (1) If a public safety officer is killed in the line of duty, compensation shall be paid as provided in the In the Line of Duty Compensation Act to recognize the ultimate sacrifice made by such public safety officer.

(2) The amount of compensation to be paid under the act shall be as follows:

(a) For deaths occurring during calendar year 2022, the amount of such compensation shall be two hundred fifty thousand dollars; and

(b) For deaths occurring in calendar year 2023 and each calendar year thereafter, the amount of such compensation shall be equal to the compensation amount from the previous calendar year increased by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve months ending on June 30 of such previous calendar year.

(3) The person entitled to receive such compensation shall be determined as follows:

(a) If the public safety officer designated a person to receive the compensation in accordance with subsection (4) of this section, the compensation shall be paid to the designated person; or

(b) If no person is designated by the public safety officer or if the designated person is not alive at the death of the public safety officer, the compensation shall be paid in accordance with the laws of this state regarding intestate succession.

(4) The Risk Manager shall prescribe a form that may be used by a public safety officer to designate a person to receive the compensation. The public safety officer shall file such form with his or her employer or, if he or she is a volunteer, with the entity for which the volunteer service is provided.

(5) Amounts paid under the In the Line of Duty Compensation Act shall not be considered:

(a) Compensation under the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, or any other retirement plan administered by the Public Employees Retirement Board and shall not be eligible for deferral under any deferred compensation plan administered by the Public Employees Retirement Board; or

(b) Regular pay or salary under the Police Officers Retirement Act or the Cities of the First Class Firefighters Retirement Act ~~sections 16-1020 to 16-1042.~~

(6) An employer of the public safety officer shall not have any right of subrogation under section 48-118 with respect to compensation paid under the In the Line of Duty Compensation Act.

Sec. 17. Original sections 16-1020, 16-1021, 16-1023, 16-1024, 16-1025, 16-1030, 16-1033, 16-1034, 16-1036, 16-1037, 16-1038, 16-1041, 18-1723, and 68-621, Reissue Revised Statutes of Nebraska, and sections 35-1001 and 81-8,317, Revised Statutes Cumulative Supplement, 2022, are repealed.