

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 324**

FINAL READING

Introduced by Speaker Flood, 19; at the request of the Governor

Read first time January 11, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the Nebraska State Patrol; to amend  
2 sections 81-2014, 81-2014.01, and 81-2017, Revised  
3 Statutes Cumulative Supplement, 2006; to define terms; to  
4 provide for deferred retirement option plans; to change  
5 and eliminate provisions relating to retirement system  
6 contributions; to repeal the original sections; and to  
7 declare an emergency.

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

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

3           81-2014 For purposes of the Nebraska State Patrol  
4 Retirement Act:

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

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

15           (3) (a) Compensation means gross wages or salaries payable  
16 to the member for personal services performed during the plan  
17 year. Compensation does not include insurance premiums converted  
18 into cash payments, reimbursement for expenses incurred, fringe  
19 benefits, or bonuses for services not actually rendered, including,  
20 but not limited to, early retirement inducements, cash awards,  
21 and severance pay, except for retroactive salary payments paid  
22 pursuant to court order, arbitration, or litigation and grievance  
23 settlements. For any officer employed after January 4, 1979,  
24 compensation does not include compensation for unused sick leave  
25 or unused vacation leave converted to cash payments. Compensation

1 includes overtime pay, member retirement contributions, and amounts  
2 contributed by the member to plans under sections 125 and 457 of  
3 the Internal Revenue Code as defined in section 49-801.01 or any  
4 other section of the code which defers or excludes such amounts  
5 from income.

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

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

21 (5) Current benefit means (a) until July 1, 2000, the  
22 initial benefit increased by all adjustments made pursuant to  
23 section 81-2027.04 and (b) on or after July 1, 2000, the initial  
24 benefit increased by all adjustments made pursuant to the Nebraska  
25 State Patrol Retirement Act;

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

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

7           ~~(6)~~ (8) Eligibility and vesting credit means credit  
8 for years, or a fraction of a year, of participation in a  
9 Nebraska government plan for purposes of determining eligibility  
10 for benefits under the Nebraska State Patrol Retirement Act. Such  
11 credit shall be used toward the vesting percentage pursuant to  
12 subsection (2) of section 81-2031 but shall not be included as  
13 years of service in the benefit calculation;

14           ~~(7)~~ (9) Initial benefit means the retirement benefit  
15 calculated at the time of retirement;

16           ~~(8)~~ (10) Officer means an officer provided for in  
17 sections 81-2001 to 81-2009;

18           ~~(9)~~ (11) Plan year means the twelve-month period  
19 beginning on July 1 and ending on June 30 of the following year;

20           ~~(10)~~ (12) Regular interest means interest fixed at a  
21 rate equal to the daily treasury yield curve for one-year treasury  
22 securities, as published by the Secretary of the Treasury of the  
23 United States, that applies on July 1 of each year, which may be  
24 credited monthly, quarterly, semiannually, or annually as the board  
25 may direct;

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

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

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

1           ~~(14)~~ (16) Termination of employment occurs on the date  
2 on which the Nebraska State Patrol determines that the officer's  
3 employer-employee relationship with the patrol is dissolved. The  
4 Nebraska State Patrol shall notify the board of the date on which  
5 such a termination has occurred. Termination of employment does  
6 not include ceasing employment with the Nebraska State Patrol  
7 if the officer returns to regular employment with the Nebraska  
8 State Patrol or another agency of the State of Nebraska and  
9 there are less than one hundred twenty days between the date when  
10 the employee's employer-employee relationship ceased and the date  
11 when the employer-employee relationship commenced with the Nebraska  
12 State Patrol or another state agency.

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

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

18           Sec. 3. (1) Any member who meets the participation  
19 requirements of subsection (2) of this section may participate in  
20 DROP. DROP provides that subsequent to attaining normal age and  
21 service retirement eligibility, a member may voluntarily choose to  
22 participate in DROP upon its adoption which, for purposes of this  
23 section, shall be the earlier of September 1, 2008, or the first  
24 of the month following a favorable letter determination by the  
25 Internal Revenue Service. If the member chooses to participate in

1 DROP, the member shall be deemed to have retired, but the member  
2 may continue in active employment for up to a five-year period.  
3 During the DROP period, the member's retirement benefit payments  
4 shall be deposited into the DROP account for the benefit of the  
5 member until the member actually retires from active employment at  
6 or before the expiration of the DROP period. Thereafter, future  
7 retirement benefit payments shall be made directly to the member,  
8 and the member shall have access to all funds in the DROP account  
9 designated for the benefit of the member.

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

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

18 (b) A member who elects to enter DROP shall be entitled  
19 to receive regular age and service retirement benefits in  
20 accordance with section 81-2026. A member is entitled to remain in  
21 DROP for a maximum of five years subsequent to the date of the  
22 member's DROP election. A member may separate from service and  
23 thereby exit DROP at any time during the DROP period. On or before  
24 the completion of the DROP period, the member must separate from  
25 active employment and exit DROP. During the DROP period, a member's

1 retirement benefit shall be payable to the DROP account vendor  
2 designated in the member's name. Amounts transferred or paid to  
3 a participating member's DROP account shall not constitute annual  
4 additions under section 415 of the Internal Revenue Code;

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

25 (d) No member shall be allowed to continue making the



1 required contributions while the member is enrolled in DROP;

2 (e) During the DROP period, the Nebraska State Patrol  
3 shall not be assessed the amount required under subsection (2) of  
4 section 81-2017 nor shall such amount be credited to the State  
5 Patrol Retirement Fund;

6 (f) The member shall be paid the balance of the DROP  
7 account upon the member's separation from active employment or  
8 at the expiration of the DROP period thereby ending the member's  
9 participation in DROP. If a member has not voluntarily separated  
10 from active employment on or before the completion of the DROP  
11 period, the member's retirement benefit shall be paid directly  
12 to the member thereby ending the member's active employment. The  
13 member's DROP account shall consist of accrued retirement benefits  
14 and interest on such benefits;

15 (g) Any member that is enrolled in DROP shall be  
16 responsible for directing the DROP account designated for the  
17 benefit of the member by investing the account in any DROP  
18 investment options. There shall be no guaranteed rate of investment  
19 return on DROP account assets. Any losses, charges, or expenses  
20 incurred by the participating DROP member in such member's DROP  
21 account by virtue of the investment options selected by the  
22 participating DROP member shall not be made up by the retirement  
23 system but all of the same shall be born by the participating DROP  
24 member. The retirement system, the state, the board, and the state  
25 investment officer shall not be responsible for any investment

1 results under the DROP agreement. Transfers between investment  
2 options shall be in accordance with the rules and regulations of  
3 DROP. A DROP account shall be established for each participating  
4 DROP member. Such DROP account shall be adjusted no less frequently  
5 than annually for the member's retirement benefit distributions and  
6 net investment earnings and losses;

7 (h) If the DROP account is subject to administrative or  
8 other fees or charges, such fees or charges shall be charged to the  
9 participating DROP member's DROP account; and

10 (i) Cost-of-living adjustments as provided for in section  
11 81-2027.03 shall not be applied to retirement benefits during the  
12 DROP period.

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

15 81-2017 (1) ~~Prior to July 1, 1995, each officer while~~  
16 ~~in the service of the Nebraska State Patrol shall pay or have~~  
17 ~~paid on his or her behalf a sum equal to eight percent of his~~  
18 ~~or her monthly compensation. Commencing July 1, 1995, and through~~  
19 ~~June 30, 1996, each officer while in the service of the Nebraska~~  
20 ~~State Patrol shall pay or have paid on his or her behalf a sum~~  
21 ~~equal to ten percent of his or her monthly compensation. Commencing~~  
22 ~~July 1, 1996, and through June 30, 2004, each officer while in~~  
23 ~~the service of the Nebraska State Patrol shall pay or have paid~~  
24 ~~on his or her behalf a sum equal to eleven percent of his or her~~  
25 ~~monthly compensation. Commencing July 1, 2004, and through June~~

1 ~~30, 2005,~~ each officer while in the service of the Nebraska State  
2 Patrol shall pay or have paid on his or her behalf a sum equal  
3 to twelve percent of his or her monthly compensation. Commencing  
4 July 1, 2005, and ~~through June 30, 2007,~~ each officer while in  
5 the service of the Nebraska State Patrol shall pay or have paid  
6 on his or her behalf a sum equal to thirteen percent of his or  
7 her monthly compensation. ~~Commencing July 1, 2007,~~ each officer  
8 while in the service of the Nebraska State Patrol shall pay or  
9 have paid on his or her behalf a sum equal to twelve percent of  
10 his or her monthly compensation. Such amounts shall be deducted  
11 monthly by the Director of Administrative Services who shall draw  
12 a warrant monthly in the amount of the total deductions from the  
13 compensation of members of the Nebraska State Patrol in accordance  
14 with subsection (4) of this section, and the State Treasurer shall  
15 credit the amount of such warrant to the State Patrol Retirement  
16 Fund. The director shall cause a detailed report of all monthly  
17 deductions to be made each month to the board.

18 (2) In addition, ~~through June 30, 2004,~~ there shall be  
19 transferred from the General Fund monthly by the State Treasurer  
20 a sum equal to the amount of such compensation deductions each  
21 month which shall be credited to the State Patrol Retirement Fund.  
22 ~~Commencing July 1, 2004,~~ and ~~through June 30, 2005,~~ there shall be  
23 transferred from the General Fund monthly by the State Treasurer a  
24 sum equal to the amount of twelve percent of each officer's monthly  
25 compensation which shall be credited to the State Patrol Retirement

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

15 (3) For the fiscal year beginning on July 1, 2002,  
16 and each fiscal year thereafter, the actuary for the board shall  
17 perform an actuarial valuation of the system using the entry  
18 age actuarial cost method. Under this method, the actuarially  
19 required funding rate is equal to the normal cost rate, plus  
20 the contribution rate necessary to amortize the unfunded actuarial  
21 accrued liability on a level payment basis. The normal cost  
22 under this method shall be determined for each individual member  
23 on a level percentage of salary basis. The normal cost amount  
24 is then summed for all members. ~~The initial unfunded actual~~  
25 ~~accrued liability as of July 1, 2002, if any, shall be amortized~~

1 ~~over a twenty-five-year period. Prior to July 1, 2006, changes~~  
2 ~~in the funded actuarial accrued liability due to changes in~~  
3 ~~benefits, actuarial assumptions, the asset valuation method, or~~  
4 ~~actuarial gains or losses shall be measured and amortized over a~~  
5 ~~twenty-five-year period beginning on the valuation date of such~~  
6 ~~change. Beginning July 1, 2006, any existing unfunded liabilities~~  
7 ~~shall be reinitialized and amortized over a thirty-year period,~~  
8 ~~and during each subsequent actuarial valuation, changes in the~~  
9 ~~funded actuarial accrued liability due to changes in benefits,~~  
10 ~~actuarial assumptions, the asset valuation method, or actuarial~~  
11 ~~gains or losses shall be measured and amortized over a thirty-year~~  
12 ~~period beginning on the valuation date of such change. If the~~  
13 ~~unfunded actuarial accrued liability under the entry age actuarial~~  
14 ~~cost method is zero or less than zero on an actuarial valuation~~  
15 ~~date, then all prior unfunded actuarial accrued liabilities shall~~  
16 ~~be considered fully funded and the unfunded actuarial accrued~~  
17 ~~liability shall be reinitialized and amortized over a thirty-year~~  
18 ~~period as of the actuarial valuation date. If the actuarially~~  
19 ~~required contribution rate exceeds the rate of all contributions~~  
20 ~~required pursuant to the Nebraska State Patrol Retirement Act,~~  
21 ~~there shall be a supplemental appropriation sufficient to pay for~~  
22 ~~the differences between the actuarially required contribution rate~~  
23 ~~and the rate of all contributions required pursuant to the Nebraska~~  
24 ~~State Patrol Retirement Act. Such valuation shall be on the basis~~  
25 ~~of actuarial assumptions recommended by the actuary, approved by~~

1 the board, and kept on file with the board.

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

20 Sec. 5. Original sections 81-2014, 81-2014.01, and  
21 81-2017, Revised Statutes Cumulative Supplement, 2006, are  
22 repealed.

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