

# NEBRASKA RETIREMENT SYSTEMS COMMITTEE

## **2011** **SUMMARY AND DISPOSITION OF BILLS**

NEBRASKA LEGISLATURE  
*One Hundred Second Legislature, First Session*

### ***Committee Members***

Senator Jeremy Nordquist, Chairperson  
Senator LeRoy Louden, Vice Chairperson  
Senator LaVon Heidemann  
Senator Russ Karpisek  
Senator Heath Mello  
Senator Dave Pankonin

### ***Committee Staff***

Kate Allen, Committee Legal Counsel  
Trisha Clark, Committee Clerk

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# I. Numerical Bill Index

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<b>LB 246</b> ( <i>Karpisek</i> )	Provide Nebraska State Patrol retirement benefits to a spouse who remarries
<b>LB 303</b> ( <i>McCoy</i> )	Eliminate restriction on investment in certain corporations doing business in Northern Ireland
<b>LB 307</b> ( <i>Karpisek</i> )	Require continued Deferred Retirement Option Program (DROP) contributions under the Nebraska State Patrol Retirement Act
<b>LB 382</b> ( <i>Nordquist</i> )	Change deposit and contribution rates for School Employees and Nebraska State Patrol Retirement Systems
<b>LB 474</b> ( <i>Committee</i> )	Require certain retirement reports to be submitted to the Auditor of Public Accounts
<b>LB 486</b> ( <i>Louden</i> )	Change provisions relating to compensation and contributions under the School Employees Retirement Act
<b>LB 509</b> ( <i>Committee</i> )	Change provisions relating to retirement
<b>LB 510</b> ( <i>Committee</i> )	Change the Class V school employee retirement contribution rate
<b>LB 532</b> ( <i>Karpisek</i> )	Provide for potential transfer of certain Department of Labor employees to the State Employees Retirement System
<b>LB 679</b> ( <i>Heidemann</i> )	Provide for new judges and members of the Nebraska State Patrol Retirement Systems to become members of the State Employees Retirement System
<b>LB 680</b> ( <i>Heidemann</i> )	Adopt the School Employees Cash Balance Retirement Act
<b>LB 688</b> ( <i>Smith</i> )	Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits, prohibit elective officers from receiving retirement benefits

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## II. Bills Listed by Subject Matter

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### CLASS V (OMAHA) SCHOOL EMPLOYEES RETIREMENT ACT

- LB 509 (*Committee*) Change provisions relating to retirement
- LB 510 (*Committee*) Change the Class V school employee retirement contribution rate

### COUNTY EMPLOYEES RETIREMENT ACT

- LB 509 (*Committee*) Change provisions relating to retirement

### DEFERRED COMPENSATION PLAN

- LB 509 (*Committee*) Change provisions relating to retirement

### DEPARTMENT OF LABOR

- LB 532 (*Karpisek*) Provide for potential transfer of certain Department of Labor employees to the State Employees Retirement System

### JUDGES RETIREMENT ACT

- LB 509 (*Committee*) Change provisions relating to retirement
- LB 679 (*Heidemann*) Provide for new judges and members of the Nebraska State Patrol Retirement Systems to become members of the State Employees Retirement System

### MUNICIPAL RETIREMENT SYSTEMS

- LB 474 (*Committee*) Require certain retirement reports to be submitted to the Auditor of Public Accounts

**LB 688** (*Smith*) Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits; prohibit elective officers from receiving retirement benefits

**MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS**

**LB 688** (*Smith*) Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits; prohibit elective officers from receiving retirement benefits

**NEBRASKA INVESTMENT COUNCIL**

**LB 303** (*McCoy*) Eliminate restriction on investment in certain corporations doing business in Northern Ireland

**LB 509** (*Committee*) Change provisions relating to retirement

**NEBRASKA RETIREMENT SYSTEMS COMMITTEE**

**LB 474** (*Committee*) Require certain retirement reports to be submitted to the Auditor of Public Accounts

**LB 509** (*Committee*) Change provisions relating to retirement

**NEBRASKA STATE PATROL RETIREMENT ACT**

**LB 246** (*Karpisek*) Provide Nebraska State Patrol retirement benefits to a spouse who remarries

**LB 307** (*Karpisek*) Require continued Deferred Retirement Option Program (DROP) contributions under the Nebraska State Patrol Retirement Act

**LB 382** (*Nordquist*) Change deposit and contribution rates for School Employees and Nebraska State Patrol Retirement Systems

**LB 509** (*Committee*) Change provisions relating to retirement

**LB 679** (*Heidemann*) Provide for new judges and members of the Nebraska State Patrol Retirement Systems to become members of the State Employees Retirement System



**PUBLIC EMPLOYEES RETIREMENT BOARD (PERB)**

**LB 474** (*Committee*)                      Require certain retirement reports to be submitted to the Auditor of Public Accounts

**LB 509** (*Committee*)                      Change provisions relating to retirement

**SCHOOL EMPLOYEES RETIREMENT ACT**

**LB 486** (*Louden*)                          Change provisions relating to compensation and contributions under the School Employees Retirement Act

**LB 509** (*Committee*)                      Change provisions relating to retirement

**LB 680** (*Heidemann*)                      Adopt the School Employees Cash Balance Retirement Act

**STATE EMPLOYEES RETIREMENT ACT**

**LB 509** (*Committee*)                      Change provisions relating to retirement

**LB 532** (*Karpisek*)                          Provide for potential transfer of certain Department of Labor employees to the State Employees Retirement System

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### III. Status of Retirement Bills

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#### ENACTED

LB 303 ( <i>McCoy</i> )	Eliminate restriction on investment in certain corporations doing business in Northern Ireland
LB 474 ( <i>Committee</i> )	Require certain retirement reports to be submitted to the Auditor of Public Accounts
LB 509 ( <i>Committee</i> )	Change provisions relating to retirement [Includes LB 246, LB 532, and LB 486 as revised]
LB 382 ( <i>Nordquist</i> )	Change deposit and contribution rates for School Employees and Nebraska State Patrol Retirement Systems [Includes LB 510 as revised]

#### INDEFINITELY POSTPONED

LB 246 ( <i>Karpisek</i> )	Provide Nebraska State Patrol retirement benefits to a spouse who remarries [Amended into LB 509 and enacted]
LB 307 ( <i>Karpisek</i> )	Require continued Deferred Retirement Option Program (DROP) contributions under the Nebraska State Patrol Retirement Act
LB 486 ( <i>Louden</i> )	Change provisions relating to compensation and contributions under the School Employees Retirement Act [Revised, amended into LB 509 and enacted]
LB 510 ( <i>Committee</i> )	Change the Class V school employee retirement contribution rate [Revised, amended into LB 382 and enacted]
LB 532 ( <i>Karpisek</i> )	Provide for potential transfer of certain Department of Labor employees to the State Employees Retirement System [Amended into LB 509 and enacted]

## HELD IN COMMITTEE

LB 679 ( <i>Heidemann</i> )	Provide for new judges and members of the Nebraska State Patrol Retirement Systems to become members of the State Employees Retirement System
LB 680 ( <i>Heidemann</i> )	Adopt the School Employees Cash Balance Retirement Act
LB 688 ( <i>Smith</i> )	Require certain law enforcement officers and firefighters to work until age fifty-five to receive full benefits; prohibit elective officers from receiving retirement benefits

## IV. Summary of Retirement Bills

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### ENACTED

#### LB 303

<b>Status:</b>	Approved by the Governor, March 10, 2011
<b>Operative Date:</b>	August 26, 2011
<b>Agency:</b>	Nebraska Investment Council and the State Investment Officer
<b>Repeals:</b>	72-1246.06, 72-1246.07 and 72-1247.08

LB 303 repeals existing statutes passed in 1994 regarding investments in corporations doing business with Northern Ireland. The repealed statutes had incorporated what were known as the "MacBride Principles", which served as an affirmative action designed to eliminate religious or ethnic discrimination in Northern Ireland.

#### LB 382

<b>Status:</b>	Approved by the Governor, May 4, 2011
<b>Operative Date:</b>	May 4, 2011
<b>Plans:</b>	School Employees Retirement Class V (Omaha) School Employees Retirement Nebraska State Patrol Retirement
<b>Amends:</b>	79-958, 79-966, 79-988.01, 79-1,113, and 81-2017

As introduced, LB 382 increased the contribution rate from 8.28% to 9.28% in fiscal year 2011-12 and fiscal year 2012-13 for members of the School Employees Retirement System. In fiscal year 2013-14 the member contribution rate returned to 8.28%.

The contribution rates for members of the Nebraska State Patrol Retirement System and the state/employer increase from 16% to 19% in fiscal years 2011-12 and 2012-13. In fiscal year 2013-14 the rates for both the patrol members and the state/employer return to 16%.

#### Committee Amendment 1101:

Committee AM 1101 strikes the original sections and becomes the bill.

Beginning September 1, 2011, the member contribution rate in the School Employees Retirement Act increases .6% to 8.88%. Beginning September 1, 2012 the rate increases .9% to 9.78% and remains in effect through August 31, 2017 when the contribution rate sunsets to 7.28%.

**See Appendix A: School & Employer Contribution Rates 1945 - 2017**

In the School Employees Retirement Act and the Class V (Omaha) School Employees Retirement Act the state contribution of 1% of total annual compensation, which is currently scheduled to sunset in fiscal year 2013-14, is extended to fiscal year 2016-17. Beginning July 1, 2017 the state contribution rate returns to .7%.

State funding for the purchasing power cost-of-living allowance for the Class V (Omaha) School Employees Retirement Act sunsets in fiscal year 2013-14.

**See Appendix B: "Legislative History of Purchasing Power Cost-of-Living-Adjustments"**

The contribution rates for members of the Nebraska State Patrol Retirement System and the state/employer increase 3%, from 16% to 19% in fiscal years 2011-12 and 2012-13. In fiscal 2013-14 the rate for both the patrol members and the state/employer returns to 16%.

**See Appendix C: Patrol & Employer Contribution Rates 1947 - 2013**

LB 510 as amended is also incorporated into Committee Amendment 1101. Beginning September 1, 2011, the contribution rate for members of the Class V (Omaha) School Employees Retirement Act increases 1% to 9.3%. There is no sunset on the increased contribution rate.

**NOTE: LB 235 introduced by the Education Committee and enacted by the Legislature, includes several provisions related to the school employer retirement contribution rate increases in LB 382.**

**Section 5 of LB 235 amends the Tax Equity and Educational Opportunities Support Act. It allows school employer contributions above 7.35% to be outside the lid until fiscal year 2016-17.**

**Section 21 of LB 235 allows the school district to exceed its maximum general fund budget until fiscal year 2016-17 for employer contributions that exceed 7.35%.**

**Previously these exceptions only extended to fiscal year 2013-14.**

#### **Section-by-Section Summary of Committee AM 1101:**

Section 1: beginning September 1, 2011, the member contribution rate in the School Employees Retirement Act increases .6% to 8.88%. Beginning September 1, 2012 the member contribution rate increases .9% to 9.78%. September 1, 2017 the member contribution rate returns to 7.28% [amends 79-958];

- Section 2: the state contribution of 1% of total salary compensation for the Schools Employees Retirement System and Class V (Omaha) School Employees Retirement System is extended from July 1, 2014 to July 1, 2017 when it returns to .7% [amends 79-966];
- Section 3: the state-funding for the Class V (Omaha) School Employees Retirement System purchasing power cost-of-living adjustment sunsets in FY 2013-14. Currently there is no sunset [amends 79-988.01];
- Section 4: beginning September 1, 2011, the contribution rate for Class V (Omaha) School Employees Retirement System members increases 1% to 9.3% [amends 79-9,113];
- Section 5: in the Nebraska State Patrol Retirement Act, beginning July 1, 2011, the patrol and state/employer contribution rates increase from 16% to 19%. The member and state/employer contribution rate increases sunset to 16% on July 1, 2013 [amends 81-2017];
- Section 6: repealer; and
- Section 7: emergency clause.

## **LB 474**

<b>Status:</b>	Approved by the Governor, March 16, 2011
<b>Operative Date:</b>	August 26, 2011
<b>Plans/Agencies:</b>	Nebraska Association of Resource Districts Wyuka Cemetery Metropolitan Cities Metropolitan Transit Authority Metropolitan Utility District Primary Class Cities First Class Cities (police officers) First Class Cities (firefighters) First and Second Class Cities and Villages Counties County Medical and Multiunit Facilities Local Boards of Health Auditor of Public Accounts Public Employees Retirement Board Nebraska Retirement Systems Committee

**Amends:** 2-3228, 14-567, 14-1805.01, 14-2111, 15-1017,  
16-1017, 16-1037, 19-3501, 23-1118, 23-3526,  
71-1631.02, 84-304.02 and 84-1503.

Current statutes require specified local political subdivisions that offer public pension plans to file annual defined contribution plan reports and quadrennial actuarial analyses of defined benefit plans with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee. Governmental entities include: Nebraska Association of Resource Districts; Wyuka Cemetery, Metropolitan Cities, Metropolitan Transit Authority, Metropolitan Utility District, Primary Class Cities, First Class Cities (police officer and firefighter plans), First and Second Class Cities and Villages, Counties with population greater than 150,000, County Medical and Multiunit Facilities, and Local Boards of Health (city and county).

LB 474 directs these entities to submit the annual defined contribution plan and defined benefit plan actuarial reports with the Auditor of Public Accounts and eliminates the requirement to submit reports to the Nebraska Retirement Systems Committee. The bill also removes the Public Employee Retirement Board's duty to annually notify the Committee if any governmental entity fails to file its report.

**Committee AM 123 and AM 417:**

Committee Amendment AM 123 references 84-304.02 and provides that the Auditor may, but is not required, to prepare a written review of the annual defined contribution and quadrennial defined benefit actuarial reports. The bill was further amended by AM 417 to provide a specific exception in 84-304.02 to make it optional for the Auditor to prepare written reviews of the reports under this legislation.

**LB 509**

<b>Status:</b>	Approved by the Governor, April 14, 2011
<b>Operative Date:</b>	July 1, 2011
<b>Plans/Entities:</b>	County Employees Retirement Judges Retirement School Employees Retirement Class V (Omaha) School Employees Retirement Nebraska State Patrol Retirement State Employees Retirement Deferred Compensation Public Employees Retirement Board Nebraska Investment Council



**Amends:** 4-108, 23-2301, 23-2302, 23-2306, 23-2308, 23-2308.01, 23-2319.01, 23-2320, 24-701.01, 24-710, 42-1102, 68-621, 72-1243, 79-408, 79-901, 79-902, 79-903, 79-904, 79-904.01, 79-916, 79-920, 79-926, 79-933.03, 79-933.05, 79-933.06, 79-941, 79-942, 79-944, 79-947, 79-955, 79-978.01, 79-987, 79-9,113, 79-1003, 79-1028.01, 81-1307, 81-2014.01, 81-2026, 91-2041, 84-1301, 84-1307, 84-1309.02, 84-1313.02, 84-1321.01, 84-1322, 84-1501, 84-1503, 84-1511.

Repeals: 24-710.07, 24-710.09, 24-710.10, 24-710.11, 50-417.02, 50-417.03, 50-417.04, 50-417.05, 50-417.06, 79-940, 79-947.01, 79-947.03, 79-947.04, 79-947.05, 81-2027.03, 81-2027.05, 81-2027.06, and 81-2027.07

LB 509 is introduced on behalf of the Nebraska Public Employees Retirement System and proposes substantive changes to the County, State, and Class V School Retirement Plans, and the duties of the Public Employees Retirement Board (PERB) and Nebraska Investment Council including:

1. provides for suspension of retirement distributions under the State and County Employees Retirement Acts pending the final outcome of a grievance filed by a member of either plan; terminated county and state plan members who file a grievance and are later reinstated for employment are required to pay back such distributions; the change restricts such distributions until it is determined whether the member will be reinstated by the employer.
2. creates the County Employees Retirement Fund for the deposit of county late filing penalties;
3. allows permanent part-time county and state employees to participate in their respective plans at age 18 rather than age 20;
4. adds a new section to the Class V School Employees Act requiring the Class V board to provide comprehensive preretirement planning programs to members of the Class V School Employees Retirement System;
5. deletes requirements for the Class V Retirement System to file annual plan summaries with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee;
6. requires the Class V Retirement System to file its actuarial report with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee annually rather than every four years;
7. changes the date from March 15 to March 31 for the Nebraska Investment Council to provide its annual report to the Nebraska Retirement Systems Committee; and

8. duties of the Public Employees Retirement Board (Board) are amended as follows:
  - a. deletes the requirement for the Board to notify the Nebraska Retirement Systems Committee if local political subdivisions fail to file annual pension plan reports;
  - b. requires the Board to provide copies of actuarial reports requested by entities other than the Board, to the Nebraska Retirement Systems Committee and Fiscal Analyst;
  - c. changes the date for the Board to contract for a Compliance Audit from 2007 to 2012;
  - d. changes the date from March 15 to March 31 for the Board to present its annual report to the Nebraska Retirement Systems Committee; and
  - e. deletes a requirement that the Board provide preretirement planning programs to members of the Class V Employees Retirement System; (the Board does not administer the Class V Employees Retirement System, therefore this duty rests with the Class V school board).

In addition the bill makes a number of technical and clarifying changes to the County, Judges, State Patrol, School, Class V, and State Employees Retirement Acts, and the Public Employee Retirement Board statutes including:

1. modifies language in the Judges' Retirement Act to clarify that an optional form of the benefit may exceed the seventy percent cap once an actuarial factor adjustment is made;
2. modifies language in the Judges, State Patrol and School Employees Retirement Acts to clarify that members receive the highest cost-of-living adjustment (COLA) method identified in current statutes. The COLA provisions are reorganized under new sections of statute within each Act;
3. clarifies that the school employees must make contributions on compensation earned above the salary cap established in the School Employees Retirement Act and the Board does not have to refund contributions made on amounts above the salary cap;
4. clarifies that Class V school employees who are not lawfully within the United States are not authorized to become members of the Class V School Employees Retirement System and receive public pension benefits; and
5. makes revisor technical corrections and deletes obsolete language.

### Committee AM 549:

The Committee Amendment incorporates the following changes into LB 509:

1. allows a terminated state or county employee after a grievance has been filed, to receive a distribution of up to \$25,000 or the balance of the employee's portion of the account, whichever is less; following reinstatement, the employee is required to repay any amount received;
2. clarifies transfer language in the State Employees Retirement Act regarding an employee's ability to directly rollover distribution of benefits into the employee's deferred compensation plan; and
3. reinstates stricken language in the Class V School Employees Retirement Act regarding obsolete provisions related to previous contribution rates.

In addition the following bills were incorporated into Committee Amendment 549:

### LB 246

LB 246 allows benefits to continue to be paid to the surviving spouse of a deceased state patrol member even if the spouse remarries. Under the current Nebraska State Patrol Retirement Plan, benefits cease when a surviving spouse remarries.

### LB 532

In 1961 the Legislature authorized the Commissioner of Labor to establish an independent retirement plan for employees of the Department of Labor employed in the unemployment insurance and job service programs. By statute those employees were prohibited from becoming members of the State Employees Retirement System. In 1984 the Legislature closed the independent retirement plan to new membership.

LB 532 provides for the transfer of these Department of Labor independent retirement plan members to the State Employees Retirement System if the independent retirement plan is terminated. For vesting purposes, members would be credited for their years of service in the independent retirement plan.

***See Appendix D: "A History of the Nebraska Department of Labor Independent Retirement Plan" prepared by John Albin, Legal Counsel for the Nebraska Department of Labor.***

### LB 486

As introduced, beginning July 1, 2012, the 7% annual salary cap increases to 9% and the current exemptions are eliminated for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to actual retirement.

Current exemptions include:

1. members who experience a substantial change in employment position (job or duty change);
2. excess compensation occurred as the result of a collective bargaining agreement between the employer and a recognized collective bargaining unit or category of school employee; and
3. excess compensation occurred as the result of a district-wide permanent benefit change made by the employer for a category of school employee.

LB 486 also clarifies that contributions must be made on the full amount of compensation received and the Public Employees Retirement Board will not refund contributions on compensation above the 9% cap.

#### Salary Cap Background

In 2005 the Legislature reduced the salary cap on compensation from 10% to the current 7% cap following a Retirement Committee interim study that examined large increases in school employee compensation in the few years prior to retirement.

Since the final retirement benefit is calculated based on the three highest 12-month periods of compensation, this enhanced compensation allows future retirees who receive large increases in compensation just prior to retirement, to receive a disproportionately higher benefit compared to the contribution amounts the employees had paid into the School Retirement Fund during their years of employment.

When this occurs, it creates an unfunded liability, which means other school employee members, school districts, and the state pay for these employees' increases in retirement benefits. Reducing the 10% cap in 2005 to the current cap of 7% reduced these unfunded liabilities somewhat.

Last summer the Nebraska Public Employees Retirement System (NPERS) collected data on salary cap exemptions that have been granted during the past 5 years. For the period 2006 to 2010, on average, 30% of the total retired members were eligible for an exemption. The following chart summarizes NPERS' data from its review of exemptions granted the past 5 years.

Year	Percentage of retirees granted exemptions at least 1 year in past 5 years	Percentage of exemptions due to substantial change in employment/duties	Percentage of exemptions due to collective bargaining
2006	6.3%	3%	2.6%
2007	24.9%	10.4%	11.5%
2008	32.6%	15%	13.3%
2009	37.9%	17%	14%
2010	47.3%	21.6%	16.4%

## Committee Revisions to LB 486

The 7% annual salary cap in the School Employees Retirement Plan is increased to 9% beginning July 1, 2012 and the current salary cap exemptions are eliminated for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to actual retirement. The cap is further reduced to 8% beginning July 1, 2013.

### **Section-by-Section Summary of LB 509 as enacted:**

- Section 1: [amends 4-108] includes the Class V School Employees Retirement Act as one of the retirement systems that a public employee is prohibited from participating in unless the person is lawfully present in the United States (these members are covered by general reference but were not specifically listed in this section of statute);
- Section 2: [amends 23-2301] revisor technical change;
- Section 3: [amends 23-2302] adds "fees" to money that may be collected from counties (fees refers to late filing fees collected under 23-2308);
- Section 4: [amends 23-2306] permanent part-time county employees who would like to exercise the option of participating in the County Employees Retirement System could opt in at age 18 instead of age 20;
- Section 5: [amends 23-2308] creates the County Employees Retirement Fund for contributions and fees;
- Section 6: [amends 23-2308.01] adds an exception to the listing of what is included in a county employee's cash balance account; the exception refers to any amounts withdrawn by a terminated employee pending a grievance;
- Section 7: [amends 23-2319.01] allows a terminated county employee after a grievance has been filed, to receive a distribution of up to \$25,000 or the balance of the employee's portion of the account, whichever is less;
- Section 8: [amends 23-2320] requires a county employee, following reinstatement after a grievance proceeding, to repay any amount distributed from the employee's account during the grievance proceeding;
- Section 9: [amends 24-701.01] revisor technical change;
- Section 10: [new section] creates new section in the Judges' Retirement Act that reorganizes current cost-of-living adjustment provisions and places all the existing language into one section. There are no substantive changes. The new language also clarifies that a retiree may only receive one cost-of-living adjustment benefit;

- Section 11: [amends 24-710] modifies language in the Judges' Retirement Act to clarify that an optional form of the benefit may exceed the seventy percent cap found in 24-710 (2) once an actuarial factor adjustment is made in subsection (3) of this section;
- Section 12: [amends 42-1102] revisor technical changes;
- Section 13: [amends 68-621] revisor technical changes;
- Section 14: [amends 72-1243] changes the date from March 15 to March 31 for the Nebraska Investment Council to present the agency's written plan of action to the Nebraska Retirement Systems Committee;
- Section 15: [amends 79-408] revisor technical changes;
- Section 16: [amends 79-901] revisor technical changes;
- Section 17: [amends 79-902] INSERTS PROVISIONS OF LB 486 -- increases the 7% annual salary cap in the School Employees Retirement Plan to 9% beginning July 1, 2012 and eliminates the current salary cap exemptions for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to actual retirement. The cap is further reduced to 8% beginning July 1, 2013. It clarifies that contributions are made on the full amount of compensation and are not limited by the salary cap; strikes obsolete language; revisor technical changes;
- Section 18: [amends 79-903] revisor technical changes;
- Section 19: [amends 79-904] revisor technical changes;
- Section 20: [amends 79-904.01] clarifies that the Public Employees Retirement Board shall not refund contributions made on compensation paid above salary cap limits on retirement benefits;
- Section 21: [amends 79-916] strikes obsolete language;
- Section 22: [amends 79-920] revisor technical changes;
- Section 23: [amends 79-926] strikes obsolete language; revisor technical changes;
- Section 24: [amends 79-933.03] revisor technical changes;
- Section 25: [amends 79-933.05] revisor technical changes;
- Section 26: [amends 79-933.06] revisor technical changes;
- Section 27: [amends 79-941] revisor technical changes
- Section 28 : [amends 79-942] strikes obsolete language; revisor technical changes;

- Section 29: [amends 79-944] revisor technical changes;
- Section 30: [amends 79-947] revisor technical changes;
- Section 31: [amends 79-955] revisor technical changes;
- Section 32: [new section] creates a new section in the School Employees Retirement Act that reorganizes current cost-of-living adjustment provisions and places all the existing language into one section. There are no substantive changes. The new language also clarifies that a retiree may only receive one cost-of-living adjustment benefit;
- Section 33: [amends 79-978.01] revisor technical changes;
- Section 34: [amends 79-987] strikes requirement for Class V schools to file an annual summary report with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee; changes the filing date from December 31 to March 31 for filing the Plan actuarial report and requires the actuarial report to be filed annually rather than every four years; strikes obsolete language; revisor technical changes;
- Section 35: [amends 79-9,113] strikes obsolete language; revisor technical changes;
- Section 36: [new section] creates requirement for the School Board for Class V school employees to establish a comprehensive preretirement planning program for members age 50 and over; each employer shall provide eligible employees leave without pay to attend up to two preretirement planning programs;
- Section 37: [new section] inserts language prohibiting employees from participating in the Class V Employees Retirement System if the employee is not lawfully present in the United States;
- Section 38: [amends 79-1003] revisor technical change;
- Section 39: [amends 79-1028.01] revisor technical change;
- Section 40: [amends 81-2013.01] revisor technical change;
- Section 41: [new section] creates new section in the Nebraska State Patrol Retirement Act that reorganizes current cost-of-living adjustment provisions and places all the existing language into one section. There are no substantive changes. The new language also clarifies that a retiree may only receive one cost-of-living adjustment benefit;
- Section 42: [amends 81-2026] INSERTS PROVISIONS OF LB 246 -- allows benefits to continue to be paid to the surviving spouse of a deceased state patrol member even if the spouse remarries;
- Section 43: [amends 81-2041] revisor technical change;

- Section 44: [amends 84-1301] INSERTS PROVISIONS OF LB 532 -- provides for the transfer of Department of Labor independent retirement plan members to the State Employees Retirement System if the independent retirement plan is terminated; revisor technical change;
- Section 45: [amends 84-1307] INSERTS PROVISIONS OF LB 532 -- Department of Labor independent retirement plan members who may become members of the State Employees Retirement System if the independent retirement plan is terminated would be credited for their years of service in the independent retirement plan; permanent part-time state employees who would like to exercise the option of participating in the State Employees Retirement System could opt in at age 18 instead of age 20;
- Section 46: [amends 84-1309.02] adds an exception to the listing of what is included in a state employee's cash balance account; the exception refers to any amounts withdrawn by a terminated employee pending a grievance;
- Section 47: [amends 84-1313.02] clarifies transfer language in the State Employees Retirement Act regarding an employee's ability to directly rollover distribution of benefits into the employee's deferred compensation plan;
- Section 48: [amends 84-1321.01] allows a terminated state employee after a grievance has been filed, to receive a distribution of up to \$25,000 or the balance of the employee's portion of the account, whichever is less;
- Section 49: [amends 84-1322] requires a state employee, following reinstatement after a grievance proceeding, to repay any amount distributed from the employee's account during the grievance proceeding;
- Section 50: [amends 84-1501] strikes obsolete language; revisor technical changes;
- Section 51: [amends 84-1503] strikes requirement for the Public Employees Retirement Board (PERB) to notify the Nebraska Retirement Systems Committee if local governmental entities fail to file public retirement system plan reports; requires PERB to provide copies of actuarial results to the Nebraska Retirement Systems Committee and the Legislative Fiscal Analyst; changes the date from March 15 to March 31 for PERB to prepare and present annual plan of action to the Nebraska Retirement Systems Committee;
- Section 52: [amends 84-1511] strikes requirement for the Public Employees Retirement Board to establish a comprehensive preretirement planning program for members of the Class V School Employees Retirement System;
- Section 53: operative date is July 1, 2011;
- Section 54/55: repealers; and
- Section 56: emergency clause; amends bill description.



## INDEFINITELY POSTPONED

### LB 246

LB 246 allows benefits to continue to be paid to the surviving spouse of a deceased state patrol member even if the spouse remarries. Under the current Nebraska State Patrol Retirement Plan, benefits cease when a surviving spouse remarries. **[LB 246 was amended into LB 509 and enacted]**

### LB 307

LB 307 amends the Nebraska State Patrol Retirement Act by requiring any member enrolled in the Deferred Retirement Option Program (DROP) to continue making contributions throughout the DROP period.

### LB 486

As introduced, beginning July 1, 2012, LB 486 would have increased the 7% annual salary cap to 9% and eliminated the current exemptions for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to actual retirement.

As revised by the Committee, beginning July 1, 2012, the 7% annual salary cap in the School Employees Retirement Plan is increased to 9% and the current salary cap exemptions are eliminated for purposes of calculating benefits on annual compensation during each of the last five years of employment prior to actual retirement. The cap is further reduced to 8% beginning July 1, 2013. **[LB 486, as revised by the Committee, was incorporated in LB 509 and enacted]**

### LB 510

LB 510 was introduced on behalf of the Class V (Omaha) School Employees Retirement System as a "placeholder" bill to adjust future member contribution rates.

As amended by the Committee it increases member contribution rates 1% to 9.3% of compensation beginning September 1, 2011. **[LB 510 as revised was amended into LB 382 and enacted]**

### LB 532

LB 532 provides for the transfer of Department of Labor independent retirement plan members to the State Employees Retirement System if the independent retirement plan is terminated. For vesting purposes, members would be credited for their years of service in the independent retirement plan. **[LB 532 was amended into LB 509 and enacted]**

## HELD IN COMMITTEE

### **LB 679**

All new judges and state patrol members hired after July 1, 2011 would become members of the State Employees Retirement System, which is the State Cash Balance Plan.

As members of the State Cash Balance Plan, new judges and patrol employees would pay the same contribution rates as current state employees, which is 4.8%. The state would match those rates at the existing rate of 156%.

Under LB 679, the state employer match for new judges who become members of the State Employees Retirement System, would be funded by an unspecified fee amount on all documents filed with the various courts.

Current members of the Judges and Nebraska State Patrol defined benefit plans would remain members and retain all rights and benefits. The contribution rates for those members would remain unchanged.

#### **Section-by-Section Summary of LB 679:**

- Section 1: [amends 24-701] the current definition of judge in the current defined benefit plan will end on the operative date of this Act;
- Section 2: [amends 24-721] clarifies that a judge who receives notice that a complaint has been filed against him or her is not allowed to retire under the Judges' Defined Benefit Plan, or the State Employees Retirement Act until the matter is resolved by the commission or the Supreme Court;
- Section 3: [amends 24-732] judges on temporary duty are not required to contribute to the Judges' Defined Benefit Plan or the State Employees Retirement Plan;
- Section 4: [amends 24-2804] sets undetermined amount of fees on actions filed in Small Claims Court;
- Section 5: [amends 29-2709] sets undetermined amount of fees on county court filings;
- Section 6: [amends 33-103] sets undetermined amount of fees on Appeals and Supreme Court appeals filings;
- Section 7: [amends 33-103.01] sets undetermined amount of fees on petitions to Supreme Court;
- Section 8: [amends 33-106.02] sets undetermined amount of fees on district court filings;
- Section 9: [amends 33-123] sets undetermined amount of fees on county court civil filings;

- Section 10: [amends 33-124] sets undetermined amount of fees on juvenile and county court filings;
- Section 11: [amends 33-125] sets undetermined amount of fees on probate filings;
- Section 12: [amends 33-126.02] sets undetermined amount of fees on guardian and conservatorships;
- Section 13: [amends 33-126.03] sets undetermined amount of fees on inheritance tax filings;
- Section 14: [amends 33-126.06] sets undetermined amount of fees on registration of trust filings;
- Section 15: [amends 48-155.01] acting Judges shall not pay contributions and are not eligible for retirement under the State Employees Retirement Act;
- Section 16: [amends 81-2014] in the State Patrol Retirement Plan the current definition of "officer" ends on operative date of act;
- Section 17: [amends 81-1301] judges and state patrol are added to the definition of "employee" in the current State Employee Retirement Act; adds a new definition for "judges";
- Section 18: [amends 84-1309] adds language to State Employees Retirement Act to allow fees of unspecified dollar amounts to be assessed on court filings to meet judges' employer contribution;
- Section 19: [amends 84-1317] clarifies in the State Employees Retirement Act that the State Patrol retirement eligibility age is an exception to the state employee retirement age of 55;
- Section 20: [new section] adds to the State Employees Retirement Act the current State Patrol retirement age eligibility at 50 with reduced benefits; and mandatory Patrol retirement at age 60; adds State Patrol credit for military service;
- Section 21: [amends 84-1320] amends current State Employees Retirement Act annuity language to clarify that State Patrol members receive full annuity at age 60;
- Section 22: [amends 84-1325] amends the State Employees Retirement Act and adds reference to new language in Section 20 regarding State Patrol military service credit;
- Section 23: [new section] adds current language to the State Employees Retirement Act regarding the filling of judicial vacancy;
- Section 24: [amends 84-1331] adds reference to sections 20 and 23 as part of the State Employees Retirement Act;

- Section 25: [amends 84-1333] clarifies that any new county employee who becomes a judge after the effective date of this Act is eligible for membership in the State Employees Cash Balance Retirement Plan rather than the Judges' Defined Benefit Plan;
- Section 26: [amends 84-1501] clarifies that the Judge and State Patrol Public Employee Retirement Board members may be members of either the respective Defined Benefit plan or the State Employees Retirement Plan; deletes obsolete language from the Public Employees Retirement Board membership statute;
- Section 27: operative date is July 1, 2011;
- Section 28: repealer; and
- Section 29: emergency clause

*NOTE: Under Interim Study LR 210 introduced by the Committee, an actuarial analysis will be conducted to determine the fiscal impact of requiring all new State Patrol officers to become members of the State Employees Cash Balance Plan.*

## **LB 68o**

LB 68o creates the School Employees Cash Balance Retirement Plan for new school employees hired after July 1, 2011. The provisions of the School Employees Cash Balance Retirement Plan are similar to the State Employees Cash Balance Plan.

Member contribution rates are set at 4.8% of compensation with an employer (school district) match of 156%, which is a contribution rate of 7.488%. These rates are identical to the state employee and employer contribution rates.

Members are assured an interest credit rate of the greater of 5% or the applicable federal mid-term rate plus 1.5%. Members vest after 5 years of service, which is the same as the current vesting period under School Employees Retirement Act.

Current members of the School Employees Retirement defined benefit plan would retain all rights and benefits and continue existing contribution rates.

### **Section-by-Section Summary of LB 68o:**

- Section 1: sections 1 through 37 of the bill are known as the School Employees Cash Balance Retirement Act;
- Section 2: definitions;

- Section 3.: establishes the School Employees Cash Balance Retirement System; provides an operative date; allows acceptance of contributions. [tracks 84-1302 of the State Employees Retirement Act];
- Section 4.: vests general administration duties of the System with the Public Employees Retirement Board [tracks 84-1305 of the State Employees Retirement Act];
- Section 5.: the Director of the Public Employees Retirement System maintains all records and develops and provides an education program for members [tracks 84-1305.01 of the State Employees Retirement Act];
- Section 6.: the Public Employees Retirement Board has authority to adjust contributions and benefits [tracks 84-1305.02 of the State Employees Retirement Act];
- Section 7.: describes membership requirements; limits authority to participate to U.S. citizens or persons lawfully present in the United States.; allows application for vesting credit for years of participation in another Nebraska governmental plan; members are not disqualified from participating in the plan if member of another public retirement system; employers shall ensure that employee contributions are made and provides necessary member information [tracks 84-1307 of the State Employees Retirement Act];
- Section 8.: each member pays contribution of 4.8% that is credited to the School Employees Cash Balance Retirement Fund; establishes the method of payment; requires employers to pick up contributions [tracks 84-1308 of the State Employees Retirement Act];
- Section 9.: creates the School Employees Cash Balance Retirement Fund; establishes the employer contribution at 156% of the employee contribution; includes disbursement provisions [tracks 84-1309 of the State Employees Retirement Act];
- Section 10.: requires the Public Employees Retirement Board to provide benefit liability information to the Nebraska Investment Council and to verify investments [tracks 84-1309.01 of the State Employees Retirement Act];
- Section 11.: describes cash balance account; authorizes administrative service agreements for costs [tracks 84-1309.02 of the State Employees Retirement Act];
- Section 12.: definitions for this section and section 13 regarding rollovers; authorizes Public Employees Retirement Board to adopt rules and regulations regarding direct rollovers [tracks 84-1312 of the State Employees Retirement Act];
- Section 13.: requires retirement system to accept cash rollover contributions from members pursuant to sections 25 and 31 of this Act; authorizes Public Employees Retirement Board to adopt rules and regulations defining procedures for acceptance of rollovers [tracks 84-1313 of the State Employees Retirement Act];

- Section 14: authorizes trustee-to-trustee transfers [tracks 84-1313.01 of the State Employees Retirement Act];
- Section 15: authorizes deferred compensation as plan-to-plan transfer [tracks 84-1313.02 of the State Employees Retirement Act];
- Section 16: creates the School Employees Cash Balance Retirement Expense Fund; credits forfeitures to the Fund; assets and income may be used to pay pro rata share of administrative expenses incurred by the Public Employees Retirement Board for administration and operation of the system [tracks 84-1314 of the State Employees Retirement Act];
- Section 17: auditor makes annual report of the system to the Public Employees Retirement Board and the Clerk of the Legislature; members of Legislature may request copy [tracks 84-1315 of the State Employees Retirement Act];
- Section 18: retirement system may sue and be sued; Attorney General shall represent the system [tracks 84-1316 of the State Employees Retirement Act];
- Section 19: employees are eligible to retire at age 55 or at any age as a result of disability; establishes application process for benefits, deferment and Public Employees Retirement Board duties regarding unclaimed benefits [tracks 84-1317 of the State Employees Retirement Act];
- Section 20: employee benefits; retirement value determined under provisions of section 19; computed in accordance with section 11 [tracks 84-1318 of the State Employees Retirement Act];
- Section 21: future service retirement benefits when payable; establishes how retirement benefits are computed; sets forth selection of annuity; lists Public Employee Retirement Board responsibilities to provide tax information; describes deferment of benefits [tracks 84-1319 of the State Employees Retirement Act];
- Section 22: creates the School Employees Equal Retirement Benefit Fund; establishes Fund uses; administered by the Public Employees Retirement Board [tracks 84-1319.01 of the State Employees Retirement Act];
- Section 23: describes payment of benefits to employee upon termination of employment and how benefits are computed; benefits may be deferred no later than age 70 ½ years of age; vesting occurs in 5 years [tracks 84-1321 of the State Employees Retirement Act];
- Section 24: employer accounts of non-vested members are forfeited; creates the Employer Cash Balance Retirement Expense Fund that is administered by the Public Employees Retirement Board to be used for Board expenses to administer the System [tracks 84-1321.01 of the State Employees Retirement Act];

- Section 25: employees who have had a five-year break in service are considered new employees for purposes of the School Employees Cash Balance Retirement Act and do not receive credit for prior service; members who cease employment before becoming eligible for retirement under section 19 of this Act, and again become an employee prior to a five-year break in service, are immediately re-enrolled in the system and resume making contributions [tracks 84-1322 in State Employees Retirement Act];
- Section 26: a disabled beneficiary under age 65, who is restored to active service and is declared no longer disabled, becomes a member of the retirement system. If the examining physician certifies that the returning beneficiary has a permanent disability, the beneficiary retains his or her disability allowance if the beneficiary works fewer than 15 hours per week [tracks 79-954 of the School Employees Retirement Act];
- Section 27: if a member terminates employment for any reason other than death or retirement, the Public Employees Retirement Board, shall (if requested by the member) terminate his or her membership and pay the requester his or her accumulated contribution [tracks 79-955 of the School Employees Retirement Act];
- Section 28: describes death benefit paid if member dies before retirement; the amount of the benefit is equal to the benefit provided in section 11 of this Act [tracks 84-1323 of the State Employees Retirement Act];
- Section 29: any member regardless of length of service, may retire as a result of a disability upon certified by physical to the Public Employees Retirement Board; describes application process [tracks 84-1323.01 of the State Employees Retirement Act];
- Section 30: retirement benefits are exempt from legal process, except to the extent benefits are subject to a qualified domestic relations order [tracks 84-1324 of the State Employees Retirement Act];
- Section 31: describes treatment of employees during military service [tracks 84-1325 of the State Employees Retirement Act];
- Section 32: membership status is not lost while members remain employees [tracks 84-1326 of the State Employees Retirement Act];
- Section 33: false or fraudulent acts are prohibited in claiming a benefit; penalties are described; benefits may be denied [tracks 84-1327 of the State Employees Retirement Act];
- Section 34: retirement allowances and benefits are in addition to benefits and allowance payable under Social Security Act [tracks 84-1328 of the State Employees Retirement Act];
- Section 35: claims or demands against the School Employees Cash Balance Retirement Act and against the System or Public Employees Retirement Board are forever barred unless brought within 2 years after the claim accrues [tracks 84-1329 of the State Employees Retirement Act];

- Section 36: contributions are held in trust by the employer for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and administrative costs [tracks 84-1329.04 of the State Employees Retirement Act];
- Section 37: upon termination or partial termination of the retirement system or complete discontinuance of contributions, the rights of affected members to amounts credited to the members' accounts are non-forfeitable [tracks 84-1329.05 of the State Employees Retirement Act];
- Section 38: [amends 4-108] adds School Employees Cash Balance Retirement Act to prohibition on providing public benefits to persons not lawfully present within the United States;
- Section 39: [amends 23-2301] amends the definition of "employee" under the County Employees Retirement Act by also excluding members of the School Employees Cash Balance Retirement Act from the definition;
- Section 40: [amends 42-1102] adds School Employees Cash Balance Retirement System to list of statewide public retirement systems covered under Spousal Pension Rights Act;
- Section 41: [amends 68-621] adds members of the School Employees Cash Balance Retirement System to description of specific groups under the social security referendum provision;
- Section 42: [amends 79-408] clarifies that the board of education shall not establish a retirement system for new employees supplemental the School Employees Retirement Act or the School Employees Cash Balance Retirement Act;
- Section 43: [amends 79-902] amends the definition of "school employee" under the School Employees Retirement Act as being limited to persons who receive compensation prior to July 1, 2011, the effective date of this Act;
- Section 44: [amends 79-979] amends Class V School Employees Retirement Act and clarifies that members of the School Employees Cash Balance Retirement System are not part of the Class V Retirement System;
- Section 45: [amends 79-1003] amends the Tax Equity and Educational Opportunities Support Act by allowing employer contributions above 7.35% pursuant to section 9 of this Act to be outside the lid until 2013-14;
- Section 46: [amends 79-1028.01] amends provision allowing a school district to exceed its maximum general fund budget for employer contributions pursuant to section 9 of this Act that exceed 7.35% until 2013-14;
- Section 47: [amends 79-2116] compensation paid to school employees for services provided to a learning community are subject to the School Employees Cash Balance Retirement Act;



- Section 48: [amends 84-1301] exempts persons eligible for membership in the School Employees Cash Balance Retirement Act from the definition of "employee" under the State Employees Retirement Act;
- Section 49: [amends 84-1501] clarifies that the school representative on Public Employees Retirement Board may be a participant in the School Employees Cash Balance Retirement System; strikes obsolete language;
- Section 50: [amends 84-1511] adds members of the School Employees Cash Balance Retirement System to the list of employees who are eligible to participate in the comprehensive preretirement planning programs established by the Public Employees Retirement Board.

*NOTE: Under Interim Study LR 210 introduced by the Committee, an actuarial analysis will be conducted to determine the fiscal impact of requiring all new school employees to become members of a newly created School Employees Cash Balance Retirement Plan.*

## **LB 688**

Beginning January 1, 2012, LB 688 requires county, municipal county, city, village, rural or urban fire protection district law enforcement and firefighters to continue employment until age 55 in order to receive full retirement benefits. LB 688 would allow law enforcement officers and firefighters to retire before age 55 with reduced retirement benefits.

LB 688 also prohibits any person who begins to hold elective office after January 1, 2012, from participating or receiving pension or retirement benefits.

### Background:

The proposed changes in section 1 of LB 688 would make the eligibility age for full retirement benefits for local law enforcement and firefighters the same as the eligibility age for State Patrol officers under the Nebraska State Patrol Retirement Act.

State Patrol members are eligible for retirement with full benefits at age 55 with 10 years of service, and eligible to receive early retirement with reduced benefits at age 50 with 25 years of service.

The retirement age for law enforcement and firefighters with full benefits (as well as early retirement with reduced benefits) currently varies among political subdivisions as follows:

Political Subdivision	Position	Retirement Age Eligibility Type of Plan	In state statute or local ordinance
Metropolitan City (Omaha)	Police and Firefighter	Full --45 with 20 years Early -50 with 10 years (DB plan)	Statutes repealed in 1973; Covered by local ordinance
Primary City (Lincoln)	Police and Firefighter	Current employees - 53 with 21 years New hires - 50 with 25 years (DB plan) DROP available	Statutes repealed in 1987; Covered by local ordinance
First Class City	Police	Full -- 60 Early -- 55 with 25 years Employees hired pre- 1984 -- DB plan Employees hired after 1984 -- DC plan	Statute sections 16-1007 & 16-1013
First Class City	Firefighter	Full -- 55 Early -- 50 with 21 years Employees hired pre- 1984 -- DB plan Employees hired after 1984 -- DC plan	Statute sections 16 -1028 & 16-1029
County	Police and firefighter	Full -- 55 Employees hired pre- 1984 -- DB plan Employees hired after 1984 -- DC plan	State statute Chapter 23
Rural & Urban Fire District	Fire fighter	Full -- 55 Employees hired pre- 1984 -- DB plan Employees hired after 1984 -- DC plan	Statute sections 16-1007 & 16-1013

DB            Defined Benefit  
 DROP        Deferred Option Retirement Plan  
 DC            Defined Contribution

**Section-by-Section Summary of LB 688:**

- Section 1:        Beginning January 1, 2012, county, municipal county, city, village, rural or urban fire protection district law enforcement and firefighters are required to continue employment until age 55 in order to receive full retirement benefits. Law enforcement officers and firefighters may retire before age 55 with reduced retirement benefits.
- Section 2:        Any person who begins to hold elective office after January 1, 2012, is prohibited from participating or receiving pension or retirement benefits.
- Section 3:        The Act becomes operative January 1, 2012.

## V. Bill Status Chart

LB #	INTRODUCER & ONE-LINER	HEARING DATE	COMMITTEE ACTION	STATUS
246	<i>(Karpisek)</i> Provide Patrol retirement benefits to remarried spouse	Feb 15	Amended into LB 509	IPP
303	<i>(McCoy)</i> Eliminate restriction on investment in certain corporations doing business in Northern Ireland	Jan 27	Advanced	Enacted
307	<i>(Karpisek)</i> Require continued DROP contributions under the State Patrol Plan	Feb 15	IPP	IPP
382	<i>(Nordquist at request of the Governor)</i> Change deposit and contributions rates for School Employees and State Patrol Retirement Systems	Feb 1	Revised -- Comm AM 1101; incorporated LB 510 as revised	Enacted
474	<i>(Committee)</i> Require certain retirement reports to be submitted to the Auditor of Public Accounts	Jan 27	Revised -- Comm AM 123	Enacted
486	<i>(Louden)</i> Change provisions relating to compensation and contributions under the School Employees Retirement Act	Feb 8	Revised -- incorporated into LB 509, Comm AM 549	IPP
509	<i>(Committee)</i> Change provisions relating to retirement	Feb 8	Revised -- Comm AM 549; incorporated LBs 246, 486 and 532	Enacted
510	<i>(Committee)</i> Change Class V School Employee retirement contribution rate	Feb 1	Revised -- incorporated into LB 382, Comm AM 1101	IPP
532	<i>(Karpisek)</i> Provide for potential transfer of certain Department of Labor employees to the State Employees Retirement System	Feb 1	Incorporated into LB 509, Comm AM 549	IPP
679	<i>(Heidemann)</i> Provide for new judges and State Patrol officers to become members of the State Employees Retirement System	Mar 1	Held in Comm	Interim Study LR 210 and actuarial analysis to determine costs/savings
680	<i>(Heidemann)</i> Adopt the School Employees Cash Balance Act for new school employees	Mar 1	Held in Comm	Interim Study LR 210 and actuarial analysis to determine costs/savings
688	<i>(Smith)</i> Require certain law enforcement officers and firefighters to work until age 55 to receive full benefits; prohibit elective officers from receiving retirement benefits	Feb 15	Held in Comm	Interim Study LR 216 Joint Study with Business & Labor Committee

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## VI. Interim Study Resolutions

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### *Prioritization*

LR #	Subject and Joint Referencing	Introducers	Priority Ranking
LR 210	Study employee retirement systems administered by the Public Employees Retirement Board.	<i>Nebraska Retirement Systems Committee</i>	1
LR 215	Examine issues related to political subdivision defined benefit plans. <i>(Referenced as a Joint Study with Business and Labor Committee)</i>	<i>Nebraska Retirement Systems Committee</i>	2
LR 216	Study public employee contracts entered into pursuant to collective bargaining and benefits for public officials. <i>(Referenced as a Joint Study with Business and Labor Committee)</i>	<i>Smith, Ashford, Lathrop, Nordquist</i>	3
LR 262	Examine effects of imposed an earning cap on calculation of a final pensionable salary for school employees.	<i>Louden, Heidemann, Karpisek, Mello, Nordquist, Pankonin</i>	4

### LR 210

PURPOSE: The purpose of this study is to examine the public employees retirement systems administered by the Public Employees Retirement Board, including the State Employees Retirement System, the County Employees Retirement System, the School Employees Retirement System, the Nebraska State Patrol Retirement System, and the Judges Retirement System. The study may also examine the Class V School Employees Retirement System administered under the Class V School Employees Retirement Act.

The study will examine issues as they relate to the funding needs, benefits, contributions, and the administration of each retirement system.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION

1. That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

## LR 215

Introduced by Nebraska Retirement Systems Committee

PURPOSE: The purpose of this interim study is to examine issues related to defined benefit plans of political subdivisions.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations to the Legislative Council or Legislature.

## LR 216

Introduced by Smith, Ashford, Lathrop, Nordquist

PURPOSE: The purpose of this resolution is to study public employee contracts entered into pursuant to collective bargaining and benefits for public officials. For purposes of this resolution, public employee has the same meaning as in section 49-1422, and public official has the same meaning as in section 49-1443. The study shall include the following:

1. An examination of benefits, including wages, pension, retirement, and health insurance benefits;
2. An examination of employee and employer contributions to pension, retirement, and health insurance plans;
3. An examination of minimum and mandatory retirement age and purchase of service provisions; and
4. An examination of the total costs associated with benefit packages.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Business and Labor Committee and the Nebraska Retirement Systems Committee of the Legislature shall be designated to conduct a joint interim study to carry out the purposes of this resolution.
2. That the committees shall upon the conclusion of their study make a report of their findings, together with their recommendations, to the Legislative Council or Legislature.

## LR 262

Introduced by: Louden, Heidemann, Karpisek, Mello, Nordquist, Pankonin

PURPOSE: To examine the effects of imposing an earning cap on the calculation of a final pensionable salary for school employees.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, FIRST SESSION

1. That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purposes of this resolution.
2. That the Committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

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## VII. Appendices

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# Appendix A

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## School Employee and Employer Contribution Rates 1945 - 2017

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YEAR	EMPLOYEE	EMPLOYER
1945 -1950	5% of first \$2,400, max = \$120/yr	None
1951 -1966	5% of first \$2,400 or \$3,600 max = \$120/ or \$180/yr	None
1967-1976	3.50% (all compensation)	20% of employee = .70%
1977	3.50%	45% = 1.57%
1978 - 1979	3.50%	55% = 1.92%
1980	3.50%	58% = 2.03%
1981	3.50%	41% = 1.43%
1982	3.50%	45% = 1.57%
1983	3.50%	53% = 1.85%
1984 - 1985	4.80%	100% = 4.80%
1986 -1987	5.40%	101% = 5.45%
1988	49.75% of actuarially determined funding rate = 5.40%	101% = 5.45%
1989	49.75% of actuarially determined funding rate = 5.90%	101% = 5.96%
1990	49.75% of actuarially determined funding rate = 6.18%	101% = 6.24%
1991 - 1993	49.75% of actuarially determined funding rate = 6.52%	101% = 6.58%
1994	49.75% of actuarially determined funding rate = 7.73%	101% = 7.81%
1995	49.75% of actuarially determined funding rate = 7.26%	101% = 7.33%
1996 - 2004	7.25%	101% = 7.32%
2005	7.98%	101% = 8.06%
2006	7.83%	101% = 7.91%
2007	7.25%	101% = 7.32%
2008	7.28%	101% = 7.36%
2009 - 2010	8.28%	101% = 8.36%
2011	8.88%	101% = 8.97%
2012 - 2016	9.78%	101% = 9.88%
2017	7.28%	101% = 7.36%

Source: The Legislative Fiscal Office compiled the 1945-1988 data. Fiscal years 1988-1996 are based on School Employees Retirement System Annual Actuarial Reports. The 1997-2017 updates were compiled by Kate Allen, Nebraska Retirement Systems Committee Legal Counsel, based on Annual Actuarial Reports and legislation enacted in 2011.

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## Appendix B

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## Legislative History of Purchasing Power Cost-of-Living Adjustments (COLAs)

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In 1992 the Nebraska Retirement Systems Committee (Committee) conducted a Benefit Adequacy Interim Study (LR 328) in which Buck Consultants identified the lack of cost-of-living-adjustments (COLAs) as a major weakness of each of the five Nebraska retirement systems. The report also identified three different COLA programs that could be implemented in the defined benefit plans: 1) duration based; 2) Consumer Price Index based; and 3) restoration of purchasing power. Due to the cost estimates of the first two options, the Committee focused on the implementation of the third option – the restoration of purchasing power COLA.

In 1989 the Legislature passed the Help Education Lead to Prosperity (HELP) Act to provide state sponsored supplemental pay to Nebraska teachers. The original appropriation was \$20 million. The amount was gradually reduced due to fiscal concerns until 1995 when the appropriation was approximately \$6.9 million.

In 1996, Senator Bob Wickersham, Chairman of the Nebraska Retirement Systems Committee, introduced LB 700, which among other benefit enhancements, included a provision to establish a 50% purchasing power COLA for the three defined benefit plans (Schools, Judges and State Patrol). Under LB 700, the COLA is activated automatically when the value of each member's retirement benefit drops below 50% (as measured by the Consumer Price Index). In order to fund these COLAs, LB 700 proposed to dissolve the HELP Act and divert the appropriations to the three defined benefit plans.

The \$6,985,000 remaining HELP appropriation was divided based on total membership and retirement ratios in each of the retirement systems. Below is a table which includes: the plan, statutory section containing the formula language, the percentage each plan receives, and the dollar amount that equates to the formula percentage of \$6,985,000. Class V (Omaha) School Employees Retirement (OSERS) was included in the formula because a portion of the original HELP funds was also distributed to Omaha teachers.

Plan	Statutory Section	Formula Percentage	State Annual Contribution
Judges	§24-710.07	1.03778%	\$ 72,244
State Patrol	§81-2027.03	3.04888%	\$ 210,220
Schools	§79-947.01	81.7873%	\$5,638,937
Omaha Schools	§79-988.01	14.11604%	\$ 973,300*

Under LB 700 as introduced and enacted, the state annual level dollar payments to the Judges, State Patrol and School Employees Retirement defined benefit plans were scheduled to sunset

at the end of fiscal year 2010-2011. The annual level dollar payments to the Omaha School Employees Retirement System did not include a sunset provision.

#### Legislative Changes in 2010

In 2010, Senator Jeremy Nordquist introduced LB 899, which would have stricken the 2010-2011 sunset provisions in the Judges, State Patrol and School Employees Retirement Acts and continued the annual level dollar payments to each of the retirement systems. LB 899 was revised in Committee to extend the sunset provisions to fiscal year 2012-2013. LB 899 as revised, was incorporated into LB 950 and enacted.

#### Legislative Change in 2011

The Committee revised LB 382 and inserted a sunset provision for the state payment of the Omaha School Employees Retirement System purchasing power COLA. Under LB 382 as enacted, the state-funded annual level dollar payment to the Omaha School Employees Retirement System for the purchasing power COLA sunsets at the end of fiscal year 2013-2014.

## Appendix C

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## Nebraska State Patrol Contribution Rates 1947 - 2013

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	1947	1971	1975	1995	2004	2005	2009	2010	2011	2013
Patrol	5%	7%	8%	10%	12%	13%	15%	16%	19%	16%
State	5%	7%	8%	10%	12%	15%	15%	16%	19%	16%

### Patrol Member and State Contributions Including Additional General Fund Appropriations

Plan Year	State Patrol Contributions	State Contributions	Additional General Funds Appropriated	Total State Funds
1994	531,742	531,742	0	531,742
1995	510,935	510,935	125,897	636,832
1996	670,060	670,060	0	670,060
1997	864,389	864,389	0	864,389
1998	857,473	857,473		857,473
1999	876,739	876,739	0	876,739
2000	930,743	1,367,502*	0	1,367,502
2001	979,152	979,152	0	979,152
2002	1,128,805	1,128,805	0	1,128,805
2003	1,206,881	1,206,881	0	1,206,881
2004	1,372,985	1,372,985	434,202	1,807,187
2005	1,525,322	1,647,348	948,654	2,596,002
2006	1,883,049	2,033,692	1,080,050	3,113,742
2007	1,971,215	2,128,912	813,159	2,942,071
2008	2,112,864	2,281,893	365,020	2,646,913
2009	2,180,873	2,180,873	812,087	2,992,960
2010	2,101,583	2,101,583	1,801,610	3,903,193
2011	2,298,665	2,298,665	1,163,874	3,462,539
2012	2,298,665	2,298,665	2,439,328	4,737,993

Source: Nebraska State Patrol Retirement Plan Annual Actuarial Reports  
 Compiled by: Kate Allen, Nebraska Retirement Systems Committee Legal Counsel, May 2011

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## Appendix D

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State of Nebraska  
Department of Labor

January 15, 2010

A History of the Nebraska Department of Labor Independent Retirement Plan

As a result of a benefits survey done in 1957, the United States Department of Labor (USDOL) began to encourage those states without retirement plans for the workers in their State Employment Security Agency (SESA) programs (state unemployment and employment service programs) to establish retirement plans for those employees.<sup>1</sup> [Note: Source documents referenced in the footnotes are contained in a single binder in the office of the NDOL General Counsel and are available for viewing.] At the time of the 1957 survey, only ten states lacked retirement plans that applied to SESA employees. By 1961, only six states did not provide retirement plans for their SESA employees, Nebraska, Idaho, Utah, Oklahoma, North Dakota and South Dakota.<sup>2</sup> Each of those six states eventually enacted legislation providing for independent retirement plans for their SESA employees. In 1961, the Nebraska Legislature amended *Neb. Rev. Stat.* §48-609 to authorize the Commissioner of Labor to establish an independent retirement plan (IRP) for employees of “the division [of employment]” paid with federal funds under Title III of the Social Security Act and other federal acts.<sup>3</sup> Employees working in the Unemployment Insurance and Wagner-Peyser (employment service) programs or providing administrative support to such programs comprised the employees of the NDOL eligible to enroll in the IRP. Although other federally funded programs were later added to the administrative responsibilities of the NDOL, eligibility for participation in the IRP was never extended beyond the original group of eligible participants.

*Neb. Rev. Stat.* §48-609 gives the Commissioner the option of contracting with an insurance company licensed in Nebraska to administer the IRP. After bids were solicited, Bankers Life of Des Moines, Iowa (now Principal Financial Group) was selected to administer the IRP. The contract entered into with Bankers Life provided for the establishment of a defined benefit plan.<sup>4</sup> When an employee participating in the IRP retired, Bankers Life purchased a retirement annuity on behalf of the employee. At least as early as 1968, Article VIB of the IRP provided for the termination of the IRP with the assets of the IRP to be distributed to the active and retired plan participants according to a formula set forth in the IRP.<sup>5</sup> Employee contributions were initially set at three percent of wages with the NDOL responsible for the employer’s normal cost contribution. The normal cost contribution cost was funded through a combination of administrative grants and supplemental budget requests (SBR) to USDOL.<sup>6</sup> The initial employee

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<sup>1</sup> History of the Negotiations: Independent Retirement Plans in State Employment Security Agencies between 1957 and 1981 by Sandra L. Benbrook (1983).

<sup>2</sup> *Id.*

<sup>3</sup> Laws 1961, c. 240, §1, page 715.

<sup>4</sup> Bankers Life of Iowa Group Contract No. GA 3987 (1981 Restatement)

<sup>5</sup> *Id.*

<sup>6</sup> History of the Negotiations: Independent Retirement Plans in State Employment Security Agencies between 1957 and 1981 by Sandra L. Benbrook (1983).

## History of Department of Labor Independent Retirement Plan

contribution rate of three percent was subsequently increased over the years with the employee contribution rate ultimately rising to seven percent in February 1978.<sup>7</sup>

When the state retirement system was created in 1963, employees in the IRP were specifically excluded from the state retirement system in the enacting legislation.<sup>8</sup> Exclusion of SESA employees from state retirement systems was encouraged by the USDOL.<sup>9</sup> The remaining NDOL employees have been included in the state retirement plan since its inception. Despite the creation of the state retirement system in 1963, the responsibility for the administration of the IRP and the investment of its assets was left with the Commissioner of Labor and was not transferred to the newly created state retirement system.

The original IRP did not provide for a cost of living adjustment (COLA) for retirees. Because the IRPs in the six states were patterned after other existing retirement plans in those states, the six IRPs differed in the six states. During the 1970's, the USDOL, ETA encouraged the SESAs to revise their independent plans, for consistency, to coincide with the Federal Civil Service Retirement Plan. The Federal Civil Service Retirement plan contained a COLA. The Nebraska IRP was amended to more closely model the federal retirement in 1978 when employee contributions were increased and again in 1980 with the institution of a COLA. In Field Memorandum 140-80 the USDOL agreed to fund a COLA in the six states with independent retirement plans retroactive to November 1, 1979.<sup>10</sup> The COLA was applicable to all retirees of the NDOL even those retiring prior to 1979 and employee contributions were increased to seven percent. The COLA is an unlimited COLA tied to the same CPI as Social Security Benefits and the adjustment is made on December 1<sup>st</sup> of each year. The COLAs are funded through the purchase of additional annuities for the retirees each year. The 2008 restatement of the IRP specifically provides that in the event of termination of the plan, no further COLAs will occur.<sup>11</sup> The December 1, 1995 COLA was delayed to March 1, 1996 with no retroactivity to the previous December and without amendment of the IRP because federal law delayed payment of the December 1, 1995 COLA to Social Security Recipients<sup>12</sup>. The July 1, 2009 actuarial valuation of the IRP shows an actuarial valuation of plan liabilities of \$90,851,827 and a market value of plan assets of \$68,615,648.<sup>13</sup> The actuarial assumptions behind that \$22,236,179 shortfall are predicated upon a three percent average inflation rate. While historically accurate, a three percent average inflation rate may understate the potential shortfall if an inflationary cycle follows the current recession.

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<sup>7</sup> Bankers Life of Iowa Group Contract No. GA 3987 (1984 Reissue)

<sup>8</sup> LB 512 (Laws 1963, c. 532, §1, page 1667)

<sup>9</sup> History of the Negotiations: Independent Retirement Plans in State Employment Security Agencies between 1957 and 1981 by Sandra L. Benbrook (1983).

<sup>10</sup> Id at Exhibit 9.

<sup>11</sup> State of Nebraska, Department of Labor, Retirement (sic) Plan, Restated July 1, 2008, Article 4.06.

<sup>12</sup> Letter from Kay Marti to Retirees (March 4, 1996).

<sup>13</sup> State of Nebraska, Department of Labor, Division of Employment Retirement Plan 4-33761 Actuarial Valuation Report for the plan year July 1, 2009 through June 30, 2010, page IV-1

## History of Department of Labor Independent Retirement Plan

Even after the six states with an IRP for SESA employees adopted retirement plans covering all state employees, the IRP plans of the six states remained in place and were generally considered to be more beneficial to the employees than the retirement plans that applied to other state employees.<sup>14</sup> On November 2, 1983 the USDOL announced final regulations which provided that a state SESA must comply with the retirement benefit provisions of OMB Circular A-87 as to all employees hired by the SESA after October 1, 1983.<sup>15</sup> Because the Nebraska IRP was substantially more beneficial and more expensive than the retirement program provided to employees of the NDOL paid from state funds, the NDOL IRP did not conform to OMB Circular A-87 and NDOL needed to close off membership to its IRP.<sup>16</sup> Since Nebraska's IRP was authorized in statute, it could not immediately comply with the new federal regulations. Negotiations with USDOL ensued and it was eventually agreed that a July 1, 1984 cutoff of membership to the NDOL IRP would be acceptable. During the 1984 legislative session, *Neb. Rev. Stat.* §48-609 was amended to limit participation in the IRP to those employees of the Division of Employment first employed prior to July 1, 1984.<sup>17</sup> LB 747 further amended *Neb. Rev. Stat.* §84-1301 to provide that employees of the NDOL employed on or after July 1, 1984 would be placed in the state employees' retirement system. With the closing of the state SESA IRPs to new members in 1984, it created a substantial unfunded liability on the part of the states. The states made demand upon USDOL for assistance in addressing the unfunded liability issue. Although neither the original demand letter nor the ultimate agreement has been located, the USDOL eventually agreed to continue to fund the state SESA IRPs until they were fully funded, an estimated 30 year process.<sup>18</sup> The unfunded liability issue was to be addressed through SBRs and SBRs were submitted to USDOL from 1984 through 1992. The actual date the state IRPs were expected to be fully funded is not set forth in any document that has been found at NDOL, but from various documents and statements from participants in the process it appears that the final contribution by USDOL was expected to occur in 2014.

In the early 1990's, Principal began to report to NDOL that the IRP was nearing fully-funded status.<sup>19</sup> The Commissioner of Labor appointed a "task force" to review the IRP and "make a recommendation on how to proceed with future contributions."<sup>20</sup> In a June 28, 1994 letter to the Commissioner of Labor, the USDOL Grant Officer states that the prior agreement of USDOL to be responsible for unfunded liabilities of the Nebraska IRP was contingent upon NDOL's agreement to continue

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<sup>14</sup> History of the Negotiations: Independent Retirement Plans in State Employment Security Agencies between 1957 and 1981 by Sandra L. Benbrook (1983).

<sup>15</sup> 48 FR 50662-01 (November 2, 1983).

<sup>16</sup> Legislative History of Laws 1984, LB 747, Testimony of Pam Mattson, NDOL Legislative Liaison (XXXXX, Commissioner of Labor)

<sup>17</sup> Laws 1984, LB 747.

<sup>18</sup> History of the Negotiations: Independent Retirement Plans in State Employment Security Agencies between 1957 and 1981 by Sandra L. Benbrook (1983); DE Retirement Task Force "Memorandum" to DE Retirement Plan Participants (June 22, 1994).

<sup>19</sup> Letter from Dan Dolan, Commissioner of Labor to William Hood, Acting Regional Administrator, Region VII, USDOL (April 22, 1994).

<sup>20</sup> Memorandum of Dan Dolan, Commissioner of Labor to Department of Labor Employees (March 3, 1994).

## History of Department of Labor Independent Retirement Plan

employee contributions of 7% of their salaries.<sup>21</sup> The Grant Officer further informed the Commissioner that if NDOL ended employee contributions, USDOL would no longer be responsible for any future unfunded liabilities of the IRP. The Grant Officer's correspondence was faxed to the NDOL Controller on June 28, 1994.<sup>22</sup> On September 30, 1994, the Task Force recommended to the Commissioner that employee contributions be suspended immediately and that a variable rate of contributions "based upon needs of the plan to be equally matched by the employer and employees."<sup>23</sup> The Task Force specifically rejected suggestions from USDOL that an outside actuary evaluate the plan, believing that a second actuarial valuation would be a waste of money.<sup>24</sup> On October 28, 1994 the Commissioner of Labor submitted amendments of the IRP to the Regional Administrator of Region VII for review and approval.<sup>25</sup> On October 31, 1994, the Regional Administrator acknowledged receipt of the October 28, 1994 letter from the Commissioner and suggested that the employee contribution rate only be reduced to three and one-half percent.<sup>26</sup> In the letter to the Commissioner the Regional Administrator further stated:

[R]eduction of the contribution rate to zero could result in the loss of future special administrative financing from the Employment and Training Administration for the employer contribution. If that should happen any future employer contributions would have to come from the administrative funds of the Employment Security (Job Service and Unemployment Insurance) grants. We should also note that that an employer's contribution in excess of 7%, should the current actuarial projection prove to be seriously over optimistic, could probably not be allowed.<sup>27</sup>

On November 3, 1994, the Commissioner informed the Regional Administrator that he was going forward with the amendments as originally submitted.<sup>28</sup> No formal response to the Commissioner from USDOL was found in the records of NDOL. On November 4, 1994, the Commissioner announced that he was terminating employee contributions to the IRP effective November 1, 1994.<sup>29</sup>

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<sup>21</sup> Letter from William Hood, Grant Officer, to Dan Dolan, Commissioner of Labor (June 28, 1994).

<sup>22</sup> Fax from Ray Moritz, OAS Director USDOL Region VII to Kay Marti, NDOL Controller (June 28, 1994).

<sup>23</sup> Memorandum from DE Retirement Task Force (Bob King, Gary Zook, Kay Marti, Leesa Anderson, Joyce Bennett, Jim Kozol, Larry Peterson, Betty Shrader, Carolyn Stuczyski, and Jolee Wheatley) to Commissioner of Labor, Dan Dolan (September 30, 1994).

<sup>24</sup> Id.

<sup>25</sup> Letter, Dan Dolan, Commissioner of Labor to William Hood, Regional Administrator, USDOL Region VII (October 28, 1994).

<sup>26</sup> Letter from William Hood, Regional Administrator, USDOL Region VII to Dan Dolan, Commissioner of Labor (October 31, 1994).

<sup>27</sup> Id.

<sup>28</sup> Letter, Dan Dolan, Commissioner of Labor to William Hood, Regional Administrator, USDOL Region VII (November 2, 1994).

<sup>29</sup> Memorandum from Dan Dolan, Commissioner of Labor to Division of Employment Retirement Plan Participants (November 3, 1994).

## History of Department of Labor Independent Retirement Plan

Prior to November 1998, when an IRP plan participant retired, an annuity was purchased on the retiree's behalf from Principal. In 1998, the method for paying IRP plan participants was substantially changed. Rather than purchasing an annuity for those retiring on or after November 1, 1998, the retirement benefits of those retirees are paid from the assets of the plan. The assets of the plan are also used to purchase additional "COLA" annuities for those who retired prior to November 1, 1998. In effect, the IRP became self-funded relying upon the assets of the plan for the payment of future retirement benefits with no additional contributions from the NDOL or its employees. The revised IRP utilizes a "Benefit Index System" to "guarantee" the retirement benefits of the post November 1, 1998 retirees. The guarantee is a mechanism which authorizes Principal to liquidate IRP fund assets and use the proceeds to purchase annuities on behalf of those retirees paid directly from the assets of the IRP if the assets of the IRP drops below 110% of the projected liability to the current retirees paid directly from the assets of the IRP.<sup>30</sup>

In 1999, the IRP assets exceeded the present value of the plan benefits.<sup>31</sup> Consequently, in order to reduce the amount by which the IRP was overfunded, a decision was made to enhance benefits to Active Participants and retirees through the buyback of service year credits, the adjustment of benefit calculations for Active Participants and the payment of a "13<sup>th</sup> Check" to retirees on January 31, 2000.<sup>32</sup>

The actuarial value of the assets of the IRP exceeded the present value of plan benefits on July 1, 2001, but the market value of the assets did not.<sup>33</sup> The market value of the assets of the IRP continued to be less than the present value of plan benefits on July 1, 2002<sup>34</sup>. The gap between market value of the assets of the IRP and the present value of the plan benefits in these years was approximately \$2 million in each of those years. Because of the declines in the market value of the assets of the IRP, discussions began as to whether the IRP could or should be terminated. Principal was asked to begin calculations as to what it would take to terminate the plan and provide benefits that approximated the level of benefits outlined in the IRP. With the stock market's recovery from the 9-11 recession, on July 1, 2003 both the market value and the actuarial value of the assets of the IRP exceeded the present value of IRP plan benefits.<sup>35</sup> However, the 2003 valuation report also contained a warning:

Please note the upcoming retirement charges shown on the Emerging Retirement Liability page in Section VI. Assets may not be sufficient to cover future benefit index charges. You may need to consider making contributions to the plan or reducing future benefits.<sup>36</sup>

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<sup>30</sup> Group Annuity Contract, Principal Life Insurance Company Group Contract No. GA 4-33761 (November 18, 1998).

<sup>31</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 1999 (Prepared by Principal Financial Group).

<sup>32</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2000 (Prepared by Principal Financial Group).

<sup>33</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2001 (Prepared by Principal Financial Group).

<sup>34</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2002 (Prepared by Principal Financial Group).

<sup>35</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2003 (Prepared by Principal Financial Group).

<sup>36</sup> Id. at page II-2

## History of Department of Labor Independent Retirement Plan

By July 1, 2004 the market value of the assets of the IRP exceeded the present value of IRP benefits by over \$7 million.<sup>37</sup> However, the 2004 report repeated the warning of the 2004 valuation report regarding the Emerging Retirement Liability issue.<sup>38</sup> Discussions within the NDOL intensified as to whether the IRP should be terminated and further discussions were had with Principal as to termination of the plan. The NDOL IRP advisory committee reviewed information from Principal in the fall of 2004 and recommended that the IRP be terminated as the assets appeared to be sufficient to purchase annuities for all retirees and Participants with a yearly 2% COLA. The advisory committee's recommendation was communicated to Principal. On December 20, 2004 Principal reported to the NDOL Controller that the assets of the IRP as of December 20, 2004 were in excess of \$114 million and sufficient to terminate the IRP through the purchase of annuities for all past and future retirees, including death benefits, and a 2% yearly COLA.<sup>39</sup> In an email message sent to Principal that same day, the Controller advised the IRP Advisory Committee that the Commissioner had decided not to adopt its recommendation that the IRP be terminated.<sup>40</sup> Principal employees maintain that during telephone conversations with the Commissioner they recommended that he implement the recommendation of the IRP Advisory Committee to terminate the IRP. The IRP Advisory Committee was not consulted prior to the Commissioner's decision not to accept its recommendation. Reportedly the Commissioner's decision not to adopt the recommendation of the IRP Advisory Committee was made because some of the retirees threatened to sue the Commissioner if any limitations were placed upon the amount of the yearly COLA.

The Actuarial Valuation Reports for July 1, 2005, 2006, and 2007<sup>41</sup> continued to repeat the Emerging Retirement Liability warning that had first appeared in the 2003 Actuarial Valuation Report. On September 15, 2008 a new Commissioner<sup>42</sup> was appointed to head the Department of Labor. The new Commissioner was advised that the adequacy of the funding of the IRP was an issue that needed to be addressed and a copy of the July 1, 2007 report was provided to her. NDOL began to insist upon a meeting with Principal. The July 1, 2008 Actuarial valuation was received and showed that the assets of the plan had declined by approximately \$7 million and were now slightly less than the present value of IRP benefits.<sup>43</sup>

For a variety of reasons including meetings cancelled due to road conditions, the meeting with Principal did not occur until mid-January 2009 and then, only by telephone conference call. As of January 12, 2009, the value of the IRP assets was \$69 million<sup>44</sup> as compared to the present value of plan benefits

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<sup>37</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2004 (Prepared by Principal Financial Group).

<sup>38</sup> Id. at page II-2

<sup>39</sup> Email from Mary Draayer to Kay Marti (December 20, 2004).

<sup>40</sup> Email from Kay Marti to Gary Zook, Bonnie McPhillips, John Albin and Bill Ellingrud, copy to Fernando Lecuona II, Commissioner of Labor (December 20, 2004).

<sup>41</sup> Actuarial Valuation Reports [of the NDOL IRP] as of July 1, 2005, 2006 and 2007 (Prepared by Principal Financial Group).

<sup>42</sup> Catherine D. Lang

<sup>43</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2008 (Prepared by Principal Financial Group).

<sup>44</sup> Email from Mary Draayer to John Albin (January 12, 2009).

## History of Department of Labor Independent Retirement Plan

which exceeded \$90 million as of the July 1, 2008 valuation date.<sup>45</sup> During the January 13, 2009 conference call Principal confirmed that the market value of the assets of the IRP remained substantially below the July 1, 2008 present value of plan benefits and options for addressing the shortfall were addressed.

After meeting with Principal, the Commissioner asked Principal to conduct a special review of the status of the plan and what it would cost to terminate the plan with at least some COLA provision included. The Actuarial Funding Projection report was provided to the Commissioner on April 29, 2009. The projections showed that even with a 2% COLA, the then current market value of the assets of the IRP was \$55,027,491 less than the cost of purchasing annuities with a COLA for present and future retirees covered by the IRP.<sup>46</sup>

On March 19, 2009, because the provisions of the “Benefit Index System” required certain levels of assets to be in Fixed assets under the then current market conditions, more IRP assets had to be shifted from Equity to Fixed assets in order to retain that guarantee.<sup>47</sup> The only other alternatives for the Commissioner were to either make an immediate employer contribution of more than \$1.5 million to the IRP<sup>48</sup> or face the liquidation of most of the assets of the IRP in order to cover the Benefit Index requirements of the annuity contract. At present the minimum IRP asset level to continue the Benefits Index guarantee is in excess of \$63 million and the market value of the assets of the IRP is just under \$74 million.<sup>49</sup> Any substantial number of retirements or further stock market declines could trigger an additional shift of assets to fixed assets or additional contributions to the IRP. In order to maximize returns when the stock market begins to recover, it will be necessary to have as much of the IRP assets in equity assets as is possible, but the Benefit Index provisions will make that option difficult to pursue.

With only a little more than 60 active employees still covered by the IRP, it is not possible to bring the plan back through employee contributions at even a 7% contribution rate with an appropriate employer match. The normal cost employer contribution suggested in the July 1, 2009 Actuarial Valuation Report is in excess of \$2 million.<sup>50</sup> Reed Act funds may be used to pay the normal cost contribution but it will require approval by the Governor and is subject to review by USDOL.

The Commissioner has consulted the Nebraska Public Employee Retirement System (December 24, 2008) and the Attorney General’s Office (December 22, 2008) for guidance. Both recommended that an

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<sup>45</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2008 (Prepared by Principal Financial Group).

<sup>46</sup> State of Nebraska, Department of Labor, Division of Employment Retirement Plan 4-33761, Actuarial Funding Projection, Prepared (by Principal Financial Group) April 2009.

<sup>47</sup> Letter from Catherine Lang, Commissioner of Labor to Mary Drayer, Principal Financial Group (March 19, 2009).

<sup>48</sup> Id.

<sup>49</sup> Email from Mary Draayer to John Albin (December 17, 2009).

<sup>50</sup> Actuarial Valuation Report [of the NDOL IRP] as of July 1, 2009 (Prepared by Principal Financial Group).

## History of Department of Labor Independent Retirement Plan

outside actuarial audit be obtained and the outside actuarial audit has been completed.<sup>51</sup> In addition, outside legal counsel has been retained upon the recommendation of the Attorney General to determine options available to the Commissioner. His report is considered confidential and subject to attorney/client privilege.

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<sup>51</sup> State of Nebraska, Department of Labor, Division of Employment Retirement Plan, Actuarial Audit Report (Milliman, November 20, 2009).



## Appendix E

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## Judges and State/Employer Contribution Rates 1955 - 2014

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	1955	1957	1969	2004	2009	2014
Employee	4%*		6%***	8%**	Rate plus 1%	Additional 1% sunsets
Employer+		\$1.00 fee		\$5.00 fee	\$6.00 fee	\$5.00 fee

- \* Original members, i.e. judges who served prior to December 25, 1969 and retired on or before December 31, 1992, contributed 4% for 20 years and 0% thereafter
- \*\* Judges hired after 2004 and judges who select Joint & Survivor Benefit contribute 8% during first 20 years and 4% thereafter
- \*\*\* Future members, i.e. all other judges, contribute 6% during first 20 years and 0% thereafter
- + The "employer" contribution rates are funded by fees assessed on causes of action filed in district and county courts.

