

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 372

Introduced by Erdman, 47

Read first time January 12, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 16-1014
2 and 84-1511, Reissue Revised Statutes of Nebraska, and
3 sections 84-1301 and 84-1503, Revised Statutes Cumulative
4 Supplement, 2006; to adopt the Law Enforcement Officer
5 Retirement Act; to create a fund; to provide duties
6 for the Public Employees Retirement Board; to provide
7 a penalty; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 73 of this act shall be known
2 and may be cited as the Law Enforcement Officer Retirement Act.

3 Sec. 2. For purposes of the Law Enforcement Officer
4 Retirement Act, the definitions in sections 3 to 36 of this act
5 shall be used.

6 Sec. 3. Actuarial equivalent means the equality in value
7 of the aggregate amounts expected to be received under different
8 forms of an annuity payment. The mortality assumption used for
9 purposes of converting the member cash balance account shall be
10 the 1994 Group Annuity Mortality Table using a unisex rate that
11 is fifty percent male and fifty percent female. For purposes
12 of converting the member cash balance account attributable to
13 contributions made prior to January 1, 1984, that were transferred
14 pursuant to the Law Enforcement Officer Retirement Act, the 1994
15 Group Annuity Mortality Table for males shall be used.

16 Sec. 4. Annuity means equal monthly payments provided
17 by the retirement system to a member or beneficiary under forms
18 determined by the board beginning the first day of the month after
19 an annuity election is received in the office of the Nebraska
20 Public Employees Retirement Systems or the first day of the month
21 after the employee's termination of employment, whichever is later.

22 Sec. 5. Annuity start date means the date upon which a
23 member's annuity is first effective and shall be the first day of
24 the month following the member's termination or following the date
25 the application is received by the retirement board, whichever is

1 later.

2 Sec. 6. Cash balance benefit means a member's retirement
3 benefit that is equal to an amount based on annual employee
4 contribution credits plus interest credits and, if vested, employer
5 contribution credits plus interest credits.

6 Sec. 7. (1) Compensation means gross wages or salaries
7 payable to the member for personal services performed during
8 the plan year. Compensation does not include insurance premiums
9 converted into cash payments, reimbursement for expenses incurred,
10 fringe benefits, or bonuses for services not actually rendered,
11 including, but not limited to, early retirement inducements, cash
12 awards, and severance pay, except for retroactive salary payments
13 paid pursuant to court order, arbitration, or litigation and
14 grievance settlements. Compensation includes overtime pay, member
15 retirement contributions, and amounts contributed by the member to
16 plans under sections 125, 403(b), and 457 of the Internal Revenue
17 Code or any other section of the code which defers or excludes such
18 amounts from income.

19 (2) Compensation in excess of the limitations set forth
20 in section 401(a)(17) of the Internal Revenue Code shall be
21 disregarded.

22 Sec. 8. Date of adoption means January 1, 2008.

23 Sec. 9. Date of disability means the date on which a
24 member is determined by the retirement board to be disabled.

25 Sec. 10. Disability means an inability to engage in

1 a substantially gainful activity by reason of any medically
2 determinable physical or mental impairment which can be expected to
3 result in death or be of a long and indefinite duration.

4 Sec. 11. Eligibility and vesting credit means credit
5 for years, or a fraction of a year, of participation in another
6 Nebraska governmental plan for purposes of determining membership
7 in the retirement system and vesting the employer account.

8 Sec. 12. Employee means all employees who are employed
9 by a political subdivision of the State of Nebraska on a permanent
10 basis as a law enforcement officer and conservation officers of the
11 Game and Parks Commission.

12 Sec. 13. Employee contribution credit means an amount
13 equal to the member contribution amount required by section 43 of
14 this act.

15 Sec. 14. Employer contribution credit means an amount
16 equal to the employer contribution amount required by section 44 of
17 this act.

18 Sec. 15. Final account value means the value of a
19 member's account on the date the account is distributed to the
20 member or used to purchase an annuity from the plan, which date
21 shall occur as soon as administratively practicable after receipt
22 of a valid application for benefits, but no sooner than forty-five
23 days after the member's termination.

24 Sec. 16. Five-year break in service means a period of
25 five consecutive one-year breaks in service.

1 Sec. 17. Full-time employee means an employee who is
2 employed to work one-half or more of the regularly scheduled hours
3 during each pay period.

4 Sec. 18. Future service means service on and after the
5 date of adoption.

6 Sec. 19. Guaranteed investment contract means an
7 investment contract or account offering a return of principal
8 invested plus interest at a specified rate. Guaranteed investment
9 contract does not include direct obligations of the United States
10 or its instrumentalities, bonds, participation certificates or
11 other obligations of the Federal National Mortgage Association, the
12 Federal Home Loan Mortgage Corporation, or the Government National
13 Mortgage Association, or collateralized mortgage obligations and
14 other derivative securities.

15 Sec. 20. Interest credit rate means the greater of (1)
16 five percent or (2) the applicable federal mid-term rate, as
17 published by the Internal Revenue Service as of the first day of
18 the calendar quarter for which interest credits are credited, plus
19 one and one-half percent, such rate to be compounded annually.

20 Sec. 21. Interest credits means the amounts credited to
21 the employee cash balance account and the employer cash balance
22 account at the end of each day. Such interest credit for each
23 account shall be determined by applying the daily portion of the
24 interest credit rate to the account balance at the end of the
25 previous day. Such interest credits shall continue to be credited

1 to the employee cash balance account and the employer cash balance
2 account after a member ceases to be an employee, except that no
3 such credit shall be made with respect to the employee cash balance
4 account and the employer cash balance account for any day beginning
5 on or after the member's date of final account value. If benefits
6 payable to the member's surviving spouse or beneficiary are delayed
7 after the member's death, interest credits shall continue to be
8 credited to the employee cash balance account and the employer
9 cash balance account until such surviving spouse or beneficiary
10 commences receipt of a distribution from the plan.

11 Sec. 22. Law enforcement officer means any town marshal,
12 chief of police, police officer, sheriff, or deputy sheriff
13 and also includes conservation officers of the Game and Parks
14 Commission. Law enforcement officer does not mean any individual
15 employed as a police officer by a city of the metropolitan class
16 or a city of the primary class, any member of the Nebraska State
17 Patrol, or any individual employed by a county containing a city of
18 the metropolitan class.

19 Sec. 23. Member cash balance account means an account
20 equal to the sum of the employee cash balance account and, if
21 vested, the employer cash balance account.

22 Sec. 24. One-year break in service means a plan year
23 during which the member has not completed more than five hundred
24 hours of service.

25 Sec. 25. Participation means qualifying for and making

1 the required deposits to the retirement system during the course of
2 a plan year.

3 Sec. 26. Part-time employee means an employee who is
4 employed to work less than one-half of the regularly scheduled
5 hours during each pay period.

6 Sec. 27. Plan year means the twelve-month period
7 beginning on January 1 and ending on December 31.

8 Sec. 28. Prior service means service prior to the date of
9 adoption.

10 Sec. 29. Regular interest means the rate of interest
11 earned each calendar year as determined by the retirement board in
12 conformity with actual and expected earnings on the investments.

13 Sec. 30. Required contribution means the deduction to be
14 made from the compensation of employees as provided in the Law
15 Enforcement Officer Retirement Act.

16 Sec. 31. Retirement means qualifying for and accepting
17 the retirement benefit granted under the Law Enforcement Officer
18 Retirement Act after terminating employment.

19 Sec. 32. Retirement board means the Public Employees
20 Retirement Board.

21 Sec. 33. Retirement system means the Retirement System
22 for Nebraska Law Enforcement Officers.

23 Sec. 34. Service means the actual total length of
24 employment as an employee and is not deemed to be interrupted
25 by (1) temporary or seasonal suspension of service that does

1 not terminate the employee's employment, (2) leave of absence
2 authorized by the employer for a period not exceeding twelve
3 months, (3) leave of absence because of disability, or (4) military
4 service, when properly authorized by the retirement board. Service
5 does not include any period of disability for which disability
6 retirement benefits are received under section 50 of this act.

7 Sec. 35. Surviving spouse means (1) the spouse married
8 to the member on the date of the member's death or (2) the spouse
9 or former spouse of the member if survivorship rights are provided
10 under a qualified domestic relations order filed with the board
11 pursuant to the Spousal Pension Rights Act. The spouse or former
12 spouse shall supersede the spouse married to the member on the
13 date of the member's death as provided under a qualified domestic
14 relations order. If the benefits payable to the spouse or former
15 spouse under a qualified domestic relations order are less than
16 the value of benefits entitled to the surviving spouse, the spouse
17 married to the member on the date of the member's death shall be
18 the surviving spouse for the balance of the benefits.

19 Sec. 36. Termination of employment occurs on the date on
20 which a political subdivision which is a member of the retirement
21 system or the state determines that its employer-employee
22 relationship with an employee is dissolved. The employer shall
23 notify the board of the date on which such a termination has
24 occurred. Termination of employment does not occur if an employee
25 whose employer-employee relationship is dissolved enters into an

1 employer-employee relationship with the same or another political
2 subdivision or the state which participates in the retirement
3 system and there are less than one hundred twenty days between
4 the date when the employee's employer-employee relationship ceased
5 with the political subdivision or the state and the date when the
6 employer-employee relationship commenced with the same or another
7 political subdivision or the state which qualifies the employee
8 for participation in the retirement system. It shall be the
9 responsibility of the current employer to notify the retirement
10 board of such change in employment and provide the retirement board
11 with such information as the retirement board deems necessary.
12 If the retirement board determines that termination of employment
13 has not occurred and a termination benefit has been paid to a
14 member pursuant to section 54 of this act, the retirement board
15 shall require the member who has received such benefit to repay the
16 benefit to the retirement system.

17 Sec. 37. (1) A law enforcement officer retirement system
18 shall be established for the purpose of providing retirement
19 benefits for employees as provided by the Law Enforcement Officer
20 Retirement Act. It shall be known as the Retirement System for
21 Nebraska Law Enforcement Officers, and by such name shall transact
22 all business and hold all cash and other property as provided in
23 the Law Enforcement Officer Retirement Act.

24 (2) The retirement system shall not accept as
25 contributions any money from members or participating political

1 subdivisions or the state except the following:

2 (a) Mandatory contributions established by sections 43
3 and 44 of this act;

4 (b) Payments on behalf of transferred employees made
5 pursuant to section 42 of this act;

6 (c) Money that is a repayment of refunded contributions
7 made pursuant to section 57 of this act;

8 (d) Contributions for military service credit made
9 pursuant to section 60 of this act;

10 (e) Actuarially required contributions pursuant to
11 subdivision (4)(b) of section 53 of this act;

12 (f) Trustee-to-trustee transfers pursuant to section 63
13 of this act; or

14 (g) Corrections ordered by the retirement board pursuant
15 to section 39 of this act.

16 Sec. 38. It shall be the duty of the retirement board to
17 administer the Law Enforcement Officer Retirement Act as provided
18 in section 84-1503. The board shall adopt and promulgate rules and
19 regulations to carry out the act.

20 Sec. 39. (1) If the retirement board determines that
21 the retirement system has previously received contributions or
22 distributed benefits which for any reason are not in accordance
23 with the statutory provisions of the Law Enforcement Officer
24 Retirement Act, the retirement board shall refund contributions,
25 require additional contributions, adjust benefits, or require

1 repayment of benefits paid. In the event of an overpayment
2 of a benefit, the retirement board may, in addition to other
3 remedies, offset future benefit payments by the amount of the prior
4 overpayment, together with regular interest or interest credits,
5 whichever is appropriate, thereon. In the event of an underpayment
6 of a benefit, the retirement board shall immediately make payment
7 equal to the deficit amount plus regular interest or interest
8 credits, whichever is appropriate.

9 (2) The retirement board shall adopt and promulgate rules
10 and regulations implementing this section, which shall include, but
11 not be limited to, the following: (a) The procedures for refunding
12 contributions, adjusting future contributions or benefit payments,
13 and requiring additional contributions or repayment of benefits;
14 (b) the process for a member, member's beneficiary, employee, or
15 employer to dispute an adjustment of contributions or benefits;
16 and (c) notice provided to all affected persons. All notices shall
17 be sent prior to an adjustment and shall describe the process for
18 disputing an adjustment of contributions or benefits.

19 Sec. 40. (1) The membership of the retirement system
20 shall be composed of all persons who are or were employed as law
21 enforcement officers and who maintain an account balance with the
22 retirement system.

23 (2) The following employees are authorized to participate
24 in the retirement system: (a) All full-time employees who have
25 been employees for a period of twelve continuous months shall

1 begin participation in the retirement system, except that full-time
2 elected officials shall begin participation in the retirement
3 system on taking office; and (b) all full-time or part-time
4 employees who have attained the age of twenty and have been
5 employed for a total of twelve months within a five-year period
6 may exercise the option to begin participation in the retirement
7 system. An employee who exercises the option to begin participation
8 in the retirement system shall remain in the system until
9 termination or retirement, regardless of any change of status
10 as a permanent or temporary employee.

11 (3) Within the first thirty days of employment,
12 a full-time employee may apply to the retirement board for
13 eligibility and vesting credit for years of participation in
14 another Nebraska governmental plan as defined by section 414(d) of
15 the Internal Revenue Code. During the years of participation in
16 the other Nebraska governmental plan, the employee must have been
17 a full-time employee as defined in the Nebraska governmental plan
18 in which the credit was earned. The retirement board may adopt
19 and promulgate rules and regulations governing the assessment and
20 granting of eligibility and vesting credit.

21 (4) Any employee who qualifies for membership in the
22 retirement system pursuant to this section may not be disqualified
23 from membership in the retirement system solely because such
24 employee also maintains separate employment which qualifies the
25 employee for membership in another public retirement system,

1 nor may membership in this retirement system disqualify such an
2 employee from membership in another public retirement system solely
3 by reason of separate employment which qualifies such employee for
4 membership in this retirement system.

5 (5) Employers shall ensure that employees authorized
6 to participate in the retirement system pursuant to this section
7 enroll and make required contributions to the retirement system
8 within sixty days under rules and regulations adopted and
9 promulgated by the retirement board. Information necessary to
10 determine membership in the retirement system shall be provided by
11 the employer.

12 Sec. 41. For one year after January 1, 2008, any
13 full-time employee employed on or before January 1, 2008, may
14 apply to the board for eligibility and vesting credit for years of
15 participation in another Nebraska governmental plan as defined by
16 section 414(d) of the Internal Revenue Code. During the years of
17 participation in the other Nebraska governmental plan, the employee
18 must have been a full-time employee.

19 Sec. 42. Under such rules and regulations as the
20 retirement board adopts and promulgates, a full-time or part-time
21 employee shall transfer all of his or her funds in the retirement
22 system of the city, village, county, or state by paying to the
23 retirement system from funds held by the retirement system of
24 the political subdivision or state an amount equal to one of
25 the following: (1) If the retirement system of the political

1 subdivision or state maintains a defined benefit plan, an amount
2 not to exceed the initial benefit transfer value, leaving no funds
3 attributable to the transferred employee within the retirement
4 system of the political subdivision or state; or (2) if the
5 retirement system of the political subdivision or state maintains a
6 defined contribution plan, an amount not to exceed the employee and
7 employer accounts of the transferring employee plus earnings during
8 the period of employment with the political subdivision or state.
9 The employee shall receive eligibility and vesting credit for his
10 or her years of service in a governmental plan, as defined in
11 section 414(d) of the Internal Revenue Code. Payment shall be made
12 within five years after employment begins with the receiving entity
13 or prior to retirement, whichever comes first, and may be made
14 through direct payment, installment payments, or an irrevocable
15 payroll deduction authorization.

16 Sec. 43. Each employee who is a member of the retirement
17 system shall pay to his or her employer or have picked up by his or
18 her employer a sum equal to six percent of his or her compensation
19 for each pay period. The employer shall pick up the employee
20 contributions required by this section for all compensation paid
21 on or after January 1, 2008, and the contributions so picked up
22 shall be treated as employer contributions in determining federal
23 tax treatment under the Internal Revenue Code, except that the
24 employer shall continue to withhold federal income taxes based
25 upon these contributions until the Internal Revenue Service or the

1 federal courts rule that, pursuant to section 414(h) of the code,
2 these contributions shall not be included as gross income of the
3 employee until such time as they are distributed or made available.
4 The employer shall pay these employee contributions from the same
5 source of funds which is used in paying earnings to the employee.
6 The employer shall pick up these contributions by a compensation
7 deduction through a reduction in the cash compensation of the
8 employee. Employee contributions picked up shall be treated for all
9 purposes of the Law Enforcement Officer Retirement Act in the same
10 manner and to the extent as employee contributions made prior to
11 the date picked up.

12 Sec. 44. An employer shall pay to the retirement board or
13 an entity designated by the retirement board an amount equal to two
14 hundred fifty percent of the amounts deducted from the compensation
15 of employees in accordance with the provisions of section 43 of
16 this act, which two hundred fifty percent equals the employees'
17 contributions plus the employer's contributions of one hundred
18 fifty percent of the employees' contributions.

19 The board may charge the employer an administrative
20 processing fee of twenty-five dollars if the reports of necessary
21 information or payments made pursuant to this section are received
22 later than the date on which the retirement board requires that
23 such information or money should be received. In addition, the
24 retirement board may charge the employer a late fee of thirty-eight
25 thousandths of one percent of the amount required to be submitted

1 pursuant to this section for each day such amount has not been
2 received or in an amount equal to the amount of any costs incurred
3 by the member due to the late receipt of contributions, whichever
4 is greater. The late fee may be used to make a member's account
5 whole for any costs that may have been incurred by the member due
6 to the late receipt of contributions.

7 Sec. 45. (1) It is the intent of the Legislature that,
8 in order to improve the competitiveness of political subdivisions
9 and the state to retain law enforcement officers that a retirement
10 plan for law enforcement officers shall be created by the Law
11 Enforcement Officer Retirement Act on and after January 1, 2008.
12 Each law enforcement officer who is employed and participating in
13 another governmental retirement system prior to January 1, 2008,
14 may either elect to continue participation in his or her current
15 plan or elect to participate in the cash balance benefit as set
16 forth in this section. The law enforcement officer shall make the
17 election prior to January 1, 2008. If no election is made prior to
18 January 1, 2008, the member shall be treated as though he or she
19 elected to continue participating in his or her current plan.

20 (2) For a member employed and participating in the
21 retirement system beginning on and after January 1, 2008, or a
22 member employed on January 1, 2008, who, prior to January 1, 2008,
23 elects to convert his or her employee and employer accounts to the
24 Law Enforcement Officer Retirement Act:

25 (a) The employee cash balance account shall, at any time,

1 be equal to the following:

2 (i) Employee contribution credits deposited in accordance
3 with section 43 of this act; plus

4 (ii) Interest credit; and

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

7 (i) Employer contribution credits deposited in accordance
8 with section 44 of this act; plus

9 (ii) Interest credit.

10 (3) In order to carry out the provisions of this
11 section, the retirement board may enter into administrative
12 services agreements for accounting or record-keeping services.

13 No agreement shall be entered into unless the retirement board
14 determines that it will result in administrative economy and will
15 be in the best interests of the employers and their employees.

16 The retirement board may develop a schedule for the allocation
17 of the administrative services agreements costs for accounting
18 or record-keeping services and may assess the costs so that each
19 member pays a reasonable fee as determined by the retirement board.

20 The money forfeited pursuant to section 55 of this act shall not
21 be used to pay the administrative costs incurred pursuant to this
22 subsection.

23 Sec. 46. The State Treasurer shall be the custodian of
24 the funds and securities of the retirement system and may deposit
25 the funds and securities in any financial institution approved by

1 the Nebraska Investment Council. All disbursements therefrom shall
2 be paid by him or her only upon vouchers signed by a person
3 authorized by the retirement board. The State Treasurer shall
4 transmit monthly to the board a detailed statement showing all
5 credits to and disbursements from the funds in his or her custody
6 belonging to the retirement system.

7 Sec. 47. (1) The director of the Nebraska Public
8 Employees Retirement Systems shall keep a complete record of
9 all members with respect to names, current addresses, ages,
10 contributions, and any other facts as may be necessary in
11 the administration of the Law Enforcement Officer Retirement
12 Act. The information in the records shall be provided by the
13 employer in an accurate and verifiable form, as specified by the
14 director. The director shall, from time to time, carry out testing
15 procedures pursuant to section 84-1512 to verify the accuracy of
16 such information. For the purpose of obtaining such facts and
17 information, the director shall have access to the records of the
18 various political subdivisions and the state and the holder of the
19 records shall comply with a request by the director for access by
20 providing such facts and information to the director in a timely
21 manner. A certified copy of a birth certificate or delayed birth
22 certificate shall be prima facie evidence of the age of the person
23 named in the certificate.

24 (2) The director shall develop and implement an employer
25 education program using principles generally accepted by public

1 employee retirement systems so that all employers have the
2 knowledge and information necessary to prepare and file reports
3 as the board requires.

4 Sec. 48. It shall be the duty of the Auditor of Public
5 Accounts to make an annual audit of the retirement system and an
6 annual report to the retirement board and to the Clerk of the
7 Legislature of the condition of the retirement system. Each member
8 of the Legislature shall receive a copy of the report required by
9 this section by making a request for such report to either the
10 Auditor of Public Accounts or the retirement board.

11 Sec. 49. The retirement system may sue or be sued in
12 the name of the retirement system, and in all actions brought by
13 or against it, the system shall be represented by the Attorney
14 General.

15 Sec. 50. (1) Upon filing an application for benefits with
16 the retirement board, an employee may elect to retire at any time
17 after attaining the age of fifty-five or an employee may retire as
18 a result of disability at any age.

19 (2) The member shall specify in the application for
20 benefits the manner in which he or she wishes to receive
21 the retirement benefit under the options provided by the Law
22 Enforcement Officer Retirement Act. Payment under the application
23 for benefits shall be made (a) for annuities, no sooner than the
24 annuity start date, and (b) for other distributions, no sooner than
25 the date of final account value.

1 (3) Payment of any benefit provided under the retirement
2 system may not be deferred later than April 1 of the year following
3 the year in which the employee has both attained at least age
4 seventy and one-half years and terminated his or her employment
5 with the county.

6 (4) The retirement board shall make reasonable efforts
7 to locate the member or the member's beneficiary and distribute
8 benefits by the required beginning date as specified by section
9 401(a)(9) of the Internal Revenue Code and the regulations issued
10 thereunder. If the retirement board is unable to make such a
11 distribution, the benefit shall be distributed pursuant to the
12 Uniform Disposition of Unclaimed Property Act and no amounts may be
13 applied to increase the benefits any member would otherwise receive
14 under the Law Enforcement Officer Retirement Act.

15 Sec. 51. (1) Any member, disregarding the length of
16 service, may be retired as a result of disability either upon
17 his or her own application or upon the application of his or her
18 employer or any person acting in his or her behalf. Before any
19 member may be so retired, a medical examination shall be made
20 at the expense of the retirement system, which examination shall
21 be conducted by a disinterested physician legally authorized to
22 practice medicine under the laws of the state in which he or
23 she practices, such physician to be selected by the retirement
24 board, and the physician shall certify to the retirement board that
25 the member should be retired because he or she suffers from an

1 inability to engage in a substantially gainful activity by reason
2 of any medically determinable physical or mental impairment which
3 can be expected to result in death or to be of long-continued
4 and indefinite duration. The application for disability retirement
5 shall be made within one year of termination of employment.

6 (2) The retirement board may require any disability
7 beneficiary who has not attained the age of sixty-five to undergo
8 a medical examination at the expense of the board once each
9 year. Should any disability beneficiary refuse to undergo such
10 an examination, his or her disability retirement benefit may be
11 discontinued by the retirement board.

12 Sec. 52. The retirement value for any employee who
13 retires under the provisions of section 50 of this act shall be the
14 benefit provided in section 45 of this act as of the date of final
15 account value.

16 Sec. 53. (1) The future service retirement benefit shall
17 be an annuity, payable monthly with the first payment made no
18 earlier than the annuity start date, which shall be the actuarial
19 equivalent of the retirement value as specified in section 52
20 of this act based on factors determined by the retirement board,
21 except that gender shall not be a factor when determining the
22 amount of such payments pursuant to subsection (2) of this section.

23 Except as provided in section 42-1107, at any time before
24 the annuity start date, the retiring employee may choose to receive
25 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 retirement 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 retirement board.

12 In any case, the amount of the monthly payment shall be
13 such that the annuity chosen shall be the actuarial equivalent of
14 the retirement value as specified in section 52 of this act except
15 as provided in this section.

16 The retirement board shall provide to any employee who
17 is eligible for retirement, prior to his or her selecting any of
18 the 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 retiring member shall be as
23 follows:

24 He or she shall receive at retirement the amount which
25 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 accumulated
4 contributions made based on the annuity purchase rates in effect on
5 the date of purchase which do not use gender as a factor.

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

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

23 (b) For the calendar year beginning January 1, 2008,
24 and each calendar year thereafter, the actuary for the retirement
25 board shall perform an actuarial valuation of the system using

1 the entry age actuarial cost method. Under this method, the
2 actuarially required funding rate is equal to the normal cost
3 rate plus the contribution rate necessary to amortize the unfunded
4 actuarial accrued liability on a level-payment basis. The normal
5 cost under this method shall be determined for each individual
6 member on a level percentage of salary basis. The normal cost
7 amount is then summed for all members. The initial unfunded
8 actual accrued liability as of January 1, 2008, if any, shall
9 be amortized over a thirty-year period. During each subsequent
10 actuarial valuation, changes in the unfunded actuarial accrued
11 liability due to changes in benefits, actuarial assumptions, the
12 asset valuation method, or actuarial gains or losses shall be
13 measured and amortized over a thirty-year period beginning on the
14 valuation date of such change. If the unfunded actuarial accrued
15 liability under the entry age actuarial cost method is zero or less
16 than zero on an actuarial valuation date, then all prior unfunded
17 actuarial accrued liabilities shall be considered fully funded and
18 the unfunded actuarial accrued liability shall be reinitialized
19 and amortized over a thirty-year period as of the actuarial
20 valuation date. If the actuarially required contribution rate
21 exceeds the rate of all contributions required pursuant to the Law
22 Enforcement Officers Retirement Act, there shall be supplemental
23 funding by the employers sufficient to pay for the difference
24 between the actuarially required contribution rate and the rate of
25 all contributions required pursuant to the act.

1 (c) On the basis of all data in the possession of the
2 retirement board, including such mortality and other tables as
3 are recommended by the actuary engaged by the retirement board
4 and adopted by the retirement board, the retirement board shall
5 not provide for any benefit improvements that would increase the
6 actuarial contribution rate above ninety percent of the actual
7 contribution rate.

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

16 Sec. 54. (1) Except as provided in section 42-1107, upon
17 termination of employment, except for retirement or disability, and
18 after filing an application with the retirement board, a member may
19 receive:

20 (a) If not vested, a termination benefit equal to the
21 amount of his or her member cash balance account as of the date
22 of final account value payable in a lump sum or an annuity with
23 the lump-sum or first annuity payment made at any time after
24 termination but no later than April 1 of the year following the
25 year in which the member attains the age of seventy and one-half

1 years; or

2 (b) If vested, a termination benefit equal to the amount
3 of his or her member cash balance account as of the date of final
4 account value payable in a lump sum or an annuity with the lump-sum
5 or first annuity payment made at any time after termination but no
6 later than April 1 of the year following the year in which the
7 member attains the age of seventy and one-half years.

8 The member cash balance account or employer and employee
9 accounts of a terminating member shall be retained by the board,
10 and the termination benefit shall be deferred until a valid
11 application for benefits has been received.

12 (2) At the option of the terminating member, any lump
13 sum of the employer account or member cash balance account or any
14 annuity payment provided under subsection (1) of this section shall
15 commence as of the first of the month at any time after such member
16 has terminated his or her employment with the county and no later
17 than April 1 of the year following the year in which the member
18 attains the age of seventy and one-half years. Such election by the
19 terminating member shall be made at any time prior to payment of
20 the lump sum or commencement of the annuity payments.

21 (3) Members of the retirement system shall be vested
22 after a total of three years of participation in the system,
23 including eligibility and vesting credit. If an employee retires
24 pursuant to section 50 of this act, such employee shall be fully
25 vested in the retirement system.

1 Sec. 55. (1) For a member who has terminated employment
2 and is not vested, the balance of the member's employer cash
3 balance account shall be forfeited. The forfeited account shall be
4 credited to the Law Enforcement Officer Retirement System Expense
5 Fund and shall first be used to meet the expense charges incurred
6 by the retirement board in connection with administering the
7 retirement system, and the remainder, if any, shall then be used to
8 reduce the employer contribution which would otherwise be required
9 to fund future service retirement benefits or to restore employer
10 cash balance accounts. No forfeited amounts shall be applied to
11 increase the benefits any member would otherwise receive under the
12 Law Enforcement Officer Retirement Act.

13 (2) If a member ceases to be an employee due to
14 the termination of his or her employment and a grievance or
15 other appeal of the termination is filed, transactions involving
16 forfeiture of his or her employer cash balance account shall be
17 suspended pending the final outcome of the grievance or other
18 appeal.

19 (3) The Law Enforcement Officer Retirement System Expense
20 Fund is created. The fund shall be administered by the retirement
21 board. The fund shall consist of any reduction in employer
22 contributions which would otherwise be required to fund future
23 service retirement benefits or to restore employer cash balance
24 accounts referred to in subsection (1) of this section. The
25 fund shall be established and maintained separate from any funds

1 held in trust for the benefit of members under the retirement
2 system. Expenses incurred as a result of an employer depositing
3 amounts into the fund shall be deducted prior to any additional
4 expenses being allocated. Any remaining amount shall be allocated
5 in accordance with section 56 of this act. Any money in the fund
6 available for investment shall be invested by the state investment
7 officer pursuant to the Nebraska Capital Expansion Act and the
8 Nebraska State Funds Investment Act.

9 Sec. 56. The Law Enforcement Officer Retirement System
10 Expense Fund shall be used to meet expenses of the retirement
11 system.

12 Sec. 57. (1) Except as otherwise provided in this
13 section, a member of the retirement system who has a five-year
14 break in service shall upon reemployment be considered a new
15 employee with respect to the Law Enforcement Officer Retirement
16 Act and shall not receive credit for service prior to his or her
17 reemployment date.

18 (2)(a) A member who ceases to be an employee before
19 becoming eligible for retirement under section 50 of this act and
20 again becomes a permanent full-time or permanent part-time employee
21 prior to having a five-year break in service shall be reenrolled in
22 the retirement system and resume making contributions within sixty
23 days under rules and regulations adopted by the retirement board.
24 For purposes of vesting employer contributions made prior to and
25 after the reentry into the retirement system under subsection (3)

1 of section 54 of this act, 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 54 of this act, the years of participation
5 prior to such employee's original termination shall be limited in
6 a ratio equal to the amount that the member repays divided by the
7 termination benefit withdrawn pursuant to section 54 of this act.

8 (b) The reemployed member may repay the value of, or a
9 portion of the value of, the termination benefit withdrawn pursuant
10 to section 54 of this act. A reemployed member who elects to
11 repay all or a portion of the value of the termination benefit
12 withdrawn pursuant to section 54 of this act shall repay the actual
13 earnings on such value. Repayment of the termination benefit shall
14 commence within three years of reemployment and shall be completed
15 within five years of reemployment or prior to termination of
16 employment, whichever occurs first, through (i) direct payments to
17 the retirement system, (ii) installment payments made pursuant to
18 a binding irrevocable payroll deduction authorization made by the
19 member, (iii) an eligible rollover distribution as provided under
20 the Internal Revenue Code, or (iv) a direct rollover distribution
21 made in accordance with section 401(a)(31) of the Internal Revenue
22 Code.

23 (c) The value of the member's forfeited employer cash
24 balance account, as of the date of forfeiture, shall be restored
25 in a ratio equal to the amount of the benefit that the member has

1 repaid divided by the termination benefit received. The employer
2 cash balance account shall be restored first out of the current
3 forfeiture amounts and then by additional employer contributions.

4 (3) For a member who retired pursuant to section XX of
5 this act and becomes a permanent full-time employee or permanent
6 part-time employee with a political subdivision or the state under
7 the Law Enforcement Officer Retirement Act more than one hundred
8 twenty days after his or her retirement date shall continue
9 receiving retirement benefits. Such a retired member or a retired
10 member who received a lump-sum distribution of his or her benefit
11 shall be considered a new employee as of the date of reemployment
12 and shall not receive credit for any service prior to the member's
13 retirement for purposes of the act.

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

19 Sec. 58. In the event of the death before his or her
20 retirement date of any employee who is a member of the system,
21 the death benefit shall be equal to the benefit provided in
22 section 45 of this act. The death benefit shall be paid to the
23 member's beneficiary, to an alternate payee pursuant to a qualified
24 domestic relations order as provided in section 42-1107, or to
25 the member's estate if there are no designated beneficiaries.

1 If the beneficiary is not the member's surviving spouse, the
2 death benefit shall be paid as a lump-sum payment or payments,
3 except that the entire account must be distributed by the fifth
4 anniversary of the member's death. If the sole primary beneficiary
5 is the member's surviving spouse, the surviving spouse may elect to
6 receive an annuity calculated as if the member retired and selected
7 a one-hundred-percent joint and survivor annuity effective on the
8 annuity purchase date. If the surviving spouse does not elect the
9 annuity option within one hundred twenty days after the death of
10 the member, the surviving spouse shall receive a lump-sum payment
11 or payments, except that the entire account must be distributed by
12 the fifth anniversary of the member's death.

13 Sec. 59. All annuities or benefits which any person shall
14 be entitled to receive under the Law Enforcement Officer Retirement
15 Act shall not be subject to garnishment, attachment, levy, the
16 operation of bankruptcy or insolvency laws, or any other process
17 of law whatsoever and shall not be assignable except to the extent
18 that such annuities or benefits are subject to a qualified domestic
19 relations order under the Spousal Pension Rights Act.

20 Sec. 60. (1) Any employee who, while an employee, entered
21 into and served in the armed forces of the United States and
22 who within ninety days after honorable discharge or honorable
23 separation from active duty again became an employee shall be
24 credited, for the purposes of section 50 of this act, with all the
25 time actually served in the armed forces as if such person had been

1 an employee throughout such service in the armed forces pursuant to
2 the terms and conditions of subsection (2) of this section.

3 (2) Under such rules and regulations as the retirement
4 board adopts and promulgates, an employee who, pursuant to 38
5 U.S.C. 4301 et seq., is reemployed may pay to the retirement
6 system an amount equal to the sum of all deductions which would
7 have been made from the employee's compensation during such period
8 of military service. Payment shall be made within the period
9 required by law, not to exceed five years. To the extent that
10 payment is made, (a) the employee shall be treated as not having
11 incurred a break in service by reason of his or her period of
12 military service, (b) the period of military service shall be
13 credited for the purposes of determining the nonforfeitability of
14 the member's accrued benefits and the accrual of benefits under the
15 plan, and (c) the employer shall allocate the amount of employer
16 contributions to the member's employer account in the same manner
17 and to the same extent the allocation occurs for other employees
18 during the period of service. For purposes of member and employer
19 contributions under this section, the member's compensation during
20 the period of military service shall be the rate the member would
21 have received but for the military service or, if not reasonably
22 determinable, the average rate the member received during the
23 twelve-month period immediately preceding military service.

24 (3) The employer shall pick up the member contributions
25 made through irrevocable payroll deduction authorizations pursuant

1 to this section, and the contributions so picked up shall
2 be treated as employer contributions in the same manner as
3 contributions picked up under section 43 of this act.

4 Sec. 61. (1) For purposes of this section and section 62
5 of this act:

6 (a) Distributee means the member, the member's surviving
7 spouse, or the member's former spouse who is an alternate payee
8 under a qualified domestic relations order as defined in section
9 414(p) of the Internal Revenue Code;

10 (b) Direct rollover means a payment by the retirement
11 system to the eligible retirement plan or plans specified by the
12 distributee;

13 (c) Eligible retirement plan means (i) an individual
14 retirement account described in section 408(a) of the Internal
15 Revenue Code, (ii) an individual retirement annuity described in
16 section 408(b) of the code, except for an endowment contract, (iii)
17 a qualified plan described in section 401(a) of the code, (iv) an
18 annuity plan described in section 403(a) or 403(b) of the code, and
19 (v) a plan described in section 457(b) of the code and maintained
20 by a governmental employer. For eligible rollover distributions to
21 a surviving spouse, an eligible retirement plan means subdivisions
22 (1)(c)(i) through (iv) of this section; and

23 (d) Eligible rollover distribution means any distribution
24 to a distributee of all or any portion of the balance to the credit
25 of the distributee in the plan, except such term shall not include

1 any distribution which is one of a series of substantially equal
2 periodic payments, not less frequently than annually, made for the
3 life of the distributee or joint lives of the distributee and the
4 distributee's beneficiary or for the specified period of ten years
5 or more and shall not include any distribution to the extent such
6 distribution is required under section 401(a)(9) of the Internal
7 Revenue Code.

8 (2) A distributee may elect to have any portion of
9 an eligible rollover distribution paid directly to an eligible
10 retirement plan specified by the distributee.

11 (3) The retirement board shall adopt and promulgate rules
12 and regulations for direct rollover procedures which are consistent
13 with section 401(a)(31) of the Internal Revenue Code and which
14 include, but are not limited to, the form and time of direct
15 rollover distributions.

16 Sec. 62. (1) The retirement system may accept cash
17 rollover contributions from a member who is making payment pursuant
18 to section 61 of this act if the contributions do not exceed
19 the amount authorized to be paid by the member pursuant to such
20 section and the contributions represent (a) all or any portion of
21 the balance of the member's interest in a qualified plan under
22 section 401(a) of the Internal Revenue Code or (b) the interest of
23 the member from an individual retirement account or an individual
24 retirement annuity, the entire amount of which is attributable to
25 a qualified total distribution, as defined in the Internal Revenue

1 Code, from a qualified plan under section 401(a) of the code and
2 qualified as a tax-free rollover amount. The member's interest
3 under subdivision (a) or (b) of this subsection must be transferred
4 to the retirement system within sixty days from the date of
5 the distribution from the qualified plan, individual retirement
6 account, or individual retirement annuity.

7 (2) Cash transferred to the retirement system as a
8 rollover contribution shall be deposited in the same manner as
9 other payments.

10 (3) Under the same conditions as provided in subsection
11 (1) of this section, the retirement system may accept eligible
12 rollover distributions from (a) an annuity contract described in
13 section 403(b) of the Internal Revenue Code, (b) a plan described
14 in section 457(b) of the code which is maintained by a state, a
15 political subdivision of a state, or any agency or instrumentality
16 of a state or political subdivision of a state, or (c) the
17 portion of a distribution from an individual retirement account or
18 annuity described in section 408(a) or 408(b) of the code that is
19 eligible to be rolled over and would otherwise be includible in
20 gross income. Amounts accepted pursuant to this subsection shall be
21 deposited as all other payments under this section.

22 (4) The retirement system may accept direct rollover
23 distributions made from a qualified plan pursuant to section
24 401(a)(31) of the Internal Revenue Code. The direct rollover
25 distribution shall be deposited as all other payments under this

1 section.

2 (5) The retirement board shall adopt and promulgate rules
3 and regulations defining procedures for acceptance of rollovers
4 which are consistent with sections 401(a)(31) and 402 of the
5 Internal Revenue Code.

6 Sec. 63. The retirement system may accept as payment for
7 withdrawn amounts made pursuant to the Law Enforcement Officer
8 Retirement Act a direct trustee-to-trustee transfer from (1)
9 an eligible tax-sheltered annuity plan as described in section
10 403(b) of the Internal Revenue Code or (2) an eligible deferred
11 compensation plan as described in section 457(b) of the code
12 on behalf of a member who is making payments for such amounts.
13 The amount transferred shall not exceed the amount withdrawn and
14 such transferred amount shall qualify as a purchase of permissive
15 service credit by the member as defined in section 415 of the code.

16 Sec. 64. Persons who have become members of the
17 retirement system shall not thereafter lose their status as members
18 while they remain employees.

19 Sec. 65. Any person who, knowing it to be false
20 or fraudulent, presents or causes to be presented a false or
21 fraudulent claim or benefit application, any false or fraudulent
22 proof in support of such a claim or benefit, or false or
23 fraudulent information which would affect a future claim or
24 benefit application to be paid under the retirement system for
25 the purpose of defrauding or attempting to defraud the retirement

1 system shall be guilty of a Class II misdemeanor. The retirement
2 board shall deny any benefits that it determines are based on false
3 or fraudulent information and shall have a cause of action against
4 the member to recover any benefits already paid on the basis of
5 such information.

6 Sec. 66. The retirement benefits provided for by the Law
7 Enforcement Officer Retirement Act shall be in addition to benefits
8 and allowances payable under the provisions of the federal Social
9 Security Act.

10 Sec. 67. The provisions of the Law Enforcement Officer
11 Retirement Act pertaining to elected officials or other employees
12 having a regular term of office shall be so interpreted as to
13 effectuate its general purpose and to take effect as soon as the
14 same may become operative under the Constitution of Nebraska.

15 Sec. 68. By January 1, 2008, political subdivisions and
16 the state shall submit to the retirement board lists of all
17 employees then eligible for participation in the retirement system,
18 which lists shall state the name and address of each employee and
19 his or her gross monthly wage.

20 Sec. 69. Every claim and demand under the Law Enforcement
21 Officer Retirement Act and against the retirement system or the
22 retirement board shall be forever barred unless the action is
23 brought within two years of the time at which the claim accrued.

24 Sec. 70. All contributions to the retirement system,
25 all property and rights purchased with the contributions, and all

1 investment income attributable to the contributions, property, or
2 rights shall be held in trust by the State of Nebraska for the
3 exclusive benefit of members and their beneficiaries and shall only
4 be used to pay benefits to such persons and to pay administrative
5 expenses according to the provisions of the Law Enforcement Officer
6 Retirement Act.

7 Sec. 71. Upon termination or partial termination of the
8 retirement system or upon complete discontinuance of contributions
9 under the retirement system, the rights of all affected members
10 to the amounts credited to the members' accounts shall be
11 nonforfeitable.

12 Sec. 72. A municipal county shall be responsible for
13 making contributions and performing other duties and shall exercise
14 the powers of a county under the Law Enforcement Officer Retirement
15 Act with respect to the employees of the municipal county.

16 Sec. 73. (1) A prior service annuity shall be computed
17 for all employees who have been employees continuously for one year
18 prior to the date of the adoption of the retirement system and who
19 are at least twenty-five years of age. Such prior service annuity
20 shall be equal to the number of years of creditable prior service
21 multiplied by the prior service annuity factor.

22 (2) The number of years of creditable prior service shall
23 be the number of completed years of prior service less all years
24 during which the employee was participating in or for which he or
25 she received a benefit from a public retirement system, but not

1 more than twenty-five.

2 (3) The prior service annuity factor shall be the smaller
3 of (1) one dollar or (2) the employee's compensation for the last
4 completed twelve months of prior service divided by two thousand
5 four hundred.

6 (4) The prior service retirement benefit shall be a
7 straight life annuity, payable monthly with the first payment
8 made as of the annuity start date in an amount determined in
9 accordance with this section, except that if the monthly payment
10 would be less than ten dollars, payments shall be made annually
11 in advance with each annual payment equal to 11.54 multiplied by
12 the monthly payment that would have been made in the absence of
13 this restriction on small monthly payments, and no prior service
14 retirement benefit shall be paid to any person who terminates his
15 or her employment unless such person has been continuously employed
16 by the political subdivision for ten or more years immediately
17 prior to termination. An employee meeting such requirement and
18 who terminates his or her employment shall not receive a prior
19 service benefit determined in accordance with this section prior to
20 attaining age sixty-five.

21 (5) Prior service retirement benefits shall be paid
22 directly by the political subdivision or state to the retired
23 employee.

24 Sec. 74. Section 16-1014, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 16-1014 (1) A retirement committee shall be established
2 to supervise the general operation of the retirement system
3 established pursuant to sections 16-1001 to 16-1019. The governing
4 body of the city shall continue to be responsible for the
5 general administration of such retirement system unless specific
6 functions or all functions with regard to the administration of the
7 retirement system are delegated, by ordinance, to the retirement
8 committee or to the Public Employees Retirement Board. Whenever
9 duties or powers are vested in the city or the retirement committee
10 under such sections or whenever such sections fail to specifically
11 allocate the duties or powers of administration of the retirement
12 system, such powers or duties shall be vested in the city unless
13 such powers or duties have been delegated by ordinance to the
14 retirement committee or the board. The city, ~~and~~ the retirement
15 committee, and the board shall have all powers which are necessary
16 for or appropriate to establishing, maintaining, managing, and
17 administering the retirement system.

18 (2) The board shall develop a schedule for the allocation
19 of administrative costs and shall assess the costs so that each
20 member pays a reasonable fee as determined by the board. In
21 order to carry out the provisions of this section, the board
22 may enter into administrative services agreements for accounting
23 or record-keeping services. No agreement shall be entered into
24 unless the board determines that it will result in administrative
25 economy and will be in the best interests of the state and the

1 participating employees. The state, the board, the state investment
2 officer, or the members of the Nebraska Investment Council shall
3 not be liable for any investment results resulting from the
4 member's exercise of control over the assets in the employee
5 account.

6 Sec. 75. Section 84-1301, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 84-1301 For purposes of the State Employees Retirement
9 Act, unless the context otherwise requires:

10 (1) Actuarial equivalent means the equality in value of
11 the aggregate amounts expected to be received under different forms
12 of an annuity payment. The mortality assumption used for purposes
13 of converting the member cash balance account shall be the 1994
14 Group Annuity Mortality Table using a unisex rate that is fifty
15 percent male and fifty percent female. For purposes of converting
16 the member cash balance account attributable to contributions made
17 prior to January 1, 1984, that were transferred pursuant to the
18 act, the 1994 Group Annuity Mortality Table for males shall be
19 used;

20 (2) Annuity means equal monthly payments provided by the
21 retirement system to a member or beneficiary under forms determined
22 by the board beginning the first day of the month after an
23 annuity election is received in the office of the Nebraska Public
24 Employees Retirement Systems or the first day of the month after
25 the employee's termination of employment, whichever is later. The

1 last payment shall be at the end of the calendar month in which the
2 member dies or in accordance with the payment option chosen by the
3 member;

4 (3) Annuity start date means the date upon which a
5 member's annuity is first effective and shall be the first day of
6 the month following the member's termination or following the date
7 the application is received by the board, whichever is later;

8 (4) Cash balance benefit means a member's retirement
9 benefit that is equal to an amount based on annual employee
10 contribution credits plus interest credits and, if vested, employer
11 contribution credits plus interest credits and dividend amounts
12 credited in accordance with subdivision (4)(c) of section 84-1319;

13 (5)(a) Compensation means gross wages or salaries payable
14 to the member for personal services performed during the plan
15 year. Compensation does not include insurance premiums converted
16 into cash payments, reimbursement for expenses incurred, fringe
17 benefits, or bonuses for services not actually rendered, including,
18 but not limited to, early retirement inducements, cash awards,
19 and severance pay, except for retroactive salary payments paid
20 pursuant to court order, arbitration, or litigation and grievance
21 settlements. Compensation includes overtime pay, member retirement
22 contributions, and amounts contributed by the member to plans under
23 sections 125, 403(b), and 457 of the Internal Revenue Code or any
24 other section of the code which defers or excludes such amounts
25 from income.

1 (b) Compensation in excess of the limitations set forth
2 in section 401(a)(17) of the Internal Revenue Code shall be
3 disregarded. For an employee who was a member of the retirement
4 system before the first plan year beginning after December 31,
5 1995, the limitation on compensation shall not be less than the
6 amount which was allowed to be taken into account under the
7 retirement system as in effect on July 1, 1993;

8 (6) Date of disability means the date on which a member
9 is determined to be disabled by the board;

10 (7) Defined contribution benefit means a member's
11 retirement benefit from a money purchase plan in which member
12 benefits equal annual contributions and earnings pursuant to
13 section 84-1310 and, if vested, employer contributions and earnings
14 pursuant to section 84-1311;

15 (8) Disability means an inability to engage in a
16 substantially gainful activity by reason of any medically
17 determinable physical or mental impairment which can be expected to
18 result in death or to be of long-continued and indefinite duration;

19 (9) Employee means any employee of the State Board of
20 Agriculture who is a member of the state retirement system on
21 July 1, 1982, and any person or officer employed by the State of
22 Nebraska whose compensation is paid out of state funds or funds
23 controlled or administered by a state department through any of
24 its executive or administrative officers when acting exclusively in
25 their respective official, executive, or administrative capacities.

1 Employee does not include (a) judges as defined in section 24-701,
2 (b) members of the Nebraska State Patrol, except for those members
3 of the Nebraska State Patrol who elected pursuant to section
4 60-1304 to remain members of the State Employees Retirement System
5 of the State of Nebraska, (c) employees of the University of
6 Nebraska, (d) employees of the state colleges, (e) employees
7 of community colleges, (f) employees of the Department of Labor
8 employed prior to July 1, 1984, and paid from funds provided
9 pursuant to Title III of the federal Social Security Act or
10 funds from other federal sources, (g) the Commissioner of Labor
11 employed prior to July 1, 1984, (h) employees of the State Board
12 of Agriculture who are not members of the state retirement system
13 on July 1, 1982, (i) the Nebraska National Guard air and army
14 technicians, (j) persons eligible for membership under the School
15 Retirement System of the State of Nebraska who have not elected
16 to become members of the retirement system pursuant to section
17 79-920 or been made members of the system pursuant to such section,
18 except that those persons so eligible and who as of September 2,
19 1973, are contributing to the State Employees Retirement System of
20 the State of Nebraska shall continue as members of such system,
21 ~~or~~ (k) employees of the Coordinating Commission for Postsecondary
22 Education who are eligible for and have elected to become members
23 of a qualified retirement program approved by the commission which
24 is commensurate with retirement programs at the University of
25 Nebraska, or (l) conservation officers of the Game and Parks

1 Commission, except for those officers who elected to remain members
2 of the State Employees Retirement System of the State of Nebraska.

3 Any individual appointed by the Governor may elect not to become
4 a member of the State Employees Retirement System of the State of
5 Nebraska;

6 (10) Employee contribution credit means an amount equal
7 to the member contribution amount required by section 84-1308;

8 (11) Employer contribution credit means an amount equal
9 to the employer contribution amount required by section 84-1309;

10 (12) Final account value means the value of a member's
11 account on the date the account is either distributed to the member
12 or used to purchase an annuity from the plan, which date shall
13 occur as soon as administratively practicable after receipt of a
14 valid application for benefits, but no sooner than forty-five days
15 after the member's termination;

16 (13) Five-year break in service means five consecutive
17 one-year breaks in service;

18 (14) Full-time employee means an employee who is employed
19 to work one-half or more of the regularly scheduled hours during
20 each pay period;

21 (15) Fund means the State Employees Retirement Fund
22 created by section 84-1309;

23 (16) Guaranteed investment contract means an investment
24 contract or account offering a return of principal invested plus
25 interest at a specified rate. For investments made after July

1 19, 1996, guaranteed investment contract does not include direct
2 obligations of the United States or its instrumentalities, bonds,
3 participation certificates or other obligations of the Federal
4 National Mortgage Association, the Federal Home Loan Mortgage
5 Corporation, or the Government National Mortgage Association,
6 or collateralized mortgage obligations and other derivative
7 securities. This subdivision shall not be construed to require the
8 liquidation of investment contracts or accounts entered into prior
9 to July 19, 1996;

10 (17) Interest credit rate means the greater of (a) five
11 percent or (b) the applicable federal mid-term rate, as published
12 by the Internal Revenue Service as of the first day of the calendar
13 quarter for which interest credits are credited, plus one and
14 one-half percent, such rate to be compounded annually;

15 (18) Interest credits means the amounts credited to the
16 employee cash balance account and the employer cash balance account
17 at the end of each day. Such interest credit for each account
18 shall be determined by applying the daily portion of the interest
19 credit rate to the account balance at the end of the previous day.
20 Such interest credits shall continue to be credited to the employee
21 cash balance account and the employer cash balance account after
22 a member ceases to be an employee, except that no such credit
23 shall be made with respect to the employee cash balance account
24 and the employer cash balance account for any day beginning on
25 or after the member's date of final account value. If benefits

1 payable to the member's surviving spouse or beneficiary are delayed
2 after the member's death, interest credits shall continue to be
3 credited to the employee cash balance account and the employer
4 cash balance account until such surviving spouse or beneficiary
5 commences receipt of a distribution from the plan;

6 (19) Member cash balance account means an account equal
7 to the sum of the employee cash balance account and, if vested,
8 the employer cash balance account and dividend amounts credited in
9 accordance with subdivision (4)(c) of section 84-1319;

10 (20) One-year break in service means a plan year during
11 which the member has not completed more than five hundred hours of
12 service;

13 (21) Participation means qualifying for and making the
14 required deposits to the retirement system during the course of a
15 plan year;

16 (22) Part-time employee means an employee who is employed
17 to work less than one-half of the regularly scheduled hours during
18 each pay period;

19 (23) Plan year means the twelve-month period beginning on
20 January 1 and ending on December 31;

21 (24) Prior service means service before January 1, 1964;

22 (25) Regular interest means the rate of interest earned
23 each calendar year commencing January 1, 1975, as determined by the
24 retirement board in conformity with actual and expected earnings on
25 the investments through December 31, 1984;

1 (26) Required contribution means the deduction to be made
2 from the compensation of employees as provided in section 84-1308;

3 (27) Retirement means qualifying for and accepting the
4 retirement benefit granted under the State Employees Retirement Act
5 after terminating employment;

6 (28) Retirement board or board means the Public Employees
7 Retirement Board;

8 (29) Retirement system means the State Employees
9 Retirement System of the State of Nebraska;

10 (30) Service means the actual total length of employment
11 as an employee and shall not be deemed to be interrupted by (a)
12 temporary or seasonal suspension of service that does not terminate
13 the employee's employment, (b) leave of absence authorized by
14 the employer for a period not exceeding twelve months, (c) leave
15 of absence because of disability, or (d) military service, when
16 properly authorized by the retirement board. Service does not
17 include any period of disability for which disability retirement
18 benefits are received under section 84-1317;

19 (31) State department means any department, bureau,
20 commission, or other division of state government not otherwise
21 specifically defined or exempted in the act, the employees and
22 officers of which are not already covered by a retirement plan;

23 (32) Surviving spouse means (a) the spouse married to
24 the member on the date of the member's death or (b) the spouse
25 or former spouse of the member if survivorship rights are provided

1 under a qualified domestic relations order filed with the board
2 pursuant to the Spousal Pension Rights Act. The spouse or former
3 spouse shall supersede the spouse married to the member on the
4 date of the member's death as provided under a qualified domestic
5 relations order. If the benefits payable to the spouse or former
6 spouse under a qualified domestic relations order are less than
7 the value of benefits entitled to the surviving spouse, the spouse
8 married to the member on the date of the member's death shall be
9 the surviving spouse for the balance of the benefits;

10 (33) Termination of employment occurs on the date on
11 which the agency which employs the member determines that the
12 member's employer-employee relationship with the State of Nebraska
13 is dissolved. The agency which employs the member shall notify
14 the board of the date on which such a termination has occurred.
15 Termination of employment does not occur if an employee whose
16 employer-employee relationship with the State of Nebraska is
17 dissolved enters into an employer-employee relationship with the
18 same or another agency of the State of Nebraska and there are
19 less than one hundred twenty days between the date when the
20 employee's employer-employee relationship ceased with the state and
21 the date when the employer-employee relationship commenced with
22 the same or another agency. It shall be the responsibility of the
23 current employer to notify the board of such change in employment
24 and provide the board with such information as the board deems
25 necessary. If the board determines that termination of employment

1 has not occurred and a termination benefit has been paid to a
2 member of the retirement system pursuant to section 84-1321, the
3 board shall require the member who has received such benefit to
4 repay the benefit to the retirement system; and

5 (34) Vesting credit means credit for years, or a fraction
6 of a year, of participation in another Nebraska governmental plan
7 for purposes of determining vesting of the employer account.

8 Sec. 76. Section 84-1503, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 84-1503 (1) It shall be the duty of the Public Employees
11 Retirement Board:

12 (a) To administer the retirement systems provided for in
13 the County Employees Retirement Act, the Judges Retirement Act, the
14 Law Enforcement Officer Retirement Act, the Nebraska State Patrol
15 Retirement Act, the School Employees Retirement Act, and the State
16 Employees Retirement Act. The agency for the administration of the
17 retirement systems and under the direction of the board shall be
18 known and may be cited as the Nebraska Public Employees Retirement
19 Systems;

20 (b) To appoint a director to administer the systems under
21 the direction of the board. The appointment shall be subject to
22 the approval of the Governor and a majority of the Legislature.
23 The director shall be qualified by training and have at least five
24 years of experience in the administration of a qualified public
25 or private employee retirement plan. The director shall not be a

1 member of the board. The salary of the director shall be set by the
2 board. The director shall serve without term and may be removed by
3 the board;

4 (c) To provide for an equitable allocation of expenses
5 among the retirement systems administered by the board, and all
6 expenses shall be provided from the investment income earned by the
7 various retirement funds unless alternative sources of funds to pay
8 expenses are specified by law;

9 (d) To administer the deferred compensation program
10 authorized in section 84-1504;

11 (e) To hire an attorney, admitted to the Nebraska State
12 Bar Association, to advise the board in the administration of the
13 retirement systems listed in subdivision (a) of this subsection;

14 (f) To hire an internal auditor to perform the duties
15 described in section 84-1503.04 who meets the minimum standards as
16 described in section 84-304.03;

17 (g) To adopt and implement procedures for reporting
18 information by employers, as well as testing and monitoring
19 procedures in order to verify the accuracy of such information.
20 The information necessary to determine membership shall be provided
21 by the employer. The board shall adopt and promulgate rules
22 and regulations and prescribe such forms necessary to carry out
23 this subdivision. Nothing in this subdivision shall be construed
24 to require the board to conduct onsite audits of political
25 subdivisions for compliance with statutes, rules, and regulations

1 governing the retirement systems listed in subdivision (1)(a) of
2 this section regarding membership and contributions; and

3 (h) To prescribe and furnish forms for the public
4 retirement system plan reports required to be filed pursuant
5 to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,
6 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987
7 and to notify the Nebraska Retirement Systems Committee of the
8 Legislature of the failure of any governmental entity to file such
9 reports.

10 (2) In administering the retirement systems listed in
11 subdivision (1)(a) of this section, it shall be the duty of the
12 board:

13 (a) To determine, based on information provided by the
14 employer, the prior service annuity, if any, for each person who is
15 an employee of the county on the date of adoption of the retirement
16 system;

17 (b) To determine the eligibility of an individual to be
18 a member of the retirement system and other questions of fact in
19 the event of a dispute between an individual and the individual's
20 employer;

21 (c) To adopt and promulgate rules and regulations for the
22 management of the board;

23 (d) To keep a complete record of all proceedings taken at
24 any meeting of the board;

25 (e) To obtain, by a competitive, formal, and sealed

1 bidding process through the materiel division of the Department
2 of Administrative Services, actuarial services on behalf of the
3 State of Nebraska as may be necessary in the administration and
4 development of the retirement systems. Any contract for actuarial
5 services shall contain a provision allowing the actuary, without
6 prior approval of the board, to perform actuarial studies of the
7 systems as requested by entities other than the board, if notice,
8 which does not identify the entity or substance of the request, is
9 given to the board, all costs are paid by the requesting entity,
10 results are provided to the board upon being made public, and
11 such actuarial studies do not interfere with the actuary's ongoing
12 responsibility to the board. The term of the contract shall be
13 for up to three years. A competitive, formal, and sealed bidding
14 process shall be completed at least once in every three years,
15 unless the board determines that such a process would not be cost
16 effective under the circumstances and that the actuarial services
17 performed have been satisfactory, in which case the contract may
18 also contain an option for renewal without a competitive, formal,
19 and sealed bidding process for up to three additional years. An
20 actuary under contract for the State of Nebraska shall be a member
21 of the American Academy of Actuaries;

22 (f) To direct the State Treasurer to transfer funds, as
23 an expense of the retirement systems, to the Legislative Council
24 Retirement Study Fund. Such transfer shall occur beginning on or
25 after July 1, 2005, and at intervals of not less than five years

1 and not more than fifteen years and shall be in such amounts as the
2 Legislature shall direct;

3 (g) To adopt and promulgate rules and regulations to
4 carry out the provisions of each retirement system described in
5 subdivision (1)(a) of this section, which shall include, but not
6 be limited to, the crediting of military service, direct rollover
7 distributions, and the acceptance of rollovers;

8 (h) To obtain, by a competitive, formal, and sealed
9 bidding process through the materiel division of the Department
10 of Administrative Services, auditing services for a separate
11 compliance audit of the retirement systems to be completed by
12 December 31, 2007, and from time to time thereafter at the request
13 of the Nebraska Retirement Systems Committee, to be completed not
14 more than every four years but not less than every ten years.
15 The compliance audit shall be in addition to the annual audit
16 conducted by the Auditor of Public Accounts. The compliance audit
17 shall include, but not be limited to, an examination of records,
18 files, and other documents and an evaluation of all policies and
19 procedures to determine compliance with all state and federal laws.
20 A copy of the compliance audit shall be given to the Governor, the
21 board, and the Nebraska Retirement Systems Committee and shall be
22 presented to the committee at a public hearing;

23 (i) To adopt and promulgate rules and regulations for the
24 adjustment of contributions or benefits, which shall include, but
25 not be limited to: (i) The procedures for refunding contributions,

1 adjusting future contributions or benefit payments, and requiring
2 additional contributions or repayment of benefits; (ii) the process
3 for a member, member's beneficiary, employee, or employer to
4 dispute an adjustment to contributions or benefits; and (iii)
5 notice provided to all affected persons. All notices shall be sent
6 prior to an adjustment and shall describe the process for disputing
7 an adjustment to contributions or benefits; and

8 (j) To administer all retirement system plans in a manner
9 which will maintain each plan's status as a qualified plan pursuant
10 to the Internal Revenue Code. The board shall adopt and promulgate
11 rules and regulations necessary or appropriate to maintain such
12 status including, but not limited to, rules or regulations which
13 restrict discretionary or optional contributions to a plan or which
14 limit distributions from a plan.

15 (3) By March 15 of each year, the board shall prepare a
16 written plan of action and shall present such plan to the Nebraska
17 Retirement Systems Committee at a public hearing. The plan shall
18 include, but not be limited to, the board's funding policy, the
19 administrative costs and other fees associated with each fund and
20 plan overseen by the board, member education and informational
21 programs, the director's duties and limitations, an organizational
22 structure of the office of the Nebraska Public Employees Retirement
23 Systems, and the internal control structure of such office to
24 ensure compliance with state and federal laws.

25 Sec. 77. Section 84-1511, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 84-1511 (1) The Public Employees Retirement Board shall
3 establish a comprehensive preretirement planning program for state
4 patrol officers, state employees, judges, county employees, and
5 school employees who are members of the retirement systems
6 established pursuant to the Class V School Employees Retirement
7 Act, the County Employees Retirement Act, the Judges Retirement
8 Act, the ~~School Employees~~ Law Enforcement Officer Retirement Act,
9 the Nebraska State Patrol Retirement Act, the School Employees
10 Retirement Act, and the State Employees Retirement Act. The program
11 shall provide information and advice regarding the many changes
12 employees face upon retirement including, but not limited to,
13 changes in physical and mental health, housing, family life,
14 leisure activity, and retirement income.

15 (2) The preretirement planning program shall be available
16 to all employees who have attained the age of fifty or are within
17 five years of qualifying for retirement or early retirement under
18 their retirement systems.

19 (3) The preretirement planning program shall include
20 information on the federal and state income tax consequences of
21 the various annuity or retirement benefit options available to the
22 employee, information on social security benefits, information on
23 various local, state, and federal government programs and programs
24 in the private sector designed to assist elderly persons, and
25 information and advice the board deems valuable in assisting public

1 employees in the transition from public employment to retirement.

2 (4) The board shall work with the Department of Health
3 and Human Services, the personnel division of the Department
4 of Administrative Services, employee groups, and any other
5 governmental agency, including political subdivisions or bodies
6 whose services or expertise may enhance the development or
7 implementation of the preretirement planning program.

8 (5) Funding to cover the expense of the preretirement
9 planning program shall be charged back to each retirement fund on a
10 pro rata share based on the number of employees in each plan.

11 (6) The employer shall provide each eligible employee
12 leave with pay to attend up to two preretirement planning programs.
13 For purposes of this subsection, leave with pay shall mean a
14 day off paid by the employer and shall not mean vacation, sick,
15 personal, or compensatory time. An employee may choose to attend
16 a program more than twice, but such leave shall be at the expense
17 of the employee and shall be at the discretion of the employer.
18 An eligible employee shall not be entitled to attend more than
19 one preretirement planning program per fiscal year prior to actual
20 election of retirement.

21 (7) A nominal registration fee shall be charged each
22 person attending a preretirement planning program to cover the
23 costs for meals, meeting rooms, or other expenses incurred under
24 such program.

25 Sec. 78. Original sections 16-1014 and 84-1511, Reissue

LB 372

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- 1 Revised Statutes of Nebraska, and sections 84-1301 and 84-1503,
- 2 Revised Statutes Cumulative Supplement, 2006, are repealed.