

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 328

FINAL READING

Introduced by Nebraska Retirement Systems Committee: Synowiecki, 7, Chairperson; Erdman, 47; Heidemann, 1; Karpisek, 32; Louden, 49; White, 8

Read first time January 11, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2308.01,
2 23-2310.04, 23-2317, 23-2319.01, 23-2319.02, 23-2320,
3 84-1309.02, 84-1314, 84-1319, 84-1321.01, and 84-1322,
4 Revised Statutes Cumulative Supplement, 2006; to provide
5 for a cash balance benefit election for certain county
6 and state employees; to rename and create funds; to
7 change provisions relating to reemployment of county and
8 state employees; to adopt the Law Enforcement Officers
9 Retirement Survey Act; to harmonize provisions; to
10 provide operative dates; to repeal the original sections;
11 and to declare an emergency.

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

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

3 23-2308.01 (1) It is the intent of the Legislature that,
4 in order to improve the competitiveness of the retirement plan
5 for county employees, a cash balance benefit shall be added to
6 the County Employees Retirement Act on and after January 1, 2003.
7 Each member who is employed and participating in the retirement
8 system prior to January 1, 2003, may either elect to continue
9 participation in the defined contribution benefit as provided in
10 the act prior to January 1, 2003, or elect to participate in the
11 cash balance benefit as set forth in this section. The member
12 shall make the election prior to January 1, 2003, or on or after
13 November 1, 2007, but before January 1, 2008. If no election is
14 made prior to January 1, 2003, or on or after November 1, 2007, but
15 before January 1, 2008, the member shall be treated as though he or
16 she elected to continue participating in the defined contribution
17 benefit as provided in the act prior to January 1, 2003. Members
18 who elect to participate in the cash balance benefit on or after
19 November 1, 2007, but before January 1, 2008, shall commence
20 participation in the cash balance benefit on January 1, 2008. Any
21 member who made the election prior to January 1, 2003, does not
22 have to reelect the cash balance benefit on or after November 1,
23 2007, but before January 1, 2008.

24 (2) For a member employed and participating in the
25 retirement system beginning on and after January 1, 2003, or a

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

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

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

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

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

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

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

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

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

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

25 (iv) Dividend amounts credited in accordance with

1 subdivision (4)(c) of section 23-2317.

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

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

16 23-2310.04 (1) The County Employees Defined Contribution
17 ~~Retirement System~~ Expense Fund is created. The fund shall be
18 credited with money forfeited pursuant to section 23-2319.01
19 and with money from the retirement system assets and income
20 sufficient to pay the pro rata share of administrative expenses
21 incurred as directed by the board for the proper administration
22 of the County Employees Retirement Act and necessary in connection
23 with the administration and operation of the retirement system,
24 except as provided in sections 23-2308.01, 23-2309.01, 23-2310, and
25 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

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 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 23-2316 except as
17 provided in this section.

18 The board shall provide to any county 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 income payable to a member retiring on or after January
25 1, 1984, shall be as follows:

1 He or she shall receive at retirement the amount which
2 may be purchased by the accumulated contributions based on annuity
3 rates in effect on the annuity start date which do not utilize
4 gender as a factor, except that such amounts shall not be less
5 than the retirement income which can be provided by the sum of
6 the amounts derived pursuant to subdivisions (a) and (b) of this
7 subsection as follows:

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

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

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

19 (4) (a) The normal form of payment shall be a single life
20 annuity with five-year certain, which is an annuity payable monthly
21 during the remainder of the member's life with the provision that,
22 in the event of his or her death before sixty monthly payments
23 have been made, the monthly payments will be continued to his or
24 her estate or to the beneficiary he or she has designated until
25 sixty monthly payments have been made in total. Such annuity shall

1 be equal to the actuarial equivalent of the member cash balance
2 account or the sum of the employee and employer accounts, whichever
3 is applicable, as of the date of final account value. As a part
4 of the annuity, the normal form of payment may include a two and
5 one-half percent cost-of-living adjustment purchased by the member,
6 if the member elects such a payment option.

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

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

20 For an employee who is a member prior to January 1, 2003,
21 who has elected not to participate in the cash balance benefit
22 prior to January 1, 2003, or on or after November 1, 2007, but
23 before January 1, 2008, pursuant to section 23-2308.01, and who,
24 at the time of retirement, chooses the annuity option rather than
25 the lump-sum option, his or her employee and employer accounts

1 as of the date of final account value shall be converted to an
2 annuity using an interest rate that is equal to the lesser of (i)
3 the Pension Benefits Guarantee Corporation initial interest rate
4 for valuing annuities for terminating plans as of the beginning
5 of the year during which payment begins plus three-fourths of one
6 percent or (ii) the interest rate used in the actuarial valuation
7 as recommended by the actuary and approved by the board.

8 (b) For the calendar year beginning January 1, 2003, and
9 each calendar year thereafter, the actuary for the board shall
10 perform an actuarial valuation of the system using the entry
11 age actuarial cost method. Under this method, the actuarially
12 required funding rate is equal to the normal cost rate plus the
13 contribution rate necessary to amortize the unfunded actuarial
14 accrued liability on a level-payment basis. The normal cost under
15 this method shall be determined for each individual member on
16 a level percentage of salary basis. The normal cost amount is
17 then summed for all members. The initial unfunded actual accrued
18 liability as of January 1, 2003, if any, shall be amortized
19 over a twenty-five-year period. During each subsequent actuarial
20 valuation, changes in the unfunded actuarial accrued liability
21 due to changes in benefits, actuarial assumptions, the asset
22 valuation method, or actuarial gains or losses shall be measured
23 and amortized over a twenty-five-year period beginning on the
24 valuation date of such change. If the unfunded actuarial accrued
25 liability under the entry age actuarial cost method is zero or

1 less than zero on an actuarial valuation date, then all prior
2 unfunded actuarial accrued liabilities shall be considered fully
3 funded and the unfunded actuarial accrued liability shall be
4 reinitialized and amortized over a twenty-five-year period as
5 of the actuarial valuation date. If the actuarially required
6 contribution rate exceeds the rate of all contributions required
7 pursuant to the County Employees Retirement Act, there shall be
8 a supplemental appropriation sufficient to pay for the difference
9 between the actuarially required contribution rate and the rate of
10 all contributions required pursuant to the act.

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

1 interest rate shall be the interest credit rate earned on regular
2 contributions.

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

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

13 23-2319.01 (1) For a member who has terminated employment
14 and is not vested, the balance of the member's employer account
15 or employer cash balance account shall be forfeited. The forfeited
16 account shall be credited to the County Employees Retirement Fund
17 and shall first be used to meet the expense charges incurred by the
18 retirement board in connection with administering the retirement
19 system, which charges shall be credited to the County Employees
20 Defined Contribution Retirement System Expense Fund, if the member
21 participated in the defined contribution option, or to the County
22 Employees Cash Balance Retirement Expense Fund, if the member
23 participated in the cash balance option, and the remainder, if any,
24 shall then be used to reduce the county contribution which would
25 otherwise be required to fund future service retirement benefits

1 or to restore employer accounts or employer cash balance accounts.
2 No forfeited amounts shall be applied to increase the benefits
3 any member would otherwise receive under the County Employees
4 Retirement Act.

5 (2) If a member ceases to be an employee due to the
6 termination of his or her employment by the county and a grievance
7 or other appeal of the termination is filed, transactions involving
8 forfeiture of his or her employer account or employer cash balance
9 account shall be suspended pending the final outcome of the
10 grievance or other appeal.

11 (3) The County Employer Retirement Expense Fund is
12 created. The fund shall be administered by the Public Employees
13 Retirement Board. The fund shall consist of any reduction in a
14 county contribution which would otherwise be required to fund
15 future service retirement benefits or to restore employer accounts
16 or employer cash balance accounts referred to in subsection (1) of
17 this section. The fund shall be established and maintained separate
18 from any funds held in trust for the benefit of members under the
19 county employees retirement system. Expenses incurred as a result
20 of a county depositing amounts into the fund shall be deducted
21 prior to any additional expenses being allocated. Any remaining
22 amount shall be allocated in accordance with section 23-2319.02.
23 Any money in the fund available for investment shall be invested
24 by the state investment officer pursuant to the Nebraska Capital
25 Expansion Act and the Nebraska State Funds Investment Act.

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

3 23-2319.02 (1) The County Employer Retirement Expense
4 Fund shall be used to meet expenses of the county employees
5 retirement system whether such expenses are incurred in
6 administering the member's employer account or in administering the
7 member's employer cash balance account when the funds available in
8 the County Employees Defined Contribution Retirement System Expense
9 Fund or County Employees Cash Balance Retirement Expense Fund make
10 such use reasonably necessary.

11 (2) The State Employer Retirement Expense Fund shall be
12 used to meet expenses of the State Employees Retirement System
13 of the State of Nebraska whether such expenses are incurred in
14 administering the member's employer account or in administering the
15 member's employer cash balance account when the funds available in
16 the State Employees Defined Contribution Retirement System Expense
17 Fund or State Employees Cash Balance Retirement Expense Fund make
18 such use reasonably necessary.

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

21 23-2320 (1) Except as otherwise provided in this section,
22 a member of the retirement system who has a five-year break in
23 service shall upon reemployment be considered a new employee with
24 respect to the County Employees Retirement Act and shall not
25 receive 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 23-2315 and
3 again becomes a permanent full-time or permanent part-time
4 county employee prior to having a five-year break in service
5 shall immediately be reenrolled in the retirement system and
6 resume making contributions ~~within sixty days~~ under rules and
7 regulations adopted by the board. For purposes of vesting employer
8 contributions made prior to and after the reentry into the
9 retirement system under subsection (3) of section 23-2319, years
10 of participation include years of participation prior to such
11 employee's original termination. For a member who is not vested and
12 has received a termination benefit pursuant to section 23-2319,
13 the years of participation prior to such employee's original
14 termination shall be limited in a ratio equal to the amount that
15 the member repays divided by the termination benefit withdrawn
16 pursuant to section 23-2319.

17 (b) The reemployed member may repay the value of, or
18 a portion of the value of, the termination benefit withdrawn
19 pursuant to section 23-2319. A reemployed member who elects to
20 repay all or a portion of the value of the termination benefit
21 withdrawn pursuant to section 23-2319 shall repay the actual
22 earnings on such value. Repayment of the termination benefit shall
23 commence within three years of reemployment and shall be completed
24 within five years of reemployment or prior to termination of
25 employment, whichever occurs first, through (i) direct payments to

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

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

14 (3) For a member who retired pursuant to section 23-2315
15 and becomes a permanent full-time employee or permanent part-time
16 employee with a county under the County Employees Retirement Act
17 more than one hundred twenty days after his or her retirement
18 date, the member shall continue receiving retirement benefits. Such
19 a retired member or a retired member who received a lump-sum
20 distribution of his or her benefit shall be considered a new
21 employee as of the date of reemployment and shall not receive
22 credit for any service prior to the member's retirement for
23 purposes of the act.

24 (4) A member who is reinstated as an employee pursuant to
25 a grievance or appeal of his or her termination by the county shall

1 be a member upon reemployment and shall not be considered to have
2 a break in service for such period of time that the grievance or
3 appeal was pending.

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

6 84-1309.02 (1) It is the intent of the Legislature that,
7 in order to improve the competitiveness of the retirement plan for
8 state employees, a cash balance benefit shall be added to the State
9 Employees Retirement Act on and after January 1, 2003. Each member
10 who is employed and participating in the retirement system prior
11 to January 1, 2003, may either elect to continue participation
12 in the defined contribution benefit as provided in the act prior
13 to January 1, 2003, or elect to participate in the cash balance
14 benefit as set forth in this section. The member shall make the
15 election prior to January 1, 2003, or on or after November 1, 2007,
16 but before January 1, 2008. If no election is made prior to January
17 1, 2003, or on or after November 1, 2007, but before January 1,
18 2008, the member shall be treated as though he or she elected
19 to continue participating in the defined contribution benefit as
20 provided in the act prior to January 1, 2003. Members who elect
21 to participate in the cash balance benefit on or after November 1,
22 2007, but before January 1, 2008, shall commence participation in
23 the cash balance benefit on January 1, 2008. Any member who made
24 the election prior to January 1, 2003, does not have to reelect
25 the cash balance benefit on or after November 1, 2007, but before

1 January 1, 2008.

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

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

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

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

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

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

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

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

24 (ii) Employer contribution credits deposited in
25 accordance with section 84-1309; plus

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

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

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

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

19 84-1314 (1) The State Employees Defined Contribution
20 Retirement ~~System~~ Expense Fund is created. The fund shall be
21 credited with money forfeited pursuant to section 84-1321.01
22 and with money from the retirement system assets and income
23 sufficient to pay the pro rata share of administrative expenses
24 incurred as directed by the board for the proper administration
25 of the State Employees Retirement Act and necessary in connection

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

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

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

21 84-1319 (1) The future service retirement benefit shall
22 be an annuity, payable monthly with the first payment made no
23 earlier than the annuity start date, which shall be the actuarial
24 equivalent of the retirement value as specified in section 84-1318
25 based on factors determined by the board, except that gender shall

1 not be a factor when determining the amount of such payments except
2 as provided in this section.

3 Except as provided in section 42-1107, at any time before
4 the annuity start date, the retiring employee may choose to receive
5 his or her annuity either in the form of an annuity as provided
6 under subsection (4) of this section or any optional form that is
7 determined acceptable by the board.

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

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

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

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

4 He or she shall receive at retirement the amount which
5 may be purchased by the accumulated contributions based on annuity
6 rates in effect on the annuity start date which do not utilize
7 gender as a factor, except that such amounts shall not be less
8 than the retirement income which can be provided by the sum of
9 the amounts derived pursuant to subdivisions (a) and (b) of this
10 subsection as follows:

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

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

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

22 (4) (a) The normal form of payment shall be a single life
23 annuity with five-year certain, which is an annuity payable monthly
24 during the remainder of the member's life with the provision that,
25 in the event of his or her death before sixty monthly payments

1 have been made, the monthly payments will be continued to his or
2 her estate or to the beneficiary he or she has designated until
3 sixty monthly payments have been made in total. Such annuity shall
4 be equal to the actuarial equivalent of the member cash balance
5 account or the sum of the employee and employer accounts, whichever
6 is applicable, as of the date of final account value. As a part
7 of the annuity, the normal form of payment may include a two and
8 one-half percent cost-of-living adjustment purchased by the member,
9 if the member elects such a payment option.

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

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

23 For an employee who is a member prior to January 1, 2003,
24 who has elected not to participate in the cash balance benefit
25 prior to January 1, 2003, or on or after November 1, 2007, but

1 before January 1, 2008, pursuant to section 84-1309.02, and who,
2 at the time of retirement, chooses the annuity option rather than
3 the lump-sum option, his or her employee and employer accounts
4 as of the date of final account value shall be converted to an
5 annuity using an interest rate that is equal to the lesser of (i)
6 the Pension Benefits Guarantee Corporation initial interest rate
7 for valuing annuities for terminating plans as of the beginning
8 of the year during which payment begins plus three-fourths of one
9 percent or (ii) the interest rate used in the actuarial valuation
10 as recommended by the actuary and approved by the board.

11 (b) For the calendar year beginning January 1, 2003, and
12 each calendar year thereafter, the actuary for the board shall
13 perform an actuarial valuation of the system using the entry
14 age actuarial cost method. Under this method, the actuarially
15 required funding rate is equal to the normal cost rate plus the
16 contribution rate necessary to amortize the unfunded actuarial
17 accrued liability on a level-payment basis. The normal cost under
18 this method shall be determined for each individual member on
19 a level percentage of salary basis. The normal cost amount is
20 then summed for all members. The initial unfunded actual accrued
21 liability as of January 1, 2003, if any, shall be amortized
22 over a twenty-five-year period. During each subsequent actuarial
23 valuation, changes in the unfunded actuarial accrued liability
24 due to changes in benefits, actuarial assumptions, the asset
25 valuation method, or actuarial gains or losses shall be measured

1 and amortized over a twenty-five-year period beginning on the
2 valuation date of such change. If the unfunded actuarial accrued
3 liability under the entry age actuarial cost method is zero or
4 less than zero on an actuarial valuation date, then all prior
5 unfunded actuarial accrued liabilities shall be considered fully
6 funded and the unfunded actuarial accrued liability shall be
7 reinitialized and amortized over a twenty-five-year period as
8 of the actuarial valuation date. If the actuarially required
9 contribution rate exceeds the rate of all contributions required
10 pursuant to the State Employees Retirement Act, there shall be
11 a supplemental appropriation sufficient to pay for the difference
12 between the actuarially required contribution rate and the rate of
13 all contributions required pursuant to the act.

14 (c) If the unfunded accrued actuarial liability under the
15 entry age actuarial cost method is less than zero on an actuarial
16 valuation date, and on the basis of all data in the possession
17 of the retirement board, including such mortality and other tables
18 as are recommended by the actuary engaged by the retirement board
19 and adopted by the retirement board, the retirement board may
20 elect to pay a dividend to all members participating in the
21 cash balance option in an amount that would not increase the
22 actuarial contribution rate above ninety percent of the actual
23 contribution rate. Dividends shall be credited to the employee cash
24 balance account and the employer cash balance account based on the
25 account balances on the actuarial valuation date. In the event a

1 dividend is granted and paid after the actuarial valuation date,
2 interest for the period from the actuarial valuation date until the
3 dividend is actually paid shall be paid on the dividend amount. The
4 interest rate shall be the interest credit rate earned on regular
5 contributions.

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

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

16 84-1321.01 (1) For a member who has terminated employment
17 and is not vested, the balance of the member's employer account
18 or employer cash balance account shall be forfeited. The forfeited
19 account shall be credited to the State Employees Retirement Fund
20 and shall first be used to meet the expense charges incurred by the
21 retirement board in connection with administering the retirement
22 system, which charges shall be credited to the State Employees
23 Defined Contribution Retirement System Expense Fund, if the member
24 participated in the defined contribution option, or to the State
25 Employees Cash Balance Retirement Expense Fund, if the member

1 participated in the cash balance option, and the remainder, if any,
2 shall then be used to reduce the state contribution which would
3 otherwise be required to fund future service retirement benefits
4 or to restore employer accounts or employer cash balance accounts.
5 No forfeited amounts shall be applied to increase the benefits any
6 member would otherwise receive under the State Employees Retirement
7 Act.

8 (2) If a member ceases to be an employee due to the
9 termination of his or her employment by the state and a grievance
10 or other appeal of the termination is filed, transactions involving
11 forfeiture of his or her employer account or employer cash balance
12 account shall be suspended pending the final outcome of the
13 grievance or other appeal.

14 (3) The State Employer Retirement Expense Fund is
15 created. The fund shall be administered by the Public Employees
16 Retirement Board. The fund shall be established and maintained
17 separate from any funds held in trust for the benefit of members
18 under the retirement system. The director of the Nebraska Public
19 Employees Retirement Systems shall certify to the Accounting
20 Administrator of the Department of Administrative Services when
21 accumulated employer account forfeiture funds are available to
22 reduce the state contribution which would otherwise be required
23 to fund future service retirement benefits or to restore employer
24 accounts or employer cash balance accounts referred to in
25 subsection (1) of this section. Following such certification, the

1 Accounting Administrator shall transfer the amount reduced from the
2 state contribution from the Imprest Payroll Distributive Fund to
3 the State Employer Retirement Expense Fund. Expenses incurred as
4 a result of the state depositing amounts into the State Employer
5 Retirement Expense Fund shall be deducted prior to any additional
6 expenses being allocated. Any remaining amount shall be allocated
7 in accordance with section 23-2319.02. Any money in the fund
8 available for investment shall be invested by the state investment
9 officer pursuant to the Nebraska Capital Expansion Act and the
10 Nebraska State Funds Investment Act.

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

13 84-1322 (1) Except as otherwise provided in this section,
14 a member of the retirement system who has a five-year break in
15 service shall upon reemployment be considered a new employee with
16 respect to the State Employees Retirement Act and shall not receive
17 credit for service prior to his or her reemployment date.

18 (2) (a) A member who ceases to be an employee before
19 becoming eligible for retirement under section 84-1317 and again
20 becomes a permanent full-time or permanent part-time state employee
21 prior to having a five-year break in service shall immediately be
22 reenrolled in the retirement system and resume making contributions
23 ~~within sixty days~~ under rules and regulations established by the
24 board. For purposes of vesting employer contributions made prior
25 to and after reentry into the retirement system under subsection

1 (3) of section 84-1321, years of participation include years of
2 participation prior to such employee's original termination. For a
3 member who is not vested and has received a termination benefit
4 pursuant to section 84-1321, the years of participation prior
5 to such employee's original termination shall be limited in a
6 ratio equal to the amount that the member repays divided by the
7 termination benefit withdrawn pursuant to section 84-1321. This
8 subsection shall apply whether or not the person was a state
9 employee on April 20, 1986, or July 17, 1986.

10 (b) The reemployed member may repay the value of, or a
11 portion of the value of, the termination benefit withdrawn pursuant
12 to section 84-1321. A reemployed member who elects to repay all
13 or a portion of the value of the termination benefit withdrawn
14 pursuant to section 84-1321 shall repay the actual earnings on
15 such value. Repayment of the termination benefit shall commence
16 within three years after reemployment and shall be completed
17 within five years after reemployment or prior to termination of
18 employment, whichever occurs first, through (i) direct payments to
19 the retirement system, (ii) installment payments made pursuant to
20 a binding irrevocable payroll deduction authorization made by the
21 member, (iii) an eligible rollover distribution as provided under
22 the Internal Revenue Code, or (iv) a direct rollover distribution
23 made in accordance with section 401(a)(31) of the Internal Revenue
24 Code.

25 (c) The value of the member's forfeited employer account

1 or employer cash balance account, as of the date of forfeiture,
2 shall be restored in a ratio equal to the amount of the benefit
3 that the member has repaid divided by the termination benefit
4 received. The employer account or employer cash balance account
5 shall be restored first out of the current forfeiture amounts and
6 then by additional employer contributions.

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

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

21 Sec. 12. Sections 12 to 16 of this act shall be known and
22 may be cited as the Law Enforcement Officers Retirement Survey Act.

23 Sec. 13. For purposes of the Law Enforcement Officers
24 Retirement Survey Act:

25 (1) Committee means the Nebraska Retirement Systems

1 Committee of the Legislature;

2 (2) Law enforcement officer means any police officer,
3 sheriff, and deputy sheriff employed by a political subdivision and
4 any conservation officer employed by the state;

5 (3) Political subdivision means any political subdivision
6 of this state which employs police officers, sheriffs, or deputy
7 sheriffs, but does not include a city of the metropolitan class,
8 a city of the primary class, or a county containing a city of the
9 metropolitan class; and

10 (4) Retirement system means the Nebraska Public Employees
11 Retirement Systems.

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

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

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

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

3 (b) Any other information which the retirement system or
4 the committee deems necessary.

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

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

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

24 (1) Names;

25 (2) Dates of birth;

- 1 (3) Dates of hire;
- 2 (4) Taxable earnings for the prior fiscal year;
- 3 (5) Years of service;
- 4 (6) Gender;
- 5 (7) Whether or not the law enforcement officer is
6 enrolled in a retirement plan;
- 7 (8) The type of plan the law enforcement officer is
8 enrolled in, the required employee contribution percentage, and
9 the employer contribution percentage, along with an indication if
10 it is a fixed percentage or a variable contribution rate. If
11 the law enforcement officer is enrolled in a defined contribution
12 plan, the political subdivision or state shall also disclose the
13 account balance attributable to employer contributions and employee
14 contributions, excluding any balance due to rollovers from another
15 qualified plan or attributable to voluntary employee contributions;
16 and
- 17 (9) Any other information that the retirement system or
18 the committee deems important to the conduct of the survey.

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

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

1 Sec. 17. Sections 12, 13, 14, 15, 16, 17, and 19 of this
2 act become operative on their effective date. The other sections
3 of this act become operative three calendar months after the
4 adjournment of this legislative session.

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

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