

E AND R AMENDMENTS TO LB 328

Introduced by Enrollment and Review Committee: McGill, 26,  
Chairperson

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

3           Section 1. Section 23-2308.01, Revised Statutes  
4 Cumulative Supplement, 2006, is amended to read:

5           23-2308.01 (1) It is the intent of the Legislature that,  
6 in order to improve the competitiveness of the retirement plan  
7 for county employees, a cash balance benefit shall be added to  
8 the County Employees Retirement Act on and after January 1, 2003.  
9 Each member who is employed and participating in the retirement  
10 system prior to January 1, 2003, may either elect to continue  
11 participation in the defined contribution benefit as provided in  
12 the act prior to January 1, 2003, or elect to participate in the  
13 cash balance benefit as set forth in this section. The member  
14 shall make the election prior to January 1, 2003, or on or after  
15 November 1, 2007, but before January 1, 2008. If no election is  
16 made prior to January 1, 2003, or on or after November 1, 2007, but  
17 before January 1, 2008, the member shall be treated as though he or  
18 she elected to continue participating in the defined contribution  
19 benefit as provided in the act prior to January 1, 2003. Members  
20 who elect to participate in the cash balance benefit on or after  
21 November 1, 2007, but before January 1, 2008, shall commence  
22 participation in the cash balance benefit on January 1, 2008. Any  
23 member who made the election prior to January 1, 2003, does not

1 have to reelect the cash balance benefit on or after November 1,  
2 2007, but before January 1, 2008.

3 (2) For a member employed and participating in the  
4 retirement system beginning on and after January 1, 2003, or a  
5 member employed and participating in the retirement system on  
6 January 1, 2003, who, prior to January 1, 2003, or on or after  
7 November 1, 2007, but before January 1, 2008, elects to convert his  
8 or her employee and employer accounts to the cash balance benefit:

9 (a) The employee cash balance account shall, at any time,  
10 be equal to the following:

11 (i) The initial employee account balance, if any,  
12 transferred from the defined contribution plan account described in  
13 section 23-2309; plus

14 (ii) Employee contribution credits deposited in  
15 accordance with section 23-2307; plus

16 (iii) Interest credits credited in accordance with  
17 subdivision (19) of section 23-2301; plus

18 (iv) Dividend amounts credited in accordance with  
19 subdivision (4)(c) of section 23-2317; and

20 (b) The employer cash balance account shall, at any time,  
21 be equal to the following:

22 (i) The initial employer account balance, if any,  
23 transferred from the defined contribution plan account described in  
24 section 23-2310; plus

25 (ii) Employer contribution credits deposited in  
26 accordance with section 23-2308; plus

27 (iii) Interest credits credited in accordance with

1 subdivision (19) of section 23-2301; plus

2 (iv) Dividend amounts credited in accordance with  
3 subdivision (4)(c) of section 23-2317.

4 (3) In order to carry out the provisions of this section,  
5 the board may enter into administrative services agreements for  
6 accounting or record-keeping services. No agreement shall be  
7 entered into unless the board determines that it will result  
8 in administrative economy and will be in the best interests of the  
9 counties and their participating employees. The board may develop  
10 a schedule for the allocation of the administrative services  
11 agreements costs for accounting or record-keeping services and may  
12 assess the costs so that each member pays a reasonable fee as  
13 determined by the board. The money forfeited pursuant to section  
14 23-2319.01 shall not be used to pay the administrative costs  
15 incurred pursuant to this subsection.

16 Sec. 2. Section 23-2310.04, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 23-2310.04 (1) The County Employees Defined Contribution  
19 Retirement System Expense Fund is created. The fund shall be  
20 credited with money forfeited pursuant to section 23-2319.01  
21 and with money from the retirement system assets and income  
22 sufficient to pay the pro rata share of administrative expenses  
23 incurred as directed by the board for the proper administration  
24 of the County Employees Retirement Act and necessary in connection  
25 with the administration and operation of the retirement system,  
26 except as provided in sections 23-2308.01, 23-2309.01, 23-2310, and  
27 23-2310.05. Any money in the ~~County Employees Retirement System~~

1 ~~Expense Fund~~ fund available for investment shall be invested by the  
2 state investment officer pursuant to the Nebraska Capital Expansion  
3 Act and the Nebraska State Funds Investment Act.

4 (2) The County Employees Cash Balance Retirement Expense  
5 Fund is created. The fund shall be credited with money forfeited  
6 pursuant to section 23-2319.01 and with money from the retirement  
7 system assets and income sufficient to pay the pro rata share of  
8 administrative expenses incurred as directed by the board for  
9 the proper administration of the County Employees Retirement  
10 Act and necessary in connection with the administration and  
11 operation of the retirement system, except as provided in sections  
12 23-2308.01, 23-2309.01, 23-2310, and 23-2310.05. Any money in the  
13 fund available for investment shall be invested by the state  
14 investment officer pursuant to the Nebraska Capital Expansion Act  
15 and the Nebraska State Funds Investment Act.

16 Sec. 3. Section 23-2317, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 23-2317 (1) The future service retirement benefit shall  
19 be an annuity, payable monthly with the first payment made no  
20 earlier than the annuity start date, which shall be the actuarial  
21 equivalent of the retirement value as specified in section 23-2316  
22 based on factors determined by the board, except that gender shall  
23 not be a factor when determining the amount of such payments  
24 pursuant to subsection (2) of this section.

25 Except as provided in section 42-1107, at any time before  
26 the annuity start date, the retiring employee may choose to receive  
27 his or her annuity either in the form of an annuity as provided

1 under subsection (4) of this section or any optional form that is  
2 determined by the board.

3           Except as provided in section 42-1107, in lieu of the  
4 future service retirement annuity, a retiring employee may receive  
5 a benefit not to exceed the amount in his or her employer and  
6 employee accounts as of the date of final account value payable  
7 in a lump sum and, if the employee chooses not to receive the  
8 entire amount in such accounts, an annuity equal to the actuarial  
9 equivalent of the remainder of the retirement value, and the  
10 employee may choose any form of such annuity as provided for by the  
11 board.

12           In any case, the amount of the monthly payment shall  
13 be such that the annuity chosen shall be the actuarial equivalent  
14 of the retirement value as specified in section 23-2316 except as  
15 provided in this section.

16           The board shall provide to any county employee who is  
17 eligible for retirement, prior to his or her selecting any of the  
18 retirement options provided by this section, information on the  
19 federal and state income tax consequences of the various annuity or  
20 retirement benefit options.

21           (2) Except as provided in subsection (4) of this section,  
22 the monthly income payable to a member retiring on or after January  
23 1, 1984, shall be as follows:

24           He or she shall receive at retirement the amount which  
25 may be purchased by the accumulated contributions based on annuity  
26 rates in effect on the annuity start date which do not utilize  
27 gender as a factor, except that such amounts shall not be less

1 than the retirement income which can be provided by the sum of  
2 the amounts derived pursuant to subdivisions (a) and (b) of this  
3 subsection as follows:

4 (a) The income provided by the accumulated contributions  
5 made prior to January 1, 1984, based on male annuity purchase rates  
6 in effect on the date of purchase; and

7 (b) The income provided by the accumulated contributions  
8 made on and after January 1, 1984, based on the annuity purchase  
9 rates in effect on the date of purchase which do not use gender as  
10 a factor.

11 (3) Any amount, in excess of contributions, which may be  
12 required in order to purchase the retirement income specified in  
13 subsection (2) of this section shall be withdrawn from the County  
14 Equal Retirement Benefit Fund.

15 (4) (a) The normal form of payment shall be a single life  
16 annuity with five-year certain, which is an annuity payable monthly  
17 during the remainder of the member's life with the provision that,  
18 in the event of his or her death before sixty monthly payments  
19 have been made, the monthly payments will be continued to his or  
20 her estate or to the beneficiary he or she has designated until  
21 sixty monthly payments have been made in total. Such annuity shall  
22 be equal to the actuarial equivalent of the member cash balance  
23 account or the sum of the employee and employer accounts, whichever  
24 is applicable, as of the date of final account value. As a part  
25 of the annuity, the normal form of payment may include a two and  
26 one-half percent cost-of-living adjustment purchased by the member,  
27 if the member elects such a payment option.

1           Except as provided in section 42-1107, a member may elect  
2 a lump-sum distribution of his or her member cash balance account  
3 as of the date of final account value upon termination of service  
4 or retirement.

5           For a member employed and participating in the retirement  
6 system prior to January 1, 2003, who has elected to participate  
7 in the cash balance benefit pursuant to section 23-2308.01, or  
8 for a member employed and participating in the retirement system  
9 beginning on and after January 1, 2003, the balance of his or her  
10 member cash balance account as of the date of final account value  
11 shall be converted to an annuity using an interest rate used in the  
12 actuarial valuation as recommended by the actuary and approved by  
13 the board.

14           For an employee who is a member prior to January 1, 2003,  
15 who has elected not to participate in the cash balance benefit  
16 prior to January 1, 2003, or on or after November 1, 2007, but  
17 before January 1, 2008, pursuant to section 23-2308.01, and who,  
18 at the time of retirement, chooses the annuity option rather than  
19 the lump-sum option, his or her employee and employer accounts  
20 as of the date of final account value shall be converted to an  
21 annuity using an interest rate that is equal to the lesser of (i)  
22 the Pension Benefits Guarantee Corporation initial interest rate  
23 for valuing annuities for terminating plans as of the beginning  
24 of the year during which payment begins plus three-fourths of one  
25 percent or (ii) the interest rate used in the actuarial valuation  
26 as recommended by the actuary and approved by the board.

27           (b) For the calendar year beginning January 1, 2003, and

1 each calendar year thereafter, the actuary for the board shall  
2 perform an actuarial valuation of the system using the entry  
3 age actuarial cost method. Under this method, the actuarially  
4 required funding rate is equal to the normal cost rate plus the  
5 contribution rate necessary to amortize the unfunded actuarial  
6 accrued liability on a level-payment basis. The normal cost under  
7 this method shall be determined for each individual member on  
8 a level percentage of salary basis. The normal cost amount is  
9 then summed for all members. The initial unfunded actual accrued  
10 liability as of January 1, 2003, if any, shall be amortized  
11 over a twenty-five-year period. During each subsequent actuarial  
12 valuation, changes in the unfunded actuarial accrued liability  
13 due to changes in benefits, actuarial assumptions, the asset  
14 valuation method, or actuarial gains or losses shall be measured  
15 and amortized over a twenty-five-year period beginning on the  
16 valuation date of such change. If the unfunded actuarial accrued  
17 liability under the entry age actuarial cost method is zero or  
18 less than zero on an actuarial valuation date, then all prior  
19 unfunded actuarial accrued liabilities shall be considered fully  
20 funded and the unfunded actuarial accrued liability shall be  
21 reinitialized and amortized over a twenty-five-year period as  
22 of the actuarial valuation date. If the actuarially required  
23 contribution rate exceeds the rate of all contributions required  
24 pursuant to the County Employees Retirement Act, there shall be  
25 a supplemental appropriation sufficient to pay for the difference  
26 between the actuarially required contribution rate and the rate of  
27 all contributions required pursuant to the act.

1           (c) If the unfunded accrued actuarial liability under the  
2 entry age actuarial cost method is less than zero on an actuarial  
3 valuation date, and on the basis of all data in the possession  
4 of the retirement board, including such mortality and other tables  
5 as are recommended by the actuary engaged by the retirement board  
6 and adopted by the retirement board, the retirement board may  
7 elect to pay a dividend to all members participating in the  
8 cash balance option in an amount that would not increase the  
9 actuarial contribution rate above ninety percent of the actual  
10 contribution rate. Dividends shall be credited to the employee cash  
11 balance account and the employer cash balance account based on the  
12 account balances on the actuarial valuation date. In the event a  
13 dividend is granted and paid after the actuarial valuation date,  
14 interest for the period from the actuarial valuation date until the  
15 dividend is actually paid shall be paid on the dividend amount. The  
16 interest rate shall be the interest credit rate earned on regular  
17 contributions.

18           (5) At the option of the retiring member, any lump sum  
19 or annuity provided under this section or section 23-2334 may be  
20 deferred to commence at any time, except that no benefit shall be  
21 deferred later than April 1 of the year following the year in which  
22 the employee has both attained at least seventy and one-half years  
23 of age and has terminated his or her employment with the county.  
24 Such election by the retiring member may be made at any time prior  
25 to the commencement of the lump-sum or annuity payments.

26           Sec. 4. Section 23-2319.01, Revised Statutes Cumulative  
27 Supplement, 2006, is amended to read:

1                   23-2319.01 (1) For a member who has terminated employment  
2 and is not vested, the balance of the member's employer account  
3 or employer cash balance account shall be forfeited. The forfeited  
4 account shall be credited to the County Employees Retirement Fund  
5 and shall first be used to meet the expense charges incurred by the  
6 retirement board in connection with administering the retirement  
7 system, which charges shall be credited to the County Employees  
8 Defined Contribution Retirement System Expense Fund, if the member  
9 participated in the defined contribution option, or to the County  
10 Employees Cash Balance Retirement Expense Fund, if the member  
11 participated in the cash balance option, and the remainder, if any,  
12 shall then be used to reduce the county contribution which would  
13 otherwise be required to fund future service retirement benefits  
14 or to restore employer accounts or employer cash balance accounts.  
15 No forfeited amounts shall be applied to increase the benefits  
16 any member would otherwise receive under the County Employees  
17 Retirement Act.

18                   (2) If a member ceases to be an employee due to the  
19 termination of his or her employment by the county and a grievance  
20 or other appeal of the termination is filed, transactions involving  
21 forfeiture of his or her employer account or employer cash balance  
22 account shall be suspended pending the final outcome of the  
23 grievance or other appeal.

24                   (3) The County Employer Retirement Expense Fund is  
25 created. The fund shall be administered by the Public Employees  
26 Retirement Board. The fund shall consist of any reduction in a  
27 county contribution which would otherwise be required to fund

1 future service retirement benefits or to restore employer accounts  
2 or employer cash balance accounts referred to in subsection (1) of  
3 this section. The fund shall be established and maintained separate  
4 from any funds held in trust for the benefit of members under the  
5 county employees retirement system. Expenses incurred as a result  
6 of a county depositing amounts into the fund shall be deducted  
7 prior to any additional expenses being allocated. Any remaining  
8 amount shall be allocated in accordance with section 23-2319.02.  
9 Any money in the fund available for investment shall be invested  
10 by the state investment officer pursuant to the Nebraska Capital  
11 Expansion Act and the Nebraska State Funds Investment Act.

12           Sec. 5. Section 23-2319.02, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           23-2319.02 (1) The County Employer Retirement Expense  
15 Fund shall be used to meet expenses of the county employees  
16 retirement system whether such expenses are incurred in  
17 administering the member's employer account or in administering the  
18 member's employer cash balance account when the funds available in  
19 the County Employees Defined Contribution Retirement System Expense  
20 Fund or County Employees Cash Balance Retirement Expense Fund make  
21 such use reasonably necessary.

22           (2) The State Employer Retirement Expense Fund shall be  
23 used to meet expenses of the State Employees Retirement System  
24 of the State of Nebraska whether such expenses are incurred in  
25 administering the member's employer account or in administering the  
26 member's employer cash balance account when the funds available in  
27 the State Employees Defined Contribution Retirement System Expense

1 Fund or State Employees Cash Balance Retirement Expense Fund make  
2 such use reasonably necessary.

3           Sec. 6. Section 23-2320, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           23-2320 (1) Except as otherwise provided in this section,  
6 a member of the retirement system who has a five-year break in  
7 service shall upon reemployment be considered a new employee with  
8 respect to the County Employees Retirement Act and shall not  
9 receive credit for service prior to his or her reemployment date.

10           (2) (a) A member who ceases to be an employee before  
11 becoming eligible for retirement under section 23-2315 and  
12 again becomes a permanent full-time or permanent part-time  
13 county employee prior to having a five-year break in service  
14 shall immediately be reenrolled in the retirement system and  
15 resume making contributions ~~within sixty days~~ under rules and  
16 regulations adopted by the board. For purposes of vesting employer  
17 contributions made prior to and after the reentry into the  
18 retirement system under subsection (3) of section 23-2319, years  
19 of participation include years of participation prior to such  
20 employee's original termination. For a member who is not vested and  
21 has received a termination benefit pursuant to section 23-2319,  
22 the years of participation prior to such employee's original  
23 termination shall be limited in a ratio equal to the amount that  
24 the member repays divided by the termination benefit withdrawn  
25 pursuant to section 23-2319.

26           (b) The reemployed member may repay the value of, or  
27 a portion of the value of, the termination benefit withdrawn

1 pursuant to section 23-2319. A reemployed member who elects to  
2 repay all or a portion of the value of the termination benefit  
3 withdrawn pursuant to section 23-2319 shall repay the actual  
4 earnings on such value. Repayment of the termination benefit shall  
5 commence within three years of reemployment and shall be completed  
6 within five years of reemployment or prior to termination of  
7 employment, whichever occurs first, through (i) direct payments to  
8 the retirement system, (ii) installment payments made pursuant to  
9 a binding irrevocable payroll deduction authorization made by the  
10 member, (iii) an eligible rollover distribution as provided under  
11 the Internal Revenue Code, or (iv) a direct rollover distribution  
12 made in accordance with section 401(a)(31) of the Internal Revenue  
13 Code.

14 (c) The value of the member's forfeited employer account  
15 or employer cash balance account, as of the date of forfeiture,  
16 shall be restored in a ratio equal to the amount of the benefit  
17 that the member has repaid divided by the termination benefit  
18 received. The employer account or employer cash balance account  
19 shall be restored first out of the current forfeiture amounts and  
20 then by additional employer contributions.

21 (3) For a member who retired pursuant to section 23-2315  
22 and becomes a permanent full-time employee or permanent part-time  
23 employee with a county under the County Employees Retirement Act  
24 more than one hundred twenty days after his or her retirement  
25 date, the member shall continue receiving retirement benefits. Such  
26 a retired member or a retired member who received a lump-sum  
27 distribution of his or her benefit shall be considered a new

1 employee as of the date of reemployment and shall not receive  
2 credit for any service prior to the member's retirement for  
3 purposes of the act.

4 (4) A member who is reinstated as an employee pursuant to  
5 a grievance or appeal of his or her termination by the county shall  
6 be a member upon reemployment and shall not be considered to have  
7 a break in service for such period of time that the grievance or  
8 appeal was pending.

9 Sec. 7. Section 84-1309.02, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11 84-1309.02 (1) It is the intent of the Legislature that,  
12 in order to improve the competitiveness of the retirement plan for  
13 state employees, a cash balance benefit shall be added to the State  
14 Employees Retirement Act on and after January 1, 2003. Each member  
15 who is employed and participating in the retirement system prior  
16 to January 1, 2003, may either elect to continue participation  
17 in the defined contribution benefit as provided in the act prior  
18 to January 1, 2003, or elect to participate in the cash balance  
19 benefit as set forth in this section. The member shall make the  
20 election prior to January 1, 2003, or on or after November 1, 2007,  
21 but before January 1, 2008. If no election is made prior to January  
22 1, 2003, or on or after November 1, 2007, but before January 1,  
23 2008, the member shall be treated as though he or she elected  
24 to continue participating in the defined contribution benefit as  
25 provided in the act prior to January 1, 2003. Members who elect  
26 to participate in the cash balance benefit on or after November 1,  
27 2007, but before January 1, 2008, shall commence participation in

1 the cash balance benefit on January 1, 2008. Any member who made  
2 the election prior to January 1, 2003, does not have to reelect  
3 the cash balance benefit on or after November 1, 2007, but before  
4 January 1, 2008.

5 (2) For a member employed and participating in the  
6 retirement system beginning on and after January 1, 2003, or a  
7 member employed and participating in the retirement system on  
8 January 1, 2003, who, prior to January 1, 2003, or on or after  
9 November 1, 2007, but before January 1, 2008, elects to convert his  
10 or her employee and employer accounts to the cash balance benefit:

11 (a) The employee cash balance account shall, at any time,  
12 be equal to the following:

13 (i) The initial employee account balance, if any,  
14 transferred from the defined contribution plan account described in  
15 section 84-1310; plus

16 (ii) Employee contribution credits deposited in  
17 accordance with section 84-1308; plus

18 (iii) Interest credits credited in accordance with  
19 subdivision (18) of section 84-1301; plus

20 (iv) Dividend amounts credited in accordance with  
21 subdivision (4)(c) of section 84-1319; and

22 (b) The employer cash balance account shall, at any time,  
23 be equal to the following:

24 (i) The initial employer account balance, if any,  
25 transferred from the defined contribution plan account described in  
26 section 84-1311; plus

27 (ii) Employer contribution credits deposited in

1 accordance with section 84-1309; plus

2 (iii) Interest credits credited in accordance with  
3 subdivision (18) of section 84-1301; plus

4 (iv) Dividend amounts credited in accordance with  
5 subdivision (4)(c) of section 84-1319.

6 (3) In order to carry out the provisions of this section,  
7 the board may enter into administrative services agreements for  
8 accounting or record-keeping services. No agreement shall be  
9 entered into unless the board determines that it will result  
10 in administrative economy and will be in the best interests of  
11 the state and its participating employees. The board may develop  
12 a schedule for the allocation of the administrative services  
13 agreements costs for accounting or record-keeping services and may  
14 assess the costs so that each member pays a reasonable fee as  
15 determined by the board. The money forfeited pursuant to section  
16 84-1321.01 shall not be used to pay the administrative costs  
17 incurred pursuant to this subsection.

18 Sec. 8. Section 84-1314, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 84-1314 (1) The State Employees Defined Contribution  
21 Retirement System Expense Fund is created. The fund shall be  
22 credited with money forfeited pursuant to section 84-1321.01  
23 and with money from the retirement system assets and income  
24 sufficient to pay the pro rata share of administrative expenses  
25 incurred as directed by the board for the proper administration  
26 of the State Employees Retirement Act and necessary in connection  
27 with the administration and operation of the retirement system,

1 except as provided in sections 84-1309.02, 84-1310.01, 84-1311,  
2 and 84-1311.03. Any money in the ~~State Employees Retirement System~~  
3 ~~Expense Fund~~ fund available for investment shall be invested by the  
4 state investment officer pursuant to the Nebraska Capital Expansion  
5 Act and the Nebraska State Funds Investment Act.

6 (2) The State Employees Cash Balance Retirement Expense  
7 Fund is created. The fund shall be credited with money forfeited  
8 pursuant to section 84-1321.01 and with money from the retirement  
9 system assets and income sufficient to pay the pro rata share  
10 of administrative expenses incurred as directed by the board  
11 for the proper administration of the State Employees Retirement  
12 Act and necessary in connection with the administration and  
13 operation of the retirement system, except as provided in sections  
14 84-1309.02, 84-1310.01, 84-1311, and 84-1311.03. Any money in the  
15 fund available for investment shall be invested by the state  
16 investment officer pursuant to the Nebraska Capital Expansion Act  
17 and the Nebraska State Funds Investment Act.

18 Sec. 9. Section 84-1319, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 84-1319 (1) The future service retirement benefit shall  
21 be an annuity, payable monthly with the first payment made no  
22 earlier than the annuity start date, which shall be the actuarial  
23 equivalent of the retirement value as specified in section 84-1318  
24 based on factors determined by the board, except that gender shall  
25 not be a factor when determining the amount of such payments except  
26 as provided in this section.

27 Except as provided in section 42-1107, at any time before

1 the annuity start date, the retiring employee may choose to receive  
2 his or her annuity either in the form of an annuity as provided  
3 under subsection (4) of this section or any optional form that is  
4 determined acceptable by the board.

5           Except as provided in section 42-1107, in lieu of the  
6 future service retirement annuity, a retiring employee may receive  
7 a benefit not to exceed the amount in his or her employer and  
8 employee accounts as of the date of final account value payable  
9 in a lump sum and, if the employee chooses not to receive the  
10 entire amount in such accounts, an annuity equal to the actuarial  
11 equivalent of the remainder of the retirement value, and the  
12 employee may choose any form of such annuity as provided for by the  
13 board.

14           In any case, the amount of the monthly payment shall  
15 be such that the annuity chosen shall be the actuarial equivalent  
16 of the retirement value as specified in section 84-1318 except as  
17 provided in this section.

18           The board shall provide to any state employee who is  
19 eligible for retirement, prior to his or her selecting any of the  
20 retirement options provided by this section, information on the  
21 federal and state income tax consequences of the various annuity or  
22 retirement benefit options.

23           (2) Except as provided in subsection (4) of this section,  
24 the monthly annuity income payable to a member retiring on or after  
25 January 1, 1984, shall be as follows:

26           He or she shall receive at retirement the amount which  
27 may be purchased by the accumulated contributions based on annuity

1 rates in effect on the annuity start date which do not utilize  
2 gender as a factor, except that such amounts shall not be less  
3 than the retirement income which can be provided by the sum of  
4 the amounts derived pursuant to subdivisions (a) and (b) of this  
5 subsection as follows:

6 (a) The income provided by the accumulated contributions  
7 made prior to January 1, 1984, based on male annuity purchase rates  
8 in effect on the date of purchase; and

9 (b) The income provided by the accumulated contributions  
10 made on and after January 1, 1984, based on the annuity purchase  
11 rates in effect on the date of purchase which do not use gender as  
12 a factor.

13 (3) Any amounts, in excess of contributions, which may be  
14 required in order to purchase the retirement income specified in  
15 subsection (2) of this section shall be withdrawn from the State  
16 Equal Retirement Benefit Fund.

17 (4) (a) The normal form of payment shall be a single life  
18 annuity with five-year certain, which is an annuity payable monthly  
19 during the remainder of the member's life with the provision that,  
20 in the event of his or her death before sixty monthly payments  
21 have been made, the monthly payments will be continued to his or  
22 her estate or to the beneficiary he or she has designated until  
23 sixty monthly payments have been made in total. Such annuity shall  
24 be equal to the actuarial equivalent of the member cash balance  
25 account or the sum of the employee and employer accounts, whichever  
26 is applicable, as of the date of final account value. As a part  
27 of the annuity, the normal form of payment may include a two and

1 one-half percent cost-of-living adjustment purchased by the member,  
2 if the member elects such a payment option.

3 Except as provided in section 42-1107, a member may elect  
4 a lump-sum distribution of his or her member cash balance account  
5 as of the date of final account value upon termination of service  
6 or retirement.

7 For a member employed and participating in the retirement  
8 system prior to January 1, 2003, who has elected to participate  
9 in the cash balance benefit pursuant to section 84-1309.02, or  
10 for a member employed and participating in the retirement system  
11 beginning on and after January 1, 2003, the balance of his or her  
12 member cash balance account as of the date of final account value  
13 shall be converted to an annuity using an interest rate used in the  
14 actuarial valuation as recommended by the actuary and approved by  
15 the board.

16 For an employee who is a member prior to January 1, 2003,  
17 who has elected not to participate in the cash balance benefit  
18 prior to January 1, 2003, or on or after November 1, 2007, but  
19 before January 1, 2008, pursuant to section 84-1309.02, and who,  
20 at the time of retirement, chooses the annuity option rather than  
21 the lump-sum option, his or her employee and employer accounts  
22 as of the date of final account value shall be converted to an  
23 annuity using an interest rate that is equal to the lesser of (i)  
24 the Pension Benefits Guarantee Corporation initial interest rate  
25 for valuing annuities for terminating plans as of the beginning  
26 of the year during which payment begins plus three-fourths of one  
27 percent or (ii) the interest rate used in the actuarial valuation

1 as recommended by the actuary and approved by the board.

2 (b) For the calendar year beginning January 1, 2003, and  
3 each calendar year thereafter, the actuary for the board shall  
4 perform an actuarial valuation of the system using the entry  
5 age actuarial cost method. Under this method, the actuarially  
6 required funding rate is equal to the normal cost rate plus the  
7 contribution rate necessary to amortize the unfunded actuarial  
8 accrued liability on a level-payment basis. The normal cost under  
9 this method shall be determined for each individual member on  
10 a level percentage of salary basis. The normal cost amount is  
11 then summed for all members. The initial unfunded actual accrued  
12 liability as of January 1, 2003, if any, shall be amortized  
13 over a twenty-five-year period. During each subsequent actuarial  
14 valuation, changes in the unfunded actuarial accrued liability  
15 due to changes in benefits, actuarial assumptions, the asset  
16 valuation method, or actuarial gains or losses shall be measured  
17 and amortized over a twenty-five-year period beginning on the  
18 valuation date of such change. If the unfunded actuarial accrued  
19 liability under the entry age actuarial cost method is zero or  
20 less than zero on an actuarial valuation date, then all prior  
21 unfunded actuarial accrued liabilities shall be considered fully  
22 funded and the unfunded actuarial accrued liability shall be  
23 reinitialized and amortized over a twenty-five-year period as  
24 of the actuarial valuation date. If the actuarially required  
25 contribution rate exceeds the rate of all contributions required  
26 pursuant to the State Employees Retirement Act, there shall be  
27 a supplemental appropriation sufficient to pay for the difference

1 between the actuarially required contribution rate and the rate of  
2 all contributions required pursuant to the act.

3 (c) If the unfunded accrued actuarial liability under the  
4 entry age actuarial cost method is less than zero on an actuarial  
5 valuation date, and on the basis of all data in the possession  
6 of the retirement board, including such mortality and other tables  
7 as are recommended by the actuary engaged by the retirement board  
8 and adopted by the retirement board, the retirement board may  
9 elect to pay a dividend to all members participating in the  
10 cash balance option in an amount that would not increase the  
11 actuarial contribution rate above ninety percent of the actual  
12 contribution rate. Dividends shall be credited to the employee cash  
13 balance account and the employer cash balance account based on the  
14 account balances on the actuarial valuation date. In the event a  
15 dividend is granted and paid after the actuarial valuation date,  
16 interest for the period from the actuarial valuation date until the  
17 dividend is actually paid shall be paid on the dividend amount. The  
18 interest rate shall be the interest credit rate earned on regular  
19 contributions.

20 (5) At the option of the retiring member, any lump sum  
21 or annuity provided under this section or section 84-1320 may be  
22 deferred to commence at any time, except that no benefit shall be  
23 deferred later than April 1 of the year following the year in which  
24 the employee has both attained at least seventy and one-half years  
25 of age and has terminated his or her employment with the state.  
26 Such election by the retiring member may be made at any time prior  
27 to the commencement of the lump-sum or annuity payments.

1           Sec. 10. Section 84-1321.01, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           84-1321.01 (1) For a member who has terminated employment  
4 and is not vested, the balance of the member's employer account  
5 or employer cash balance account shall be forfeited. The forfeited  
6 account shall be credited to the State Employees Retirement Fund  
7 and shall first be used to meet the expense charges incurred by the  
8 retirement board in connection with administering the retirement  
9 system, which charges shall be credited to the State Employees  
10 Defined Contribution Retirement System Expense Fund, if the member  
11 participated in the defined contribution option, or to the State  
12 Employees Cash Balance Retirement Expense Fund, if the member  
13 participated in the cash balance option, and the remainder, if any,  
14 shall then be used to reduce the state contribution which would  
15 otherwise be required to fund future service retirement benefits  
16 or to restore employer accounts or employer cash balance accounts.  
17 No forfeited amounts shall be applied to increase the benefits any  
18 member would otherwise receive under the State Employees Retirement  
19 Act.

20           (2) If a member ceases to be an employee due to the  
21 termination of his or her employment by the state and a grievance  
22 or other appeal of the termination is filed, transactions involving  
23 forfeiture of his or her employer account or employer cash balance  
24 account shall be suspended pending the final outcome of the  
25 grievance or other appeal.

26           (3) The State Employer Retirement Expense Fund is  
27 created. The fund shall be administered by the Public Employees

1 Retirement Board. The fund shall be established and maintained  
2 separate from any funds held in trust for the benefit of members  
3 under the retirement system. The director of the Nebraska Public  
4 Employees Retirement Systems shall certify to the Accounting  
5 Administrator of the Department of Administrative Services when  
6 accumulated employer account forfeiture funds are available to  
7 reduce the state contribution which would otherwise be required  
8 to fund future service retirement benefits or to restore employer  
9 accounts or employer cash balance accounts referred to in  
10 subsection (1) of this section. Following such certification, the  
11 Accounting Administrator shall transfer the amount reduced from the  
12 state contribution from the Imprest Payroll Distributive Fund to  
13 the State Employer Retirement Expense Fund. Expenses incurred as  
14 a result of the state depositing amounts into the State Employer  
15 Retirement Expense Fund shall be deducted prior to any additional  
16 expenses being allocated. Any remaining amount shall be allocated  
17 in accordance with section 23-2319.02. Any money in the fund  
18 available for investment shall be invested by the state investment  
19 officer pursuant to the Nebraska Capital Expansion Act and the  
20 Nebraska State Funds Investment Act.

21 Sec. 11. Section 84-1322, Revised Statutes Cumulative  
22 Supplement, 2006, is amended to read:

23 84-1322 (1) Except as otherwise provided in this section,  
24 a member of the retirement system who has a five-year break in  
25 service shall upon reemployment be considered a new employee with  
26 respect to the State Employees Retirement Act and shall not receive  
27 credit for service prior to his or her reemployment date.

1           (2) (a) A member who ceases to be an employee before  
2 becoming eligible for retirement under section 84-1317 and again  
3 becomes a permanent full-time or permanent part-time state employee  
4 prior to having a five-year break in service shall immediately be  
5 reenrolled in the retirement system and resume making contributions  
6 ~~within sixty days~~ under rules and regulations established by the  
7 board. For purposes of vesting employer contributions made prior  
8 to and after reentry into the retirement system under subsection  
9 (3) of section 84-1321, years of participation include years of  
10 participation prior to such employee's original termination. For a  
11 member who is not vested and has received a termination benefit  
12 pursuant to section 84-1321, the years of participation prior  
13 to such employee's original termination shall be limited in a  
14 ratio equal to the amount that the member repays divided by the  
15 termination benefit withdrawn pursuant to section 84-1321. This  
16 subsection shall apply whether or not the person was a state  
17 employee on April 20, 1986, or July 17, 1986.

18           (b) The reemployed member may repay the value of, or a  
19 portion of the value of, the termination benefit withdrawn pursuant  
20 to section 84-1321. A reemployed member who elects to repay all  
21 or a portion of the value of the termination benefit withdrawn  
22 pursuant to section 84-1321 shall repay the actual earnings on  
23 such value. Repayment of the termination benefit shall commence  
24 within three years after reemployment and shall be completed  
25 within five years after reemployment or prior to termination of  
26 employment, whichever occurs first, through (i) direct payments to  
27 the retirement system, (ii) installment payments made pursuant to

1 a binding irrevocable payroll deduction authorization made by the  
2 member, (iii) an eligible rollover distribution as provided under  
3 the Internal Revenue Code, or (iv) a direct rollover distribution  
4 made in accordance with section 401(a)(31) of the Internal Revenue  
5 Code.

6 (c) The value of the member's forfeited employer account  
7 or employer cash balance account, as of the date of forfeiture,  
8 shall be restored in a ratio equal to the amount of the benefit  
9 that the member has repaid divided by the termination benefit  
10 received. The employer account or employer cash balance account  
11 shall be restored first out of the current forfeiture amounts and  
12 then by additional employer contributions.

13 (3) For a member who retired pursuant to section 84-1317  
14 and becomes a permanent full-time employee or permanent part-time  
15 employee with the state more than one hundred twenty days after  
16 his or her retirement date, the member shall continue receiving  
17 retirement benefits. Such a retired member or a retired member who  
18 received a lump-sum distribution of his or her benefit shall be  
19 considered a new employee as of the date of reemployment and shall  
20 not receive credit for any service prior to the member's retirement  
21 for purposes of the act.

22 (4) A member who is reinstated as an employee pursuant to  
23 a grievance or appeal of his or her termination by the state shall  
24 be a member upon reemployment and shall not be considered to have  
25 a break in service for such period of time that the grievance or  
26 appeal was pending.

27 Sec. 12. Sections 12 to 16 of this act shall be known and

1 may be cited as the Law Enforcement Officers Retirement Survey Act.

2           Sec. 13. For purposes of the Law Enforcement Officers  
3 Retirement Survey Act:

4           (1) Committee means the Nebraska Retirement Systems  
5 Committee of the Legislature;

6           (2) Law enforcement officer means any police officer,  
7 sheriff, and deputy sheriff employed by a political subdivision and  
8 any conservation officer and outdoor education specialist employed  
9 by the state;

10           (3) Political subdivision means any political subdivision  
11 of this state which employs police officers, sheriffs, or deputy  
12 sheriffs, but does not include a city of the metropolitan class,  
13 a city of the primary class, or a county containing a city of the  
14 metropolitan class; and

15           (4) Retirement system means the Nebraska Public Employees  
16 Retirement Systems.

17           Sec. 14. (1) The retirement system shall conduct a survey  
18 of the retirement plans currently in place for law enforcement  
19 officers throughout Nebraska. The retirement system shall conduct  
20 the survey and issue a report to the committee no later than  
21 October 1, 2007.

22           (2) At the time that the report is provided to the  
23 committee, information which supports the report shall be provided  
24 to any firm employed to conduct an actuarial survey from the  
25 information gathered by the retirement system upon the firm's  
26 request. The information provided shall not include any personal  
27 information such as the name or social security number of law

1 enforcement officers.

2 (3) The survey shall include, but not be limited to, the  
3 following information:

4 (a) What types of retirement plans are in place for law  
5 enforcement officers; and

6 (b) Any other information which the retirement system or  
7 the committee deems necessary.

8 (4) The retirement system shall create, in consultation  
9 with the committee, a method to receive the materials required for  
10 the survey. The method shall utilize a unique identifier for each  
11 law enforcement officer, each political subdivision, and the state  
12 agency responding.

13 (5) The purpose of the survey is to conduct a review of  
14 the many retirement plans throughout Nebraska for law enforcement  
15 officers and to assist an actuarial firm in determining the cost to  
16 implement a defined benefit retirement plan with benefits capped at  
17 various levels between sixty and eighty percent of pay with costs  
18 separately determined for cities of the first class, cities of the  
19 second class, villages, counties, and the state.

20 Sec. 15. Each political subdivision and the state shall  
21 provide the retirement system with such information as the  
22 retirement system deems necessary and appropriate to conduct the  
23 review required under section 14 of this act. The material to be  
24 obtained by the retirement system may include, but not be limited  
25 to, the following concerning law enforcement officers employed by  
26 the political subdivision or the state:

27 (1) Names;

1           (2) Dates of birth;

2           (3) Dates of hire;

3           (4) Taxable earnings for the prior fiscal year;

4           (5) Years of service;

5           (6) Gender;

6           (7) Whether or not the law enforcement officer is  
7 enrolled in a retirement plan;

8           (8) The type of plan the law enforcement officer is  
9 enrolled in, the required employee contribution percentage, and  
10 the employer contribution percentage, along with an indication if  
11 it is a fixed percentage or a variable contribution rate. If  
12 the law enforcement officer is enrolled in a defined contribution  
13 plan, the political subdivision or state shall also disclose the  
14 account balance attributable to employer contributions and employee  
15 contributions, excluding any balance due to rollovers from another  
16 qualified plan or attributable to voluntary employee contributions;  
17 and

18           (9) Any other information that the retirement system or  
19 the committee deems important to the conduct of the survey.

20           Any material received by the retirement system shall be  
21 considered confidential and shall not be disclosed to a third party  
22 except as provided in subsection (2) of section 14 of this act.

23           Sec. 16. Neither the state nor any political subdivision  
24 shall be held liable for providing information requested or be  
25 responsible for the payment of the actuarial survey under the Law  
26 Enforcement Officers Retirement Survey Act.

27           Sec. 17. Sections 12, 13, 14, 15, 16, 17, and 19 of this

1 act become operative on their effective date. The other sections  
2 of this act become operative three calendar months after the  
3 adjournment of this legislative session.

4           Sec. 18. Original sections 23-2308.01, 23-2310.04,  
5 23-2317, 23-2319.01, 23-2319.02, 23-2320, 84-1309.02, 84-1314,  
6 84-1319, 84-1321.01, and 84-1322, Revised Statutes Cumulative  
7 Supplement, 2006, are repealed.

8           Sec. 19. Since an emergency exists, this act takes effect  
9 when passed and approved according to law.

10           2. On page 1, strike beginning with "23-2310.04" in line  
11 1 through line 6 and insert "23-2308.01, 23-2310.04, 23-2317,  
12 23-2319.01, 23-2319.02, 23-2320, 84-1309.02, 84-1314, 84-1319,  
13 84-1321.01, and 84-1322, Revised Statutes Cumulative Supplement,  
14 2006; to provide for a cash balance benefit election for certain  
15 county and state employees; to rename and create funds; to change  
16 provisions relating to reemployment of county and state employees;  
17 to adopt the Law Enforcement Officers Retirement Survey Act; to  
18 harmonize provisions; to provide operative dates; to repeal the  
19 original sections; and to declare an emergency."