

AMENDMENTS TO LB 324

Introduced by Synowiecki, 7

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 81-2014, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           81-2014 For purposes of the Nebraska State Patrol  
6 Retirement Act:

7           (1) Actuarial equivalent means the equality in value  
8 of the aggregate amounts expected to be received under different  
9 forms of payment or to be received at an earlier retirement age  
10 than the normal retirement age. The determinations shall be based  
11 on the 1994 Group Annuity Mortality Table reflecting sex-distinct  
12 factors blended using seventy-five percent of the male table and  
13 twenty-five percent of the female table. An interest rate of eight  
14 percent per annum shall be reflected in making the determinations  
15 until such percent is amended by the Legislature;

16           (2) Board means the Public Employees Retirement Board;

17           (3) (a) Compensation means gross wages or salaries payable  
18 to the member for personal services performed during the plan  
19 year. Compensation does not include insurance premiums converted  
20 into cash payments, reimbursement for expenses incurred, fringe  
21 benefits, or bonuses for services not actually rendered, including,  
22 but not limited to, early retirement inducements, cash awards,  
23 and severance pay, except for retroactive salary payments paid

1 pursuant to court order, arbitration, or litigation and grievance  
2 settlements. For any officer employed after January 4, 1979,  
3 compensation does not include compensation for unused sick leave  
4 or unused vacation leave converted to cash payments. Compensation  
5 includes overtime pay, member retirement contributions, and amounts  
6 contributed by the member to plans under sections 125 and 457 of  
7 the Internal Revenue Code as defined in section 49-801.01 or any  
8 other section of the code which defers or excludes such amounts  
9 from income.

10 (b) Compensation in excess of the limitations set forth  
11 in section 401(a)(17) of the Internal Revenue Code as defined  
12 in section 49-801.01 shall be disregarded. For an employee who  
13 was a member of the retirement system before the first plan year  
14 beginning after December 31, 1995, the limitation on compensation  
15 shall not be less than the amount which was allowed to be taken  
16 into account under the retirement system as in effect on July 1,  
17 1993;

18 (4) Creditable service means service granted pursuant to  
19 section 81-2034 and all service rendered while a contributing  
20 member of the retirement system. Creditable service includes  
21 working days, sick days, vacation days, holidays, and any other  
22 leave days for which the officer is paid regular wages. Creditable  
23 service does not include eligibility and vesting credit nor service  
24 years for which member contributions are withdrawn and not repaid;

25 (5) Current benefit means (a) until July 1, 2000, the  
26 initial benefit increased by all adjustments made pursuant to  
27 section 81-2027.04 and (b) on or after July 1, 2000, the initial

1 benefit increased by all adjustments made pursuant to the Nebraska  
2 State Patrol Retirement Act;

3 (6) DROP means the deferred retirement option plan as  
4 provided in section 3 of this act;

5 (7) DROP period means the amount of time the member  
6 elects to participate in DROP which shall be for a period not to  
7 exceed five years from and after the date of the member's DROP  
8 election;

9 ~~(6)~~ (8) Eligibility and vesting credit means credit  
10 for years, or a fraction of a year, of participation in a  
11 Nebraska government plan for purposes of determining eligibility  
12 for benefits under the Nebraska State Patrol Retirement Act. Such  
13 credit shall be used toward the vesting percentage pursuant to  
14 subsection (2) of section 81-2031 but shall not be included as  
15 years of service in the benefit calculation;

16 ~~(7)~~ (9) Initial benefit means the retirement benefit  
17 calculated at the time of retirement;

18 ~~(8)~~ (10) Officer means an officer provided for in  
19 sections 81-2001 to 81-2009;

20 ~~(9)~~ (11) Plan year means the twelve-month period  
21 beginning on July 1 and ending on June 30 of the following year;

22 ~~(10)~~ (12) Regular interest means interest fixed at a  
23 rate equal to the daily treasury yield curve for one-year treasury  
24 securities, as published by the Secretary of the Treasury of the  
25 United States, that applies on July 1 of each year, which may be  
26 credited monthly, quarterly, semiannually, or annually as the board  
27 may direct;

1           ~~(11)~~ (13) Retirement system or system means the Nebraska  
2 State Patrol Retirement System as provided in the act;

3           ~~(12)~~ (14) Service means employment as a member of the  
4 Nebraska State Patrol and shall not be deemed to be interrupted  
5 by (a) temporary or seasonal suspension of service that does  
6 not terminate the employee's employment, (b) leave of absence  
7 authorized by the employer for a period not exceeding twelve  
8 months, (c) leave of absence because of disability, or (d) military  
9 service, when properly authorized by the board. Service does not  
10 include any period of disability for which disability retirement  
11 benefits are received under subsection (1) of section 81-2025;

12           ~~(13)~~ (15) Surviving spouse means (a) the spouse married  
13 to the member on the date of the member's death if married for  
14 at least one year prior to death or if married on the date of  
15 the member's retirement or (b) the spouse or former spouse of  
16 the member if survivorship rights are provided under a qualified  
17 domestic relations order filed with the board pursuant to the  
18 Spousal Pension Rights Act. The spouse or former spouse shall  
19 supersede the spouse married to the member on the date of the  
20 member's death as provided under a qualified domestic relations  
21 order. If the benefits payable to the spouse or former spouse under  
22 a qualified domestic relations order are less than the value of  
23 benefits entitled to the surviving spouse, the spouse married to  
24 the member on the date of the member's death shall be the surviving  
25 spouse for the balance of the benefits; and

26           ~~(14)~~ (16) Termination of employment occurs on the date  
27 on which the Nebraska State Patrol determines that the officer's

1 employer-employee relationship with the patrol is dissolved. The  
2 Nebraska State Patrol shall notify the board of the date on which  
3 such a termination has occurred. Termination of employment does  
4 not include ceasing employment with the Nebraska State Patrol  
5 if the officer returns to regular employment with the Nebraska  
6 State Patrol or another agency of the State of Nebraska and  
7 there are less than one hundred twenty days between the date when  
8 the employee's employer-employee relationship ceased and the date  
9 when the employer-employee relationship commenced with the Nebraska  
10 State Patrol or another state agency.

11           Sec. 2. Section 81-2014.01, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           81-2014.01 Sections 81-2014 to 81-2040 and section 3 of  
14 this act shall be known and may be cited as the Nebraska State  
15 Patrol Retirement Act.

16           Sec. 3. (1) Any member who meets the participation  
17 requirements of subsection (2) of this section may participate in  
18 DROP. DROP provides that subsequent to attaining normal age and  
19 service retirement eligibility, a member may voluntarily choose to  
20 participate in DROP upon its adoption which, for purposes of this  
21 section, shall be the earlier of September 1, 2008, or the first  
22 of the month following a favorable letter determination by the  
23 Internal Revenue Service. If the member chooses to participate in  
24 DROP, the member shall be deemed to have retired, but the member  
25 may continue in active employment for up to a five-year period.  
26 During the DROP period, the member's retirement benefit payments  
27 shall be deposited into the DROP account for the benefit of the

1 member until the member actually retires from active employment at  
2 or before the expiration of the DROP period. Thereafter, future  
3 retirement benefit payments shall be made directly to the member,  
4 and the member shall have access to all funds in the account  
5 designated for the benefit of the member.

6 (2) To participate in the DROP program, a member shall  
7 meet the following requirements:

8 (a) A member shall be eligible to enter DROP at any time  
9 subsequent to the date when the member has (i) attained normal  
10 retirement age and (ii) completed twenty-five years of service.  
11 Members having attained normal retirement age and completed  
12 twenty-five years of service on or before the date of adoption of  
13 DROP shall be eligible to enter DROP at any future date;

14 (b) A member who elects to enter DROP shall be entitled  
15 to receive regular age and service retirement benefits in  
16 accordance with section 81-2026. A member is entitled to remain in  
17 DROP for a maximum of five years subsequent to the date of the  
18 member's DROP election. A member may separate from service and  
19 thereby exit DROP at any time during the DROP period. On or before  
20 the completion of the DROP period, the member must separate from  
21 active employment and exit DROP. During the DROP period, a member's  
22 retirement benefit shall be payable to the DROP investment account  
23 vendor designated in the member's name. Amounts transferred or  
24 paid to a participating member's DROP account shall not constitute  
25 annual additions under section 415 of the Internal Revenue Code;

26 (c) A member electing to enter DROP shall choose an  
27 annuity payment option. After the option is chosen, the member

1 shall not be entitled to any retirement benefit changes, for  
2 reasons including, but not limited to, wage increases, promotions,  
3 and demotions, except that the restriction on retirement benefit  
4 changes shall not apply in the event of duty-related death or  
5 duty-related disability. The benefit amount shall be fixed as of  
6 the date of election and shall be payable as if the employee  
7 retired on that date and separated from active employment. Upon the  
8 death of a member during the DROP period, monthly benefits shall  
9 be provided as a percentage of the amount of the member's annuity  
10 as set forth in subsection (3) of section 81-2026 based upon  
11 the annuity benefit calculation made at commencement of the DROP  
12 period. In addition, the balance of the DROP account, if any, shall  
13 be provided to the beneficiary or beneficiaries of the member or,  
14 if no beneficiary is provided, to the estate of the member. Upon  
15 the disability of a member during the DROP period, the member shall  
16 be deemed to have completed the DROP period, shall begin receiving  
17 the annuity benefit as calculated at the commencement of the DROP  
18 period, and shall be paid the balance of the DROP account, if any;

19 (d) No member shall be allowed to continue making the  
20 required contributions while the member is enrolled in DROP;

21 (e) The member shall be paid the balance of the DROP  
22 account upon the member's separation from active employment or  
23 at the expiration of the DROP period thereby ending the member's  
24 participation in DROP. If a member has not voluntarily separated  
25 from active employment on or before the completion of the DROP  
26 period, the member's retirement benefit shall be paid directly  
27 to the member thereby ending the member's active employment. The

1 member's DROP account shall consist of accrued retirement benefits  
2 and interest on such benefits;

3 (f) Any member that is enrolled in DROP shall be  
4 responsible for directing the DROP account designated for the  
5 benefit of the member by investing the account in any DROP  
6 investment options. There shall be no guaranteed rate of investment  
7 return on DROP account assets. Any losses, charges, or expenses  
8 incurred by the participating DROP member in such member's DROP  
9 account by virtue of the investment options selected by the  
10 participating DROP member, shall not be made up by the retirement  
11 system but all of the same shall be born by the participating DROP  
12 member. The retirement system, the state, the board, and the state  
13 investment officer shall not be responsible for any investment  
14 results under the DROP agreement. Transfers between investment  
15 options shall be in accordance with the rules and regulations of  
16 DROP. A DROP account shall be established for each participating  
17 DROP member. Such DROP account shall be adjusted no less frequently  
18 than annually for the member's retirement benefit distributions and  
19 net investment earnings and losses;

20 (g) If the DROP account is subject to administrative or  
21 other fees or charges, such fees or charges shall be charged to the  
22 participating DROP member's DROP account; and

23 (h) Cost-of-living adjustments as provided for in section  
24 81-2027.03 shall not be applied to retirement benefits during the  
25 DROP period.

26 Sec. 4. Section 81-2017, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   81-2017 (1) Prior to July 1, 1995, each officer while  
2 in the service of the Nebraska State Patrol shall pay or have  
3 paid on his or her behalf a sum equal to eight percent of his  
4 or her monthly compensation. Commencing July 1, 1995, and through  
5 June 30, 1996, each officer while in the service of the Nebraska  
6 State Patrol shall pay or have paid on his or her behalf a sum  
7 equal to ten percent of his or her monthly compensation. Commencing  
8 July 1, 1996, and through June 30, 2004, each officer while in  
9 the service of the Nebraska State Patrol shall pay or have paid  
10 on his or her behalf a sum equal to eleven percent of his or her  
11 monthly compensation. Commencing July 1, 2004, and through June  
12 30, 2005, each officer while in the service of the Nebraska State  
13 Patrol shall pay or have paid on his or her behalf a sum equal  
14 to twelve percent of his or her monthly compensation. Commencing  
15 July 1, 2005, and through June 30, 2007, each officer while in  
16 the service of the Nebraska State Patrol shall pay or have paid  
17 on his or her behalf a sum equal to thirteen percent of his or  
18 her monthly compensation. Commencing July 1, 2007, each officer  
19 while in the service of the Nebraska State Patrol shall pay or  
20 have paid on his or her behalf a sum equal to twelve percent of  
21 his or her monthly compensation. Such amounts shall be deducted  
22 monthly by the Director of Administrative Services who shall draw  
23 a warrant monthly in the amount of the total deductions from the  
24 compensation of members of the Nebraska State Patrol in accordance  
25 with subsection (4) of this section, and the State Treasurer shall  
26 credit the amount of such warrant to the State Patrol Retirement  
27 Fund. The director shall cause a detailed report of all monthly

1 deductions to be made each month to the board.

2           (2) In addition, ~~through June 30, 2004, there shall be~~  
3 ~~transferred from the General Fund monthly by the State Treasurer~~  
4 ~~a sum equal to the amount of such compensation deductions each~~  
5 ~~month which shall be credited to the State Patrol Retirement Fund.~~  
6 ~~Commencing July 1, 2004, and through June 30, 2005, there shall be~~  
7 ~~transferred from the General Fund monthly by the State Treasurer a~~  
8 ~~sum equal to the amount of twelve percent of each officer's monthly~~  
9 ~~compensation which shall be credited to the State Patrol Retirement~~  
10 ~~Fund. Commencing commencing July 1, 2005, and through June 30,~~  
11 ~~2007, there shall be assessed against the appropriation of the~~  
12 ~~Nebraska State Patrol a sum equal to the amount of fifteen percent~~  
13 ~~of each officer's monthly compensation which shall be credited to~~  
14 ~~the State Patrol Retirement Fund. Commencing July 1, 2007, there~~  
15 ~~shall be assessed against the appropriation of the Nebraska State~~  
16 ~~Patrol a sum equal to the amount of thirteen percent of each~~  
17 ~~officer's monthly compensation which shall be credited to the State~~  
18 ~~Patrol Retirement Fund. The fund shall further be supplemented~~  
19 ~~annually by an appropriation in such amount, if any, as may be~~  
20 ~~determined on the basis of an actuarial valuation prepared by a~~  
21 ~~member of the American Academy of Actuaries to be sufficient to~~  
22 ~~fully fund the unfunded accrued liability of the system as of June~~  
23 ~~30, 1988, by January 1, 2005.~~

24           (3) For the fiscal year beginning on July 1, 2002,  
25 and each fiscal year thereafter, the actuary for the board shall  
26 perform an actuarial valuation of the system using the entry  
27 age actuarial cost method. Under this method, the actuarially

1 required funding rate is equal to the normal cost rate, plus  
2 the contribution rate necessary to amortize the unfunded actuarial  
3 accrued liability on a level payment basis. The normal cost  
4 under this method shall be determined for each individual member  
5 on a level percentage of salary basis. The normal cost amount  
6 is then summed for all members. ~~The initial unfunded actual~~  
7 ~~accrued liability as of July 1, 2002, if any, shall be amortized~~  
8 ~~over a twenty-five-year period. Prior to July 1, 2006, changes~~  
9 ~~in the funded actuarial accrued liability due to changes in~~  
10 ~~benefits, actuarial assumptions, the asset valuation method, or~~  
11 ~~actuarial gains or losses shall be measured and amortized over a~~  
12 ~~twenty-five-year period beginning on the valuation date of such~~  
13 ~~change.~~ Beginning July 1, 2006, any existing unfunded liabilities  
14 shall be reinitialized and amortized over a thirty-year period,  
15 and during each subsequent actuarial valuation, changes in the  
16 funded actuarial accrued liability due to changes in benefits,  
17 actuarial assumptions, the asset valuation method, or actuarial  
18 gains or losses shall be measured and amortized over a thirty-year  
19 period beginning on the valuation date of such change. If the  
20 unfunded actuarial accrued liability under the entry age actuarial  
21 cost method is zero or less than zero on an actuarial valuation  
22 date, then all prior unfunded actuarial accrued liabilities shall  
23 be considered fully funded and the unfunded actuarial accrued  
24 liability shall be reinitialized and amortized over a thirty-year  
25 period as of the actuarial valuation date. If the actuarially  
26 required contribution rate exceeds the rate of all contributions  
27 required pursuant to the Nebraska State Patrol Retirement Act,

1 there shall be a supplemental appropriation sufficient to pay for  
2 the differences between the actuarially required contribution rate  
3 and the rate of all contributions required pursuant to the Nebraska  
4 State Patrol Retirement Act. Such valuation shall be on the basis  
5 of actuarial assumptions recommended by the actuary, approved by  
6 the board, and kept on file with the board.

7 (4) The state shall pick up the member contributions  
8 required by this section for all compensation paid on or after  
9 January 1, 1985, and the contributions so picked up shall  
10 be treated as employer contributions in determining federal tax  
11 treatment under the Internal Revenue Code as defined in section  
12 49-801.01, except that the state shall continue to withhold federal  
13 income taxes based upon these contributions until the Internal  
14 Revenue Service or the federal courts rule that, pursuant to  
15 section 414(h) of the code, these contributions shall not be  
16 included as gross income of the member until such time as they  
17 are distributed or made available. The state shall pay these  
18 member contributions from the same source of funds which is used  
19 in paying earnings to the member. The state shall pick up these  
20 contributions by a compensation deduction through a reduction in  
21 the cash compensation of the member. Member contributions picked  
22 up shall be treated for all purposes of the Nebraska State Patrol  
23 Retirement Act in the same manner and to the extent as member  
24 contributions made prior to the date picked up.

25 Sec. 5. Original sections 81-2014, 81-2014.01, and  
26 81-2017, Revised Statutes Cumulative Supplement, 2006, are  
27 repealed.

1                   Sec. 6. Since an emergency exists, this act takes effect  
2 when passed and approved according to law.