

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1036**

Introduced by Nordquist, 7; Karpisek, 32; Lambert, 2; Mello, 5.

Read first time January 17, 2012

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2317 and  
2 84-1319, Revised Statutes Cumulative Supplement, 2010,  
3 and sections 23-2308.01, 23-2319.01, 84-1309.02, and  
4 84-1321.01, Revised Statutes Supplement, 2011; to provide  
5 for a cash balance benefit election for certain county  
6 and state employees; to change provisions relating to  
7 county and state employer funds; to create funds; to  
8 harmonize provisions; to repeal the original sections; to  
9 outright repeal section 23-2319.02, Revised Statutes  
10 Cumulative Supplement, 2010; and to declare an emergency.  
11 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 23-2308.01, Revised Statutes  
2 Supplement, 2011, is amended to read:

3                   23-2308.01 (1) It is the intent of the Legislature that,  
4 in order to improve the competitiveness of the retirement plan for  
5 county employees, a cash balance benefit shall be added to the County  
6 Employees Retirement Act on and after January 1, 2003. Each member  
7 who is employed and participating in the retirement system prior to  
8 January 1, 2003, may either elect to continue participation in the  
9 defined contribution benefit as provided in the act prior to January  
10 1, 2003, or elect to participate in the cash balance benefit as set  
11 forth in this section. The member shall make the election prior to  
12 January 1, 2003, ~~or~~ on or after November 1, 2007, but before January  
13 1, 2008, or on or after October 1, 2012, but before December 1, 2012.  
14 If no election is made prior to January 1, 2003, ~~or~~ on or after  
15 November 1, 2007, but before January 1, 2008, or on or after October  
16 1, 2012, but before December 1, 2012, the member shall be treated as  
17 though he or she elected to continue participating in the defined  
18 contribution benefit as provided in the act prior to January 1, 2003.  
19 Members who elect to participate in the cash balance benefit on or  
20 after November 1, 2007, but before January 1, 2008, shall commence  
21 participation in the cash balance benefit on January 1, 2008. Members  
22 who elect to participate in the cash balance benefit on or after  
23 October 1, 2012, but before December 1, 2012, shall commence  
24 participation in the cash balance benefit on January 2, 2013. Any  
25 member who made the election prior to January 1, 2003, or on or after

1 November 1, 2007, but before January 1, 2008, does not have to  
2 reelect the cash balance benefit on or after ~~November~~October 1,  
3 ~~2007, 2012, but before ~~January~~December 1, 2008. 2012. A member  
4 employed and participating in the retirement system prior to January  
5 1, 2003, who terminates employment on or after January 1, 2003, and  
6 returns to employment prior to having a five-year break in service  
7 shall participate in the cash balance benefit as set forth in this  
8 section.~~

9 (2) For a member employed and participating in the  
10 retirement system beginning on and after January 1, 2003, or a member  
11 employed and participating in the retirement system on January 1,  
12 2003, who, prior to January 1, 2003, ~~or~~ on or after November 1, 2007,  
13 but before January 1, 2008, or on or after October 1, 2012, but  
14 before December 1, 2012, elects to convert his or her employee and  
15 employer accounts to the cash balance benefit:

16 (a) Except as provided in subdivision (2)(b) of section  
17 23-2319.01, the employee cash balance account shall, at any time, be  
18 equal to the following:

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

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

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

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

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

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

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

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

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

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

24           Sec. 2. Section 23-2317, Revised Statutes Cumulative  
25 Supplement, 2010, is amended to read:

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

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

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

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

25           The board shall provide to any county employee who is

1 eligible for retirement, prior to his or her selecting any of the  
2 retirement options provided by this section, information on the  
3 federal and state income tax consequences of the various annuity or  
4 retirement benefit options.

5 (2) Except as provided in subsection (4) of this section,  
6 the monthly income payable to a member retiring on or after January  
7 1, 1984, shall be as follows:

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

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

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

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

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

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

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

1           For an employee who is a member prior to January 1, 2003,  
2 who has elected not to participate in the cash balance benefit prior  
3 to January 1, 2003, ~~or~~ on or after November 1, 2007, but before  
4 January 1, 2008, or on or after October 1, 2012, but before December  
5 1, 2012, pursuant to section 23-2308.01, and who, at the time of  
6 retirement, chooses the annuity option rather than the lump-sum  
7 option, his or her employee and employer accounts as of the date of  
8 final account value shall be converted to an annuity using an  
9 interest rate that is equal to the lesser of (i) the Pension ~~Benefits~~  
10 ~~Guarantee~~ Benefit Guaranty Corporation initial interest rate for  
11 valuing annuities for terminating plans as of the beginning of the  
12 year during which payment begins plus three-fourths of one percent or  
13 (ii) the interest rate used in the actuarial valuation as recommended  
14 by the actuary and approved by the board.

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



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

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

1 rate. Dividends shall be credited to the employee cash balance  
2 account and the employer cash balance account based on the account  
3 balances on the actuarial valuation date. In the event a dividend is  
4 granted and paid after the actuarial valuation date, interest for the  
5 period from the actuarial valuation date until the dividend is  
6 actually paid shall be paid on the dividend amount. The interest rate  
7 shall be the interest credit rate earned on regular contributions.

8 (5) At the option of the retiring member, any lump sum or  
9 annuity provided under this section or section 23-2334 may be  
10 deferred to commence at any time, except that no benefit shall be  
11 deferred later than April 1 of the year following the year in which  
12 the employee has both attained at least seventy and one-half years of  
13 age and has terminated his or her employment with the county, except  
14 that for members participating in the defined contribution benefit,  
15 no distribution is required to be made for the plan year commencing  
16 January 1, 2009, through December 31, 2009. Such election by the  
17 retiring member may be made at any time prior to the commencement of  
18 the lump-sum or annuity payments.

19 Sec. 3. Section 23-2319.01, Revised Statutes Supplement,  
20 2011, is amended to read:

21 23-2319.01 (1) For a member who has terminated employment  
22 and is not vested, the balance of the member's employer account or  
23 employer cash balance account shall be forfeited. The forfeited  
24 account shall be credited to the County Employees Retirement Fund and  
25 shall first be used to meet the expense charges incurred by the

1 retirement board in connection with administering the retirement  
2 system, which charges shall be credited to the County Employees  
3 Defined Contribution Retirement Expense Fund, if the member  
4 participated in the defined contribution option, or to the County  
5 Employees Cash Balance Retirement Expense Fund, if the member  
6 participated in the cash balance option, and the remainder, if any,  
7 shall then be used to ~~reduce the county contribution which would~~  
8 ~~otherwise be required to fund future service retirement benefits or~~  
9 to restore employer accounts or employer cash balance accounts. ~~No~~  
10 Except as provided in subdivision (4)(c) of section 23-2317, no  
11 forfeited amounts shall be applied to increase the benefits any  
12 member would otherwise receive under the County Employees Retirement  
13 Act.

14 (2)(a) If a member ceases to be an employee due to the  
15 termination of his or her employment by the county and a grievance or  
16 other appeal of the termination is filed, transactions involving  
17 forfeiture of his or her employer account or employer cash balance  
18 account and, except as provided in subdivision (b) of this  
19 subsection, transactions for payment of benefits under sections  
20 23-2315 and 23-2319 shall be suspended pending the final outcome of  
21 the grievance or other appeal.

22 (b) If a member elects to receive benefits payable under  
23 sections 23-2315 and 23-2319 after a grievance or appeal is filed,  
24 the member may receive an amount up to the balance of his or her  
25 employee account or member cash balance account or twenty-five

1 thousand dollars payable from the employee account or member cash  
2 balance account, whichever is less.

3 (3) The County Employer Retirement Expense Fund is  
4 created. The fund shall be administered by the Public Employees  
5 Retirement Board. Prior to July 1, 2012, the County Employer  
6 Retirement Expense Fund shall be used to meet expenses of the  
7 retirement system whether such expenses are incurred in administering  
8 the member's employer account or in administering the member's  
9 employer cash balance account when the funds available in the County  
10 Employees Defined Contribution Retirement Expense Fund or County  
11 Employees Cash Balance Retirement Expense Fund make such use  
12 reasonably necessary. The fund—County Employer Retirement Expense  
13 Fund shall consist of any reduction in a county contribution which  
14 would otherwise be required to fund future service retirement  
15 benefits or to restore employer accounts or employer cash balance  
16 accounts referred to in subsection (1) of this section. The fund  
17 shall be established and maintained separate from any funds held in  
18 trust for the benefit of members under the county employees  
19 retirement system. Expenses—On July 1, 2012, any money in the County  
20 Employer Retirement Expense Fund shall be transferred by the State  
21 Treasurer to the County Cash Balance Retirement Fund.

22 (4) Prior to July 1, 2012, expenses incurred as a result  
23 of a county depositing amounts into the fund—County Employer  
24 Retirement Expense Fund shall be deducted prior to any additional  
25 expenses being allocated. Any remaining amount shall be allocated in

1 accordance with ~~section 23-2319.02.~~ subsection (3) of this section.  
2 Any money in the ~~fund~~ County Employer Retirement Expense Fund  
3 available for investment shall be invested by the state investment  
4 officer pursuant to the Nebraska Capital Expansion Act and the  
5 Nebraska State Funds Investment Act.

6 (5) The County Cash Balance Retirement Fund is created.  
7 The fund shall be administered by the Public Employees Retirement  
8 Board. The fund shall consist of the funds transferred from the  
9 County Employer Retirement Expense Fund pursuant to subsection (3) of  
10 this section. Any money in the fund available for investment shall be  
11 invested by the state investment officer pursuant to the Nebraska  
12 Capital Expansion Act and the Nebraska State Funds Investment Act.

13 Sec. 4. Section 84-1309.02, Revised Statutes Supplement,  
14 2011, is amended to read:

15 84-1309.02 (1) It is the intent of the Legislature that,  
16 in order to improve the competitiveness of the retirement plan for  
17 state employees, a cash balance benefit shall be added to the State  
18 Employees Retirement Act on and after January 1, 2003. Each member  
19 who is employed and participating in the retirement system prior to  
20 January 1, 2003, may either elect to continue participation in the  
21 defined contribution benefit as provided in the act prior to January  
22 1, 2003, or elect to participate in the cash balance benefit as set  
23 forth in this section. The member shall make the election prior to  
24 January 1, 2003, ~~or~~ on or after November 1, 2007, but before January  
25 1, 2008, or on or after October 1, 2012, but before December 1, 2012.

1 If no election is made prior to January 1, 2003, ~~or~~ on or after  
2 November 1, 2007, but before January 1, 2008, or on or after October  
3 1, 2012, but before December 1, 2012, the member shall be treated as  
4 though he or she elected to continue participating in the defined  
5 contribution benefit as provided in the act prior to January 1, 2003.  
6 Members who elect to participate in the cash balance benefit on or  
7 after November 1, 2007, but before January 1, 2008, shall commence  
8 participation in the cash balance benefit on January 1, 2008. Members  
9 who elect to participate in the cash balance benefit on or after  
10 October 1, 2012, but before December 1, 2012, shall commence  
11 participation in the cash balance benefit on January 2, 2013. Any  
12 member who made the election prior to January 1, 2003, or on or after  
13 November 1, 2007, but before January 1, 2008, does not have to  
14 reelect the cash balance benefit on or after ~~November~~ October 1,  
15 2007, 2012, but before ~~January~~ December 1, 2008. ~~2012.~~ A member  
16 employed and participating in the retirement system prior to January  
17 1, 2003, who terminates employment on or after January 1, 2003, and  
18 returns to employment prior to having a five-year break in service  
19 shall participate in the cash balance benefit as set forth in this  
20 section.

21 (2) For a member employed and participating in the  
22 retirement system beginning on and after January 1, 2003, or a member  
23 employed and participating in the retirement system on January 1,  
24 2003, who, prior to January 1, 2003, ~~or~~ on or after November 1, 2007,  
25 but before January 1, 2008, or on or after October 1, 2012, but

1 before December 1, 2012, elects to convert his or her employee and  
2 employer accounts to the cash balance benefit:

3 (a) Except as provided in subdivision (2)(b) of section  
4 84-1321.01, the employee cash balance account shall, at any time, be  
5 equal to the following:

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

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

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

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

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

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

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

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

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

1           (3) In order to carry out the provisions of this section,  
2 the board may enter into administrative services agreements for  
3 accounting or record-keeping services. No agreement shall be entered  
4 into unless the board determines that it will result in  
5 administrative economy and will be in the best interests of the state  
6 and its participating employees. The board may develop a schedule for  
7 the allocation of the administrative services agreements costs for  
8 accounting or record-keeping services and may assess the costs so  
9 that each member pays a reasonable fee as determined by the board.

10           Sec. 5. Section 84-1319, Revised Statutes Cumulative  
11 Supplement, 2010, is amended to read:

12           84-1319 (1) The future service retirement benefit shall  
13 be an annuity, payable monthly with the first payment made no earlier  
14 than the annuity start date, which shall be the actuarial equivalent  
15 of the retirement value as specified in section 84-1318 based on  
16 factors determined by the board, except that gender shall not be a  
17 factor when determining the amount of such payments except as  
18 provided in this section.

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

24           Except as provided in section 42-1107, in lieu of the  
25 future service retirement annuity, a retiring employee may receive a



1 benefit not to exceed the amount in his or her employer and employee  
2 accounts as of the date of final account value payable in a lump sum  
3 and, if the employee chooses not to receive the entire amount in such  
4 accounts, an annuity equal to the actuarial equivalent of the  
5 remainder of the retirement value, and the employee may choose any  
6 form of such annuity as provided for by the board.

7           In any case, the amount of the monthly payment shall be  
8 such that the annuity chosen shall be the actuarial equivalent of the  
9 retirement value as specified in section 84-1318 except as provided  
10 in this section.

11           The board shall provide to any state employee who is  
12 eligible for retirement, prior to his or her selecting any of the  
13 retirement options provided by this section, information on the  
14 federal and state income tax consequences of the various annuity or  
15 retirement benefit options.

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

19           He or she shall receive at retirement the amount which  
20 may be purchased by the accumulated contributions based on annuity  
21 rates in effect on the annuity start date which do not utilize gender  
22 as a factor, except that such amounts shall not be less than the  
23 retirement income which can be provided by the sum of the amounts  
24 derived pursuant to subdivisions (a) and (b) of this subsection as  
25 follows:

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

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

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

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

25           Except as provided in section 42-1107, a member may elect

1 a lump-sum distribution of his or her member cash balance account as  
2 of the date of final account value upon termination of service or  
3 retirement.

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

12 For an employee who is a member prior to January 1, 2003,  
13 who has elected not to participate in the cash balance benefit prior  
14 to January 1, 2003, ~~or~~ on or after November 1, 2007, but before  
15 January 1, 2008, or on or after October 1, 2012, but before December  
16 1, 2012, pursuant to section 84-1309.02, and who, at the time of  
17 retirement, chooses the annuity option rather than the lump-sum  
18 option, his or her employee and employer accounts as of the date of  
19 final account value shall be converted to an annuity using an  
20 interest rate that is equal to the lesser of (i) the Pension ~~Benefits~~  
21 ~~Guarantee~~ Benefit Guaranty Corporation initial interest rate for  
22 valuing annuities for terminating plans as of the beginning of the  
23 year during which payment begins plus three-fourths of one percent or  
24 (ii) the interest rate used in the actuarial valuation as recommended  
25 by the actuary and approved by the board.

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

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

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

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

1 no distribution is required to be made for the plan year commencing  
2 January 1, 2009, through December 31, 2009. Such election by the  
3 retiring member may be made at any time prior to the commencement of  
4 the lump-sum or annuity payments.

5 Sec. 6. Section 84-1321.01, Revised Statutes Supplement,  
6 2011, is amended to read:

7 84-1321.01 (1) For a member who has terminated employment  
8 and is not vested, the balance of the member's employer account or  
9 employer cash balance account shall be forfeited. The forfeited  
10 account shall be credited to the State Employees Retirement Fund and  
11 shall first be used to meet the expense charges incurred by the  
12 retirement board in connection with administering the retirement  
13 system, which charges shall be credited to the State Employees  
14 Defined Contribution Retirement Expense Fund, if the member  
15 participated in the defined contribution option, or to the State  
16 Employees Cash Balance Retirement Expense Fund, if the member  
17 participated in the cash balance option, and the remainder, if any,  
18 shall then be used ~~to reduce the state contribution which would~~  
19 ~~otherwise be required to fund future service retirement benefits or~~  
20 ~~to restore employer accounts or employer cash balance accounts. No~~  
21 Except as provided in subdivision (4)(c) of section 84-1319, no  
22 forfeited amounts shall be applied to increase the benefits any  
23 member would otherwise receive under the State Employees Retirement  
24 Act.

25 (2)(a) If a member ceases to be an employee due to the

1 termination of his or her employment by the state and a grievance or  
2 other appeal of the termination is filed, transactions involving  
3 forfeiture of his or her employer account or employer cash balance  
4 account and, except as provided in subdivision (b) of this  
5 subsection, transactions for payment of benefits under sections  
6 84-1317 and 84-1321 shall be suspended pending the final outcome of  
7 the grievance or other appeal.

8 (b) If a member elects to receive benefits payable under  
9 sections 84-1317 and 84-1321 after a grievance or appeal is filed,  
10 the member may receive an amount up to the balance of his or her  
11 employee account or member cash balance account or twenty-five  
12 thousand dollars payable from the employee account or member cash  
13 balance account, whichever is less.

14 (3) The State Employer Retirement Expense Fund is  
15 created. The fund shall be administered by the Public Employees  
16 Retirement Board. ~~The fund shall be established and maintained~~  
17 ~~separate from any funds held in trust for the benefit of members~~  
18 ~~under the retirement system. Prior to July 1, 2012, the fund~~  
19 shall be used to meet expenses of the State Employees Retirement  
20 System of the State of Nebraska whether such expenses are incurred in  
21 administering the member's employer account or in administering the  
22 member's employer cash balance account when the funds available in  
23 the State Employees Defined Contribution Retirement Expense Fund or  
24 State Employees Cash Balance Retirement Expense Fund make such use  
25 reasonably necessary. On July 1, 2012, any money in the State

1 Employer Retirement Expense Fund shall be transferred by the State  
2 Treasurer to the State Cash Balance Retirement Fund.

3 (4) ~~The~~ Prior to July 1, 2012, the director of the  
4 Nebraska Public Employees Retirement Systems shall certify to the  
5 Accounting Administrator of the Department of Administrative Services  
6 when accumulated employer account forfeiture funds are available to  
7 reduce the state contribution which would otherwise be required to  
8 fund future service retirement benefits or to restore employer  
9 accounts or employer cash balance accounts referred to in subsection  
10 (1) of this section. Following such certification, the Accounting  
11 Administrator shall transfer the amount reduced from the state  
12 contribution from the Imprest Payroll Distributive Fund to the State  
13 Employer Retirement Expense Fund. Expenses incurred as a result of  
14 the state depositing amounts into the State Employer Retirement  
15 Expense Fund shall be deducted prior to any additional expenses being  
16 allocated. Any remaining amount shall be allocated in accordance with  
17 subsection (3) of this section. Any money in the ~~fund~~ State Employer  
18 Retirement Expense Fund available for investment shall be invested by  
19 the state investment officer pursuant to the Nebraska Capital  
20 Expansion Act and the Nebraska State Funds Investment Act.

21 (5) The State Cash Balance Retirement Fund is created.  
22 The fund shall be administered by the Public Employees Retirement  
23 Board. The fund shall consist of the funds transferred from the State  
24 Employer Retirement Expense Fund pursuant to subsection (3) of this  
25 section. Any money in the fund available for investment shall be



1 invested by the state investment officer pursuant to the Nebraska  
2 Capital Expansion Act and the Nebraska State Funds Investment Act.

3           Sec. 7. Original sections 23-2317 and 84-1319, Revised  
4 Statutes Cumulative Supplement, 2010, and sections 23-2308.01,  
5 23-2319.01, 84-1309.02, and 84-1321.01, Revised Statutes Supplement,  
6 2011, are repealed.

7           Sec. 8. The following section is outright repealed:  
8 Section 23-2319.02, Revised Statutes Cumulative Supplement, 2010.

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