

DOUGLAS COUNTY
EMPLOYEES' RETIREMENT
PLAN

(Including Disability and Dependent
Pension Benefits)

As Amended Through April 1, 2014

DOUGLAS COUNTY EMPLOYEES' RETIREMENT PLAN

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As Amended Through November 29, 2011

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DOUGLAS COUNTY
EMPLOYEES' RETIREMENT PLAN

As Amended and Restated Through November 29, 2011

Section 1 - Purpose and Establishment of Plan

- 1.1 Establishment of Plan. Douglas County hereby establishes a retirement plan effective as of January 1, 1963, known as the "Douglas County Employees' Retirement Plan" (hereinafter referred to as the "Plan")
- 1.2 Purpose of the Plan. The purpose of this Plan is to establish a systematic method of providing retirement benefits to present and future employees funded in accordance with sound actuarial principles as provided in the Nebraska Statutes.
- 1.3 The terms of eligibility and benefits may be established by collective bargaining, and may differ from unit to unit. Members must refer to the specific labor contract for applicable terms regarding eligibility and benefits.

Section 2 - Definitions

2.1 Definitions. As used in this Plan:

- (a) "County" means Douglas County, Nebraska, and any of its agencies.
- (b) "Employee" means any person employed in service by the County who receives compensation at an established rate and working more than 20 hours each week in a non-temporary non-seasonal position according to the rules and regulations of the County universally applied, except for the following classes of persons:
 - (1) Judges of the County;
 - (2) Persons whose services are compensated on a contractual or fee basis.

Employee shall also mean a "merged employee" as defined in Section 2.1(k).

- (c) "Member" means any employee who participates in the Plan as an active participant or a non-active participant entitled to a disability pension, a deferred vested retirement benefit or a current retirement benefit. A "merged employee" as defined in Section 2.1(k) shall also be a member.
- (d) "Continuous Employment" shall mean the most recent period of employment by the County of an employee, including periods of leave of

absence, not exceeding 12 months, as authorized by the Retirement Committee. Furthermore, continuous employment of an employee shall not be deemed to have been interrupted by a break in service, (a break in service is any period in excess of thirty (30) consecutive calendar days in which compensation is not earned or received by the employee for performance of service for the County) following which time a member is reemployed by the County and is entitled and does elect to re-enter the membership of the Plan in accordance with provisions of Section 5.4 of this Plan.

Any Employee who leaves the active employment of the County to directly enter the Armed Forces of the United States of America during a period of a war or national emergency, or to enter the Armed Forces at any time through the operation of compulsory military service law of the United States of America, shall be deemed to be on leave of absence during his service in such Armed Forces and during any period after his discharge from such Armed Forces provided such Employee shall have made application for reemployment with the County within the applicable time period required under the Uniformed Services Employment and Reemployment Rights Act of 1994 after his release or discharge from such Armed Forces.

- (e) "Service" shall be defined as follows. "Service" means Continuous Employment as a member and for members on January 1, 1963, continuous employment after June 30, 1952. Any employment prior to July 1, 1952, shall not be considered service for purposes of this Plan. In computing length of service to Douglas County at the time of retirement for pension purposes, periods of time not actually employed, such as during periods of leave of absence, military service (other than Qualified Military Service) or a break in service, (as defined in Section 2.1(d) above) shall not be counted as service for retirement credit. However, unused accumulated sick leave credits shall be added to the total days of service; provided, elected officials and their chief deputies who initiate their first term of office after January 1, 2005 and who are members shall not be entitled to be credited with any unused accumulated sick leave days to their total days of service. Each day of accumulated sick leave shall equal a regular workday and each twenty-one days of such sick leave shall equal one month of service.

If a person's employment status is changed from that of an employee of another non-profit or public organization to that of a Douglas County employee through joint action of such organization and Douglas County, any period of full-time employment by such a person with such predecessor organization shall be recognized in determining eligibility for membership, early retirement eligibility, vested factor, dependent's pension eligibility and disability pension eligibility. However, such period

of full-time employment will not be considered in determining the amount of benefits payable under any provision of this Plan.

A member that was a participant of the Omaha-Douglas County Board of Health Retirement Plan prior to July 1, 1984 and was actively employed on June 30, 1984 will have such member's normal retirement benefit amount determined as outlined in Section 5.1 based on service following January 1, 1955 and reflecting the limitation on the Final Average Compensation described in Section 2.1(f).

- (f) "Final Average Compensation" for purposes of determining all benefits, other than Supplemental Early Retirement Benefits as provided in Section 5.12, shall mean the average total monthly compensation paid during the sixty consecutive months of the last one hundred twenty or less months of service that will produce the largest average monthly compensation. For purposes of this Plan, compensation shall mean wages paid to the member for services to the County, including payments of paid time-off benefits, but does not include reimbursable expenses, lump-sum payments for accrued vacation time, non-cash remuneration and fringe benefits not customarily part of the member's wages, whether or not includable in the member's gross income. If a member's regular monthly compensation was not received for a period of one month or longer due to either the receipt of workers' compensation benefits, a leave for Qualified Military Service or an unpaid family medical leave, such time shall be disregarded under the "sixty consecutive months" requirement stated herein. Any lump-sum payments for accrued vacation time shall not be included in the "Final Average Compensation". This shall not be construed to require less than sixty months of compensation in calculating the member's "Final Average Compensation." For purposes of determining Supplemental Early Retirement Benefits, "Final Average Compensation" shall mean the average total monthly compensation paid during the last thirty-six consecutive months of Service.

If a member's employment is terminated due to a change in employment status as provided by the Nebraska Legislature to that of a state employee, and, at the time of such termination of employment elects a deferred vested retirement income, such retirement income shall be based on average monthly compensation of the member during Douglas County employment and/or state employment which immediately follows Douglas County employment.

The "Final Average Compensation" for a member that was a participant of the Omaha-Douglas County Board of Health Retirement Plan prior to July 1, 1984 will be limited if they had completed service prior to 1975. The limitation on "Final Average Compensation" is \$500 for years of service prior to January 1, 1971 and \$1,500 for years of service from January 1, 1971 to January 1, 1975.

For Plan Years which begin on or after January 1, 1994 and end before January 1, 2002, the annual compensation that may be taken into account in determining "Final Average Compensation" shall not exceed \$150,000, as adjusted in subsequent years for increases in the cost of living pursuant to Section 401(a)(17)(B) of the Internal Revenue Code, with respect to members in active employment with Douglas County on the effective date of such change. For Plan Years which begin on or after January 1, 2002, the annual compensation that may be taken into account in determining "Final Average Compensation" shall not exceed \$200,000, as adjusted in subsequent years for increases in the cost of living pursuant to Section 401(a)(17)(B) of the Internal Revenue Code with respect to members in active employment with Douglas County on the effective date of such change. In determining "Final Average Compensation" in Plan Years beginning on or after January 1, 2002, the annual compensation limit for periods before January 1, 2002 shall be \$150,000 for any period beginning in 1996 or earlier; \$160,000 for any period beginning in 1997, 1998 or 1999; and \$170,000 for any period beginning in 2000 or 2001. Future cost of living increases in the compensation limit pursuant to Section 401(a)(17)(B) of the Internal Revenue Code shall not be taken into account in determining "Final Average Compensation" for periods beginning before the effective date of such increase.

- (g) "Retirement Committee" means the Committee appointed by the Board of County Commissioners to manage and administer this Plan as provided in Section 9.
- (h) "Effective Date" means January 1, 1963.
- (i) "Interest" means the annual rate of interest effective July 1, 1994, to effect all active accounts as of that date, shall be five (5%) percent. Thereafter, this rate will replace all references in the Plan to 3% (which applied prior to July 1, 1970) or 4% (which applied from July 1, 1970 through December 31, 1978) or 5% (which applied from January 1, 1979 through December 31, 1981, except for all active accounts on December 31, 1981, on which the rate of five (5%) percent will be applied from January 1, 1979 through June 30, 1981), or 6% (which applied from July 1, 1981 through June 30, 1994).
- (j) "Qualified Military Service" means an Employee's service with the Armed Forces of the United States during such time that the Employee had a right to reemployment with the County upon release or discharge from such Armed Forces under Chapter 43 of Title 38 of the U.S. Code. Notwithstanding any provision of this Plan to the contrary, benefits and service credit with respect to Qualified Military Service will be provided in accordance with and subject to the conditions of Section 414(u) of the Internal Revenue Code.

- (k) "Merged Employee" means an employee of the County and member of the Plan who, by reason of the merger of a department with the City of Omaha pursuant to Interlocal Agreement, by statutory change, or by operation of law, becomes an employee of the merged entity. Such employee may continue as a member of the Plan, with all rights and benefits provided by this Plan, and until such time as such employee is terminated from membership or otherwise ineligible provided that the merged entity agrees in writing to make contributions to the retirement fund in the same amount and frequency as the County does pursuant to Section 8 with respect to the merged employee and to be subject to the terms and provisions and rules of the Plan as set forth herein.

2.2 Gender and Number. Except when otherwise indicated to the contrary, any masculine terminology used herein shall also include feminine and, in the definition of any term herein, the singular shall also include the plural.

Section 3 - Membership

3.1 Employees on the Effective Date. Each person who is an employee on the effective date shall file with the Committee either a notice of his election to become a member on the effective date, in form as provided in Section 3.3, or a notice of his election not to become a member and a waiver of all benefits which he would otherwise receive as a member. The election or waiver must be filed by December 31, 1962. In the event an employee shall fail or refuse to indicate his election, such failure or refusal shall constitute a waiver of all benefits under this Plan.

3.2 Future Employees. Except as otherwise excluded from membership under 3.4, all eligible persons as defined in section 2.1(b) employed after the effective date shall become members after satisfying the eligibility requirements applicable at their date of hire. All persons employed after December 31, 1978 shall become members on the first day of the pay period following completion of six months of continuous employment. Persons employed prior to January 1, 1979 after attaining age 55 who attained age 60 prior to January 1, 1979 and persons employed after December 31, 1978 and prior to January 1, 1988 after attaining age sixty shall become members on the first day of the pay period following the later of six months of continuous employment or January 1, 1988. All persons employed after September 30, 1997 shall become members on commencement of employment as an eligible employee as defined in Section 2.1(b). Furthermore your pension eligibility and benefits are determined at the time you become a member of the Plan.

3.3 Payroll Deductions. The membership form shall give such information as the Committee shall require and shall authorize the deduction of the member's contributions to the Plan as required by Section 8.2.

- 3.4 If a member terminates employment, receives an early termination incentive benefit as may be provided under Section 5.15, and is reemployed by Douglas County, and if the period between his termination of employment and his reemployment date is shorter in duration than his previous period of employment, such employee will not be readmitted as a member unless within 90 days following his reemployment date, he repays to the trustee a sum equal to the amount he received from the plan at the termination of his previous period of employment, plus interest for the period of his break in service.
- 3.5 In the event of a merger of services, an employee of a city, village or township who becomes an employee of the County may participate in the retirement plan of the County pursuant to Neb. Rev. Stat. §§ 13-2202, 23-2306, 23-2323.03 and 23-2331 as amended from time to time, the terms of which are incorporated herein as if fully set forth by this reference.

Section 4 - Retirement Ages and Dates

- 4.1 Normal. Except as modified by(a), (b) and (c), each member's normal retirement date shall be the first day of the calendar month coincidental with or next succeeding his sixty-fifth birthday.
- (a) The normal retirement date for a member whose sixty-fifth birthday occurs on or prior to July 1, 1963, shall be July 1, 1963.
 - (b) The normal retirement date for a member hired after attaining age sixty shall be the first day of the calendar month coincidental with or next succeeding the completion of five years of service following December 31, 1987.
 - (c) The normal retirement date for a member hired on or after January 1, 2012 shall not be eligible for an unreduced retirement benefit.
- 4.2 Early.
- (a) For members hired prior to January 1, 2012 the early retirement date shall be the first day of any calendar month occurring after his sixtieth birthday and the completion of at least five years of service, whichever is later, and prior to his normal retirement date; or any time after his fifty-fifth birthday and the completion of at least twenty years of service (exclusive of accumulated sick leave).
 - (b) For member's hired on or after January 1, 2012 the early retirement date shall be the first day of any calendar month occurring after their sixtieth birthday and the completion of at least five years of service, whichever is later, and prior to the normal retirement date; or any time after their fiftieth birthday and the completion of at least ten years of service (exclusive of accumulated sick leave).

A member with less than five complete years of service shall never be eligible for an early retirement.

4.3 Late. Each member's late retirement date shall be the first day of any calendar month subsequent to his normal retirement date.

4.4 Deferred Vested. Any member who has completed five or more years of service shall be entitled at termination of employment to elect a deferred vested retirement income as provided in section 5.4.

A member with less than five complete years of service shall never be eligible for a deferred vested retirement income.

4.5 Special Early Retirement. A member shall be eligible for special early retirement on the first day of the calendar month coincidental with or next succeeding the date on which he has:

- (a) attained age 55; and
- (b) completed a sufficient number of years of service so that when such years are added to the member's attained age the total equals or exceeds 85, and such service, must be exclusive of accumulated sick leave.

A member shall not be eligible to receive the supplemental monthly income payment, as described in section 5.12, while receiving a Social Security Disability Benefit.

4.6 Special Rule of 75 Retirement. Effective October 5, 1997, a member shall be eligible for special Rule of 75 retirement on the first day of the calendar month coincidental with or next succeeding the date on which he has:

- (a) attained age 50, and
- (b) completed a sufficient number of years of service so that when such years are added to the member's attained age, the total equals or exceeds 75, and such service must be exclusive of accumulated sick leave.

A member who satisfies the above requirements and who elects to retire shall be entitled to a Normal Retirement benefit. The member's benefits will not be reduced for early retirement, nor will the member be entitled to a supplemental monthly income payment.

A member hired on or after January 1, 2012 shall not be eligible for Rule of 75 retirement. Members must refer to the specific governing labor contract for retirement eligibility and benefits.

Section 5 - Benefits

5.1 Normal Retirement. Each member who retires on his normal retirement date shall be entitled to a monthly normal retirement income. The amount of the monthly retirement income is defined as follows:

- (a) Members that retired prior to July 1, 1982.

Monthly retirement income equal to one percent (1%) of the member's final average compensation multiplied by his years of service.

- (b) Members that were actively employed with Douglas County on July 1, 1982 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1982 and before July 1, 1984.

Monthly retirement income equal to the sum of (1) and (2):

(1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1972.

(2) One and one-tenth percent (1.1%) of the member's final average compensation multiplied by years of service on or after January 1, 1972.

- (c) Members that were actively employed with Douglas County on June 30, 1984 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1984 and prior to July 1, 1986.

Monthly retirement income equal to the sum of (1), (2) and (3):

(1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1972.

(2) One and one-tenth percent (1.1%) of the member's final average compensation multiplied by years of service after January 1, 1972 to January 1, 1974.

(3) One and two-tenths percent (1.2%) of the member's final average compensation multiplied by years of service after January 1, 1974.

- (d) Members that were actively employed with Douglas County on June 30, 1986 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1986 and prior to July 1, 1988.

Monthly retirement income equal to the sum of (1), (2) and (3):

- (1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1962.
 - (2) One and two-tenths percent (1.2%) of the member's final average compensation multiplied by years of service after January 1, 1962 and prior to January 1, 1972.
 - (3) One and four-tenths percent (1.4%) of the member's final average compensation multiplied by years of service after January 1, 1972.
- (e) Members that were actively employed with Douglas County on June 30, 1988 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1988 and prior to July 1, 1990.

Monthly retirement income equal to the sum of (1) and (2):

- (1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1962.
 - (2) One and four hundred twenty-five thousandths percent (1.425%) of the member's final average compensation multiplied by years of service after January 1, 1962.
- (f) Members that were actively employed with Douglas County on June 30, 1990 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1990 and prior to July 1, 1994.

Monthly retirement income equal to the sum of (1) and (2):

- (1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1962.
 - (2) One and four thousand six hundred twenty-five ten thousandths percent (1.4625%) of the member's final average compensation multiplied by years of service after January 1, 1962.
- (g) Members that were actively employed with Douglas County on June 30, 1994 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after July 1, 1994.

Monthly retirement income equal to the sum of (1) and (2):

- (1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1962.

- (2) One and five-tenths percent (1.5%) of the member's final average compensation multiplied by years of service after January 1, 1962.
- (h) Members that were actively employed with Douglas County on or after October 4, 1997 or were eligible to receive credited service while a Disability Pension Benefit was being received that retired on or after October 5, 1997.

Monthly retirement income equal to the sum of (1) and (2) but not greater than sixty percent (60%) of the member's final average compensation:

- (1) One percent (1%) of the member's final average compensation multiplied by years of service prior to January 1, 1962.
- (2) Two percent (2%) of the member's final average compensation multiplied by years of service after January 1, 1962.
- (i) Members hired on or after January 1, 2012 shall be entitled to a monthly retirement income of one and five-tenth percent (1.5%) of the member's final average compensation multiplied by years of service but not greater than forty-five percent (45%) of the member's final average compensation.

A member that was a participant in the Omaha-Douglas County Board of Health Retirement Plan prior to July 1, 1984 and was actively employed on June 30, 1984 will be entitled to a monthly retirement benefit equal to the sum of benefits earned as a participant of the Board of Health Plan as amended on June 30, 1984 and the benefits earned following July 1, 1984 as a participant to the Plan in effect on July 1, 1984 or as subsequently amended. Except when determining the final average compensation, years of service prior to January 1, 1988 will be disregarded in determining the monthly retirement income for any member hired after attaining the age of sixty or hired after attaining the age of fifty-five if hired prior to 1979.

Except when determining the final average compensation, years of service prior to January 1, 1988 will be disregarded in determining the monthly retirement income for any member hired after attaining the age of sixty or hired after attaining the age of fifty-five if hired prior to 1979.

- 5.2 Early Retirement. A member hired prior to January 1, 2012 and who retires on an early retirement date shall be entitled to monthly income computed in the same manner as normal retirement, based upon his service as of his early retirement date, his final average earnings as of such date and reduced by one-fourth of one percent for each full calendar month that such member's first retirement payment precedes his normal retirement date, except if such member satisfies the requirements for special early retirement set out in Section 4.5, or special Rule of 75 retirement set out in Section 4.6, his benefits will not be reduced by one-fourth of one percent for the months that his special early retirement date or special Rule of 75 retirement date precedes his normal

retirement date. The Early Retirement Benefit provided by the Plan other than Special Rule of 75 retirement is subject to adjustment for vesting pursuant to the applicable factor in Section 5.4 if the Early Retirement benefit commences before the completion of ten (10) years of service by the member.

A member hired on or after January 1, 2012 and who retires on an early retirement date shall be entitled to monthly income computed in the same manner as normal retirement, based upon his service as of his early retirement date, his final average earnings as of such date, and reduced by five percent (5%) for each year prior to age 65.

5.3 Late Retirement.

- (a) Retirement Prior to 1988. A member who retires on a late retirement date shall be entitled to a monthly late retirement income equal to such member's normal retirement benefit, had he retired on his normal retirement date, increased by three-fourths of one percent for each full calendar month that such member's first retirement payment follows his normal retirement date
- (b) Retirement After 1987. A member who attains the age of 65 after December 31, 1987 and retires on a late retirement date shall be entitled to a monthly retirement income as determined under Section 5.1.

A member who attains the age of 65 prior to January 1, 1988 and retires on a late retirement date shall be entitled to a monthly retirement income equal to the larger of (1) and (2):

- (1) The monthly retirement income determined at the normal retirement date under Section 5.1 increased by three-fourths of one percent for each full calendar month from the normal retirement date to December 31, 1987, plus

The monthly retirement income determined under Section 5.1 for years of service following December 31, 1987.

- (2) The monthly retirement income determined at the normal retirement date under Section 5.1 increased by three-fourths of one percent for each full calendar month from the normal retirement date to the actual date of retirement.

- 5.4 Deferred Vested. Any member who has completed five or more years of service shall be entitled at termination of employment to elect a deferred vested retirement income. If the deferred vested retirement benefit commences before the normal retirement date the benefit is subject to the reduction for early retirement as provided in Section 5.2 (for early retirements other than those pursuant to the special Rule 75 retirement). The amount of income shall be computed as if it were a normal retirement income based upon service to the

date of termination and then multiplied by the appropriate factor from the following vesting table for active employees June 30, 1990:

<u>Complete Years of Service on Date of Termination</u>	<u>Vested Factor</u>
Less than 5	.00
5	.25
6	.40
7	.55
8	.70
9	.85
10	1.00

If an employee terminates employment and elects a deferred vested interest, they shall become eligible for membership immediately upon reemployment by Douglas County.

Furthermore, if an employee who has had a break in service is reemployed following a break in service which was shorter in duration than their previous period of employment, they shall become eligible for membership immediately upon reemployment by Douglas County, provided they repay to the trustee a sum equal to the amount they received at the termination of their previous period of employment, plus interest for the time between the date of earlier termination and the date of repayment. Additionally, in order to receive credit for the previous term of employment, the employee must meet the following additional conditions: the repayment must occur within (90) ninety days of reemployment or within (90) ninety days of notification of the right to purchase prior years of service, whichever is later. In the case of an employee whose break in service was longer than their previous period of employment, their right to purchase prior years of service shall be available only if their prior service was at least (5) five years in duration and their later service is at least (10) ten years in duration.

Periods of membership in the Plan following reemployment will be added to the previous periods of membership only if any previous distributions that were received following earlier termination of employment are repaid to the Plan with interest within the designated time period.

The retirement pension benefit of a member whose years of service include a period of initial employment followed by a period of reemployment will be calculated by applying the terms in effect during each period of employment as if a new member.

If a member's employment is terminated due to a change in employment status as provided by the Nebraska Legislature to that of a state employee, such member's Vested Factor will be 1.00 and the termination benefits to which he is entitled shall be computed accordingly.

The Vested Factor of all members who are active participants in the Plan on the date of any discontinuance or termination of the Plan pursuant to Section 12 will be 1.00.

- 5.5 Termination Before July 1, 1963. Any member who would be eligible for early or normal retirement on July 1, 1963, and who terminates employment before July 1, 1963, shall have the right to elect to continue to contribute to the Plan until July 1, 1963, and thereby become eligible for early or normal retirement on that date. Each such member shall file with the Committee either a notice of his election to continue making contributions or to receive a refund of the contributions he has made to the date of termination. In the event such a member shall fail or constitute a waiver of all benefits under this Plan except for the refund of his own contributions. Each member who elects to continue making contributions shall be considered to have service until July 1, 1963.
- 5.6 Other Termination of Employment. The beneficiary of a member who dies while an active member and who, at the time of death, has not met the requirements for dependents pension as set out in Section 5.7 of this Plan shall be entitled to receive a refund of the member's contributions accumulated with interest to the January 1 or July 1 coincidental with or next preceding the later of the date of death or the date of payment to said beneficiary.

A member who terminates employment with Douglas County for reasons other than death or retirement, and is not eligible for a disability pension under Section 5.8 of this Plan shall be entitled to receive a refund of his member's contributions accumulated with interest to the January 1 or July 1 coincidental with or next preceding the later of the date of termination or the date of his application for refund of such contributions. A member who receives a refund of his accumulated contributions shall forfeit any and all rights and benefits to which he might otherwise be entitled under Section 5.4 of this Plan and shall cease to be a member. Any such former member who is reemployed by Douglas County shall be considered a new employee.

- 5.7 Dependents Pension Benefits. If a member who meets the requirements for dependent's pension hereunder dies while a member of the Plan and is survived by a spouse, the person to whom the member is legally married to at least one (1) year prior to death, regardless of whether that person is of the same or opposite gender (dependent spouse) or by one or more dependent children (or both), such dependent spouse of the member, if any, otherwise the dependent children of the member will be entitled to monthly pension payments as determined below commencing on the first day of the month following the member's date of death. A member must meet all of the following requirements for dependent's pension benefit.
- (a) Have completed eight years of service with Douglas County during his last period of employment.

- (b) Was legally married at the time of death and had been married to said spouse for at least one year prior to date of death, or be the primary source of support of natural or legally adopted dependent children.
- (c) Must commence receiving a retirement pension on or after July 1, 1970.

For the purposes of the dependent's pension benefit, a dependent child is a natural or legally adopted child of the member who is a full-time student and has not attained age 23 at the date of the member's death.

Payments will be made to the dependent spouse of the member if such a spouse exists, otherwise to the person or persons responsible for the maintenance of dependent children. A division of a dependent pension benefit between a subsequent spouse and dependent children of a prior marriage is permitted, pursuant of a Qualified Domestic Relation Order entered before **November 29, 2011**. Payments to a dependent spouse shall continue to the date of death of said spouse. Payments to dependent children will continue until the date the last dependent child of the member ends his or her status as a full-time student or attains age twenty-three, whichever shall occur first.

If the dependent's pension benefit is payable to more than one dependent child of the member, the total dependent's pension benefit shall be divided equally among the dependent children except that if any such child should die before the dependent's pension benefit ends, the payments to such deceased child shall cease and be allocated equally to the remaining dependent child or children of the member for the duration of the dependent's pension benefit.

The amount of the total monthly payment to one or all dependents will be sixty percent of the normal retirement benefit which the employee had earned to the date of death (based on length of service and final average compensation to such date) for an active participant, will be sixty percent of the deferred vested retirement income for a terminated participant and will be sixty percent of the normal retirement benefit the retired participant was receiving at the time of death if death occurs after retirement, unless the spouse's age is more than five years less than the age of the employee at date of death, in which case, the sixty percent rate will be reduced by one percent times the number of years by which the spouse's age is less than the employee's age, not counting the first five such years.

In the event of a member's death prior to his 62nd birthday but after meeting the eligibility requirements for Special Early Retirement, his eligible dependents will receive sixty percent of his Supplemental Early Retirement Benefit each month until the month following what would have been the member's 62nd birthday. Such payment will be in addition to the other dependents pension benefits payable under this plan. Superseded by RULE 75.

- 5.8 Disability Pension. After six consecutive calendar months of total disability, an employee with at least five years of service shall be entitled to a benefit in the amount of seventy percent (70%) of the employee's compensation on the January 1 preceding disability (July 1 for total disability occurring before January 1, 2006). Less other income or benefits described in certificate booklet titled "Douglas County Employee Long Term Disability Benefits". Please refer to the certificate booklet for more detailed information concerning eligibility for and the amount of the disability pension benefit. The maximum monthly disability pension benefit is \$7,500, less other income or benefits as described in the certificate booklet.
- 5.9 Supplemental Income Following Disability. If a member who had been receiving a Disability Pension returns to any type of employment (with any employer) for which his compensation on an annual basis is less than the amount received from this Plan during his most recent year of disability, such person will be paid a supplemental employment benefit. The amount of the supplemental employment benefit will be equal to the result of subtracting his employment income from the total disability pension rate to which he was entitled during his last year of disability. Such supplemental payment will be payable for a period not to exceed 36 months. Please refer to the certificate booklet titled "Douglas County Employee Long Term Disability Benefits" for more detailed information concerning eligibility and benefits.
- 5.10 Maximum Monthly Disability Pension. In no event will the monthly disability income benefit payable to any disabled member exceed \$7,500.00; less other income or benefits described in the certificate booklet. Please refer to the certificate booklet titled "Douglas County Employee Long Term Disability Benefits" for more detailed information concerning eligibility and benefits.
- 5.11 Survivor Benefit Upon Death During Disability Pension. If a member who is receiving a Disability Pension should die before sixty monthly payments of disability income benefits have been paid by the Plan, a survivor benefit equal to three months of the monthly disability income benefit being paid to the member at the time of his death, shall be paid in a single lump sum to the member's surviving spouse, if any, otherwise in equal shares to the member's natural or legally adopted children who are then living and under age twenty-five. If the member has no surviving spouse or children under age twenty-five, the survivor benefit provided under this Section 5.11 shall be paid to the member's estate. Please refer to the certificate booklet titled "Douglas County Employee Long Term Disability Benefits" for more detailed information concerning eligibility and benefits.
- 5.12 Special Early Retirement Benefit. A member who satisfies the requirements for Special Early Retirement Date and who elects to retire prior to attainment of age 62 shall be entitled to a supplemental monthly income payment. Such payment will commence on the member's Special Early Retirement date and continue through the first day of the month in which the member's 62nd birthday occurs.

The amount of supplemental early retirement benefit will be an amount which, when added to the member's otherwise payable Early Retirement benefit, will produce the percentage of Final Average Compensation as determined from the following schedule:

<u>Member's Years of Service</u>	<u>Total Pension Percentage Payable</u>
35	55%
34	54
33	53
32	52
31	51
30	50
29	49
28	48
27	47
26	46
25	45
24	44
23	43

- 5.13 **Maximum Annual Benefit.** The annual benefit payable to a to member under this Plan and any other qualified defined benefit plan adopted by the County, assuming a monthly life income only annuity, but without regard to that portion of a joint and survivor annuity which constitutes a qualified joint and survivor annuity as described in Section 417 of the Internal Revenue Code, shall not exceed the limits of Section 415 of the Internal Revenue Code that apply to governmental plans, as such limits may be amended or adjusted from time to time under Section 415 of the Internal Revenue Code.

The following rules shall be effective in applying the limitations of Section 415 of the Internal Revenue Code to a member's annual benefit.

- (a) In computing the maximum benefit, a member's "compensation" shall be compensation as defined by Section 415(c)(3) of the Internal Revenue Code.
- (b) The limitation year for purposes of applying the limitations of this Section 5.13 to the annual benefit of a member shall be the calendar year.
- (c) Effective for limitation years beginning after December 31, 1994, for the purpose of adjusting any benefit or limitation as may be required under Section 415(b)(2)(B), (C) or (D) of the Internal Revenue Code, the mortality table used shall be the mortality table as shall be prescribed pursuant to Section 807(d)(5)(A) of the Internal Revenue Code.

- (d) For purposes of adjusting any benefit under as may be required under Section 415(b)(2)(C) of the Internal Revenue Code, the interest rate assumption shall not be less than the greater of 5% or the rate specified in the Plan. For purposes of adjusting any benefit as may be required under Section 415(b)(2)(D) of the Internal Revenue Code, the interest rate assumption shall not be greater than the lesser of 5% or the rate specified in the Plan.
- (e) Any increase in the benefit limitations of Section 415(b) of the Internal Revenue Code shall apply only to members who are employed by the County on or after the effective date of such increase under Section 415(b) of the Internal Revenue Code.

5.14 Increase of Benefits. Subject to the requirements of Section 6.5, the monthly retirement income of participants and beneficiaries receiving monthly benefits may be increased from time to time by the Douglas County Board based on the recommendations of the Retirement Committee.

5.15 Early Retirement and Early Termination of Employment Incentive. Incentives to retire or terminate employment within a specified period may be provided from time-to-time by the Douglas County Board based on recommendations of the Retirement Committee.

Section 6. - Commencement and Duration of Retirement Income

- 6.1 Duration. Retirement income shall be paid monthly. The first monthly payment of a normal, early or late retirement income shall be paid on the normal, early or late retirement date except that after June 30, 1963, a member retiring before his sixty-fifth birthday may elect with the consent of the Committee to have his retirement income begin as of the first day of any month following his retirement, but not later than the first of the month following his sixty-fifth birthday. The payments shall be made thereafter as of the first of each month during the lifetime of the retired member or until he is reemployed by the County, in which case his monthly retirement income being paid under the Plan shall be reduced by the amount of compensation received during each such month from the County. For this purpose, all employment shall mean working for the County in excess of twenty (20) hours per week during such seven (7) day work week. In the event of reemployment for twenty (20) hours or less per week, there shall be no reduction in the member's monthly retirement benefit. In the event of reemployment with the County for more than twenty (20) hours per week, the member's monthly retirement benefit will be suspended until no longer an eligible employee of the County.
- 6.2 Death of Retired Member. The death benefit of a member that does not meet the eligibility requirements for a Dependent's Pension Benefit shall not be less than the amount of his contributions, accumulated with interest from the January 1 or July 1 coincidental with or next preceding the earlier of the date of his retirement

or termination. Upon the death of a member who is receiving a retirement income this death benefit, less any retirement income payments made to the date of death, shall be paid to his beneficiary from the retirement fund.

If the total number of the monthly pension benefits that have been paid to a member before his death plus the monthly pension benefits paid to a member's dependent children as a dependent's pension benefit according to the provisions of Section 5.7, is less than sixty (60) monthly payments, and provided that the dependent's pension benefit, if any, was not payable to the member's surviving spouse, the monthly pension benefit shall continue to the member's beneficiary for the balance of the sixty (60) month period until a total of sixty (60) monthly payments of pension benefit from the member's retirement have been made by the Plan.

- 6.3 Legal or Physical Disability. If a retired member is under legal or physical disability, retirement payments may be made at the discretion and direction of the Committee to him directly or to his spouse, his relative by blood or marriage, his legal representative or to any other person who is deemed to be reliable and agrees to use the payment for the maintenance and support of the retired member. The Committee shall not be required to see to the application of any such payment and the payee's receipt will be a complete discharge of liability for the payment.
- 6.4 Retirement After Reemployment. If a member retires, again becomes an eligible employee and a member of the Plan, and then re-retires, the member's monthly retirement income at re-retirement shall consist of the original retirement benefit and the additional benefit earned as a result of employment following the prior retirement. Payment of the monthly retirement income benefit, as adjusted to include the additional benefit earned after reemployment, shall resume at the member's re-retirement and in the same manner as before the suspension of the payment of the original retirement benefit when the member reemployed as an eligible employee. The additional benefit earned after reemployment shall be computed as follows:
- (a) A benefit shall be calculated based on the member's total service and compensation record at the time of re-retirement (but not reduced for early retirement or vesting);
 - (b) The member's original retirement benefit shall be calculated without any adjustments for early retirement or vesting; and
 - (c) The additional benefit earned shall be the excess, if any, of the benefit calculated in (a) above over the benefit calculated in (b) above, adjusted if necessary to reflect early retirement or vesting.
- 6.5 Minimum Required Distributions. All distributions of benefits under the Plan shall be determined and made in accordance with the requirements of Section

401(a)(9) of the Internal Revenue Code and the Treasury regulations thereto that apply to governmental plans. Said requirements and, effective January 1, 2003, the following provisions of this Section 6.5, shall supersede and take precedence over any inconsistent provisions of the Plan.

- (a) A member's monthly retirement income benefit or other benefits under the Plan must be distributed, or begin to be distributed to the member, not later than April 1 of the calendar year following the later of (i) the calendar year in which the member attains age 70 1/2, or (ii) the calendar year in which the member retires. The amount of benefit that must be distributed on or before the member's required beginning date is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval. Any additional benefits accruing to the member under the Plan in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (b) If a member dies before the commencement of his or her monthly retirement income payments, the dependent's pension benefit provided in Section 5.7 or other benefit payable as a result of the member's death shall be distributed, or begin to be distributed, no later than December 31 of the calendar year immediately following the calendar year in which the member died. The death benefit shall be distributed over a period that does not exceed the life of the spouse or dependent children, if applicable, as determined by using the beneficiary's age as of the beneficiary's birthday in the calendar year that the death benefit commences to be paid. If a member dies before the distribution of his or her interest in the Plan begins and there is no designated beneficiary as of September 30 of the year following the calendar year of the member's death, distribution of the entire benefit payable as a result of the member's death shall be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.
- (c) Payment of a normal, early or late retirement income benefit shall be subject to the following requirements:
 - (1) the retirement income shall be paid in periodic payments made at uniform intervals not longer than one year;
 - (2) the distribution period will be over a life (or lives) of the member and the member's spouse or a period certain longer not than the applicable distribution period for the member under the Uniform Lifetime Table of the Treasury regulations to Section 401(a)(9) of the Internal Revenue Code for the year that the retirement income benefit commences;

- (3) once payments have begun over a period certain, the period certain shall not be changed; and
 - (4) payments may increase only by an annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics; to provide cash refunds of employee contributions upon the member's death; to the extent of any reduction in the amount of payments to provide a survivor benefit, but only if there is no longer a survivor benefit because the beneficiary whose life was used to determine the period over which the payments were being made dies or is no longer a beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Internal Revenue Code; or to pay increased benefits that result from an amendment to the Plan.
- (d) All life expectancies for purposes of the minimum required distribution rules of this Section 6.5 shall be computed by use of the single life expectancy tables of the Treasury regulations to Section 401(a)(9) of the Internal Revenue Code.

Section 7 - Benefit Payment

- 7.1 Application for Benefits. Each member eligible for retirement income shall apply therefore by signing an application form to be furnished by the Committee. Each such member shall also furnish the Committee with such documents, evidence, data or information in support of such application as the Committee considers necessary or desirable.
- 7.2 Payment of Small Amounts. If the monthly retirement income payable shall be less than twenty dollars, the Committee, in its discretion, may direct such payments to be made in a lump sum of an equivalent actuarial value. In the event the lump sum payment is greater than \$1,000, if the member does not elect to have such payment paid directly to an eligible retirement plan specified by the member in a direct rollover pursuant to Section 7.3 or to receive the payment directly, then beginning with any lump sum payment on or after March 28, 2005, the Committee shall direct such lump sum payment be paid in the form of a direct rollover to an individual retirement plan designated by the Committee.
- 7.3 Direct Rollover of Eligible Distributions. Effective for distributions made by the Plan on or after January 1, 1993, a distributee may elect, at the time and in the manner prescribed by the Committee, to have any portion of an eligible rollover distribution described in Section 402(f)(2)(A) of the Internal Revenue Code paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

- (a) **Eligible rollover distribution:** An eligible rollover distribution is any distribution from this Plan of all or any portion of the vested accrued benefit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution of any distribution that is not includable in gross income; and effective January 1, 1999, any hardship distribution.
- (b) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. Effective for distributions on or after January 1, 2002, an eligible retirement plan shall also include an annuity contract or custodial account described in Section 403(b) of the Internal Revenue Code and an eligible plan described in Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. If the distribution should include any amount attributable to after-tax employee contributions, such portion of the distribution shall be transferred only to an individual retirement account or individual retirement annuity or to a qualified annuity plan or qualified trust that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not includable in gross income.
- (c) **Distributee:** A Distributee includes an Employee or former Employee. In addition the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.
- (d) **Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

The Committee may restrict direct rollover elections under this Section 7.3 to minimum distribution amounts as may be authorized under regulations to Section 401(a)(31) of the Internal Revenue Code.

Section 8 - Contributions

- 8.1 Funding. The County may execute a trust agreement with a trustee or trustees, or enter into one or more contracts with one or more insurance companies, or both, to establish a retirement fund. Such retirement fund shall receive and hold contributions payable by the members and by the County, and interest and other earnings, and pay all benefits provided by the Plan. No liability for the payment of retirement income under the Plan shall be imposed upon the County or the County Commissioners or other officers of the County. The County may modify any trust agreement or insurance contract, remove any trustee or change insurance companies at anytime.
- 8.2 Member's Contributions. Each member shall make contributions by means of payroll deductions to the County with respect to each month of service for the County. For periods before September 8, 1996, such contributions by all members were four percent of the member's compensation. Effective September 8, 1996, such contributions by any law enforcement member shall be five and one-half percent (5.5%) of such law enforcement member's compensation. On and after October 5, 1997, such contributions by all members shall be five and one-half percent (5.5%) of the member's compensation. Effective November 30, 2004, such contributions by all members shall be six and one-half percent (6.5%) for calendar year 2006 and seven and one-half percent (7.5%) for calendar year 2007 and eight and one-half percent (8.5%) of gross pay for calendar year 2008 until the date they retire. For the purpose of this section, "compensation" shall be as defined in 2.1(f) plus any or all lump-sum payments for accrued vacation payout.

A member who is reemployed by the County after retirement shall resume making contributions after being reemployed.

Effective July 1, 1985, the member's contributions shall be "picked up" and contributed by the County as permitted by Section 414(h)(2) of the Internal Revenue Code. As a result:

- (a) The employees' taxable income shall be reduced by the amount of the member's contribution "picked up" until such time as such amount is distributed or made available to any such employee, all as determined by Section 402(a) of the Internal Revenue Code.
- (b) The amount of a member's contribution "picked up" will be included as covered compensation for Social Security tax and benefit purposes, for determining the Final Average Compensation as defined in Section 2.1(f), and for making other determinations based on the compensation of the Employee.

The fact that the member's contributions are "picked up" by the County shall not change the status of these amounts as it relates to the rights of the member or beneficiary to a refund of the member's Contributions as described in Sections 5.6 and 6.2.

- 8.3 County Contributions. As long as the Plan is in effect and has not been terminated, the County shall make contributions to the insurance company or trustee as shall be determined in accordance with accepted actuarial principles to be sufficient to fund over thirty years the retirement income accrued to members for service prior to January 1, 1963, plus amounts determined to be necessary along with the member's contributions to provide the retirement income for service after January 1, 1963. The County shall pay contributions to the insurance company or trustee at such time as the County may decide.
- 8.4 Nonreversion. The County shall have no right, title or interest in the contributions made under the Plan and no part of the retirement fund shall revert to the County.

Section 9 - Administration of Plan

- 9.1 Retirement Committee. The general management and administration of the Plan and the responsibility of carrying out the provisions of the Plan shall be placed in a retirement Committee consisting of at least one County Commissioner and other employees of the County as appointed by the Board of County Commissioners.
- 9.2 Records. The Committee shall appoint from among its members a Chairman and a Secretary. All accounts and determinations of the Committee shall be recorded by the Secretary thereof or under his supervision. The Committee shall determine the entitlement of members to benefits. The Committee shall provide that data as may be necessary for actuarial valuation of the assets and liabilities of the Plan to be kept in a convenient form. The Committee shall cause to be prepared annually a report showing in reasonable detail the assets and liabilities of the Plan and giving a brief account of the operation of the Plan for the past year.
- 9.3 Procedures. The Committee may adopt such by-laws and regulations as it deems desirable for the proper operation and administration of the Plan and shall adopt mortality rates and interest rates to be used as the basis for actuarial calculations. Decisions and determinations of the Committee not inconsistent with the provisions or the purpose of the Plan shall be binding and conclusive on all interested persons. The Committee may authorize any one or more of its members to execute any documents on behalf of the Committee. The Committee may appoint such accountants, actuaries, counsels, specialists and other persons as is deemed necessary or desired in connection with the administration of this Plan. The Committee shall be entitled to rely conclusively upon and shall be fully protected in any action taken in good faith in relying upon

any opinions or reports which shall be furnished to it by such accountants, actuaries, counsels or other specialists.

- 9.4 Appeals. Any member or person presenting a claim for benefits, under disability pension or retirement pension shall have the right to appeal any action of the Plan Administrator to the Retirement Committee. Notice of appeal must be filed in writing within 30-days of the date of the determination being appealed. Appeals should be addressed to the Chair of the Pension Committee. The decision and determination of the Committee shall be binding and conclusive on all interested persons.
- 9.5 Expenses. Unless otherwise determined by the County, the members of the Committee shall serve without compensation for services as such, but all the expenses of the Committee shall be paid by the County. Such expenses shall include any expenses incident to the functioning of the Committee including, but not limited to, fees of accountants, actuaries, counsels, other specialists and other costs of administering the Plan.

Section 10 – Transfer of Benefits Prohibited; exceptions

- 10.1 No benefit payable at any time under the Plan shall be subject to transfer, assignment, pledge, attachment, garnishment or encumbrance of any kind. Any attempt to sell, transfer, assign, pledge or the otherwise encumber any such benefit, whether presently or thereafter payable, shall be void. No benefit and no asset of the Plan shall in any manner be liable for or subject to the debts or liabilities of any member or retired member entitled to a benefit under the Plan.
- (a) The preceding paragraph shall not apply to an assignment made by retired law enforcement employees to pay for certain insurance premiums pursuant to Section 845 of the Pension Protection Act of 2006.
 - (b) Repayment of overpayment. Notwithstanding any provision to the contrary, if the Committee determines that a member or a member's dependent survivor has received any payments excess of the amount that the member or member's dependent survivor is entitled to receive under the Plan,
 - (i) The Committee may recover the overpayment by any of the following methods:
 - (1) Reducing the monthly payment in an amount agreed to by the member and the Committee, and contained in a written assignment by the member;
 - (2) Reducing the monthly payment to a member in an amount as determined by the Committee to be necessary to recover the overpayment;
 - (3) Filing a claim against the estate of a member who dies before the overpayment is fully collected; or

(4) Filing a legal claim against a member or member's dependent survivor who does not make voluntary assignment to repay the overpayment.

(ii) Any person who receives a payment of benefits from this Plan in excess of the amount to which he/she is entitled to pursuant to the terms of this Plan, including a member or member's dependent survivor who receives an overpayment, is deemed to hold such payment IN TRUST subject to the Committee's recovery of excess payment in accordance with the provision of this section.

Section 11 – Employment Rights

11.1 Employment Rights. The County's right to discipline or discharge employees shall not be affected by reason of any of the provisions of the Plan.

Section 12 - Amendment and Termination

12.1 Amendment and Termination. The County expects the Plan to be permanent; but since future conditions affecting the County cannot be anticipated or foreseen, the County must necessarily and does hereby reserve the right, to amend or modify the Plan at any time by the action of the Board of County Commissioners, except that the Plan may not be discontinued or terminated and the benefits provided by the Plan may not be reduced without approval of a simple majority of the voters of Douglas County in a regular primary or general election of the County. If the Plan is terminated, all monies theretofore contributed to the Plan by the County and the members shall be applied for the exclusive benefit of the members in an equitable manner to be determined at the time of termination by the Committee. The Committee in office at the time of termination shall continue to act with its full powers hereunder until completion of the application of all funds in the Plan.

Section 13 - Applicable Law

13.1 State Law. The Plan and all rights hereunder shall be governed, construed and administered in accordance with the laws of the State of Nebraska.

13.2 Savings Clause. If any provision, section, subsection, paragraph, sentence, word, clause or phrase of this Plan is, for any reason, found to be invalid or inoperative, or shall be held by any court to be unconstitutional, the remainder of this Plan shall nevertheless continue in full force and effect.