

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

2012 SUMMARY AND DISPOSITION OF BILLS

NEBRASKA LEGISLATURE
One Hundred Second Legislature, Second Session

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I. Numerical Bill Index

LB 867 (<i>Karpisek</i>)	Change employer contribution provisions under certain county retirement plans
LB 916 (<i>Ret. Comm.</i>)	Change provisions relating to retirement
LB 973 (<i>Coash</i>)	Provide for the use of retirement benefits to pay civil damages
LB 1022 (<i>Nordquist</i>)	Change officer and employer contribution rates under the Nebraska State Patrol Retirement Act
LB 1036 (<i>Nordquist</i>)	Provide for a cash balance benefit election for certain county and state employees and create county and state retirement funds
LB 1082 (<i>Karpisek</i>)	Name and change provisions of the Police Officers Retirement Act
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

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II. Bills Listed by Subject Matter

CLASS V (OMAHA) SCHOOL EMPLOYEES RETIREMENT ACT

- LB 916 (*Ret. Comm.*) Change provisions relating to retirement
- LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages

COUNTY EMPLOYEES RETIREMENT ACT

- LB 916 (*Ret. Comm.*) Change provisions relating to retirement
- LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages
- LB 1036 (*Nordquist*) Provide for a cash balance benefit election for certain county and state employees and create county and state retirement funds

DEFERRED COMPENSATION PLAN

- LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages

FIRST CLASS CITY POLICE OFFICERS

- LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages
- LB 1082 (*Karpisek*) Name and change provisions of the Police Officers Retirement Act

FIRST CLASS CITY POLICE OFFICERS

- LB 1082 (*Karpisek*) Name and change provisions of the Police Officers Retirement Act

JUDGES RETIREMENT ACT

- LB 916 (*Ret. Comm.*) Change provisions relating to retirement
- LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages

LANCASTER COUNTY RETIREMENT PLAN

LB 867 (*Karpisek*) Change employer contribution provisions under certain county retirement plans

METROPOLITAN UTILITY DISTRICT

LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages

MUNICIPAL RETIREMENT SYSTEMS

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 STATE PATROL RETIREMENT ACT

LB 916 (*Ret. Comm.*) Change provisions relating to retirement

LB 973 (*Coash*) Provide for the use of retirement benefits to pay civil damages

LB 1022 (*Nordquist*) Change officer and employer contribution rates under the Nebraska State Patrol Retirement Act

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 916 (*Ret. Comm.*) Change provisions relating to retirement

SCHOOL EMPLOYEES RETIREMENT ACT

- LB 916** (*Ret. Comm.*) Change provisions relating to retirement
- LB 973** (*Coash*) Provide for the use of retirement benefits to pay civil damages
- LB 680** (*Heidemann*) Adopt the School Employees Cash Balance Retirement Act

STATE EMPLOYEES RETIREMENT ACT

- LB 916** (*Ret. Comm.*) Change provisions relating to retirement
- LB 973** (*Coash*) Provide for the use of retirement benefits to pay civil damages
- LB 1036** (*Nordquist*) Provide for a cash balance benefit election for certain county and state employees and create county and state retirement funds

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III. Status of Retirement Bills

ENACTED

LB 867 (<i>Karpisek</i>)	Change employer contribution provisions under certain county retirement plans
LB 916 (<i>Ret. Comm.</i>)	Change provisions relating to retirement [Includes LB 973 as amended and LB 1036 as amended]
LB 1082 (<i>Karpisek</i>)	Name and change provisions of the Police Officers Retirement Act

AMENDED INTO OTHER BILLS

LB 973 (<i>Coash</i>)	Provide for the use of retirement benefits to pay civil damages [Incorporated as amended into LB 916 and enacted]
LB 1036 (<i>Nordquist</i>)	Provide for a cash balance benefit election for certain county and state employees and create county and state retirement funds [Incorporated as amended into LB 916 and enacted]

INDEFINITELY POSTPONED

[DIED IN COMMITTEE AT THE END OF SESSION]

LB 973 (<i>Coash</i>)	Provide for the use of retirement benefits to pay civil damages [Incorporated as amended into LB 916 and enacted]
LB 1022 (<i>Nordquist</i>)	Change officer and employer contribution rates under the Nebraska State Patrol Retirement Act
LB 1036 (<i>Nordquist</i>)	Provide for a cash balance benefit election for certain county and state employees and create county and state retirement funds [Incorporated as amended into LB 916 and enacted]
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

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IV. Summary of Retirement Bills

ENACTED

LB 867e Change employer contribution provisions under certain county retirement plans

Status: Approved by the Governor, April 6, 2012

Operative Date: April 7, 2012

Plans: Lancaster County Retirement Plan

Amends: 23-1118

LB 867 reduces the current 150% Lancaster County employer contribution rate match to no less than 100% match for new employees hired after July 1, 2012.

Currently any county with a population between 200,000 and 300,000 (applies only to Lancaster County) is required under Neb. Rev. Stat. 23-1118 to provide a 150% employer match of the employee retirement contribution rate. The county is authorized to set the employee contribution rate, however, the statute limits the combined employee and employer contribution rates to no more than 13% of the employee salary.

Lancaster County has a defined contribution plan. Currently, Lancaster County employees contribute 5.2% and the employer contributes 7.8%.

All other counties (except Douglas County) are covered under the County Employees Retirement Act which currently provides a cash balance plan for all new employees. Employee and employer contribution rates are established in statute under the Act. The employee contribution rate is 4.5% and is matched by the county at 150%.

Douglas County has a defined benefit plan for its county employees. Currently the Douglas County employee contribution rate is 8.5% which is matched by the county at 100%.

COUNTY	EMPLOYEE RATE	EMPLOYER RATE	EMPLOYER MATCH	TYPE OF PLAN
Douglas	8.5%	8.5%	100% match	Defined Benefit
Lancaster	5.2%	7.8%	150% match	Defined Contribution
All other counties	4.5%	6.75%	150% match	Cash Balance

LB 916e Change provisions relating to retirement

Status: Approved by the Governor, April 6, 2012

Operative Date: April 7, 2012

Plan/Agency: Metropolitan Utility District
First Class City Police Officers
First Class City Firefighters
County Employees Retirement
Judges Retirement
County, Municipality, Political Subdivision Deferred
Compensation
School Employees
Class V School Employees (Omaha)
Nebraska State Patrol
State Employees
Public Employees Retirement Board
Deferred Compensation

Repeals: 14-2111, 16-1019, 16-1038, 23-2301, 23-2308, 23-2308.01,
23-2309.01, 23-2310.05, 23-2317, 23-2319.01, 23-2321,
23-2322, 23-2323.02, 24-701, 24-707, 24-710.02, 24-710.05,
48-1401, 79-902, 79-906, 73-933.01, 79-948, 79-956, 79-980,
79-988, 79-9,104, 79-9,106, 81-2014, 81-2026, 81-2031.03,
81-2032, 81-2041, 84-1301, 84-1309, 84-1309.02, 84-1310.01,
84-1311.03, 84-1312, 84-1319, 84-1321.01, 84-1323, 84-1324,
84-1503, 84-1505

Summary of LB 916 as introduced:

LB 916 was introduced at the request of the Nebraska Public Employees Retirement System and contains plan clarifications and Internal Revenue Code compliance updates to the County, Judges, State Patrol, Schools, Omaha School, and State Employees Retirement Acts as follows:

1. Per diems are removed as compensation for purposes of retirement;
2. Employers are required to notify the Public Employees Retirement Board upon the termination of an employee member;
3. Allows plan members following termination or retirement to rollover into a Roth IRA;
4. Allows a non-spousal beneficiary to make a direct transfer or rollover of the member's death benefit into a qualified retirement plan;
5. Allows a lump sum direct transfer of a death benefit into a qualified retirement plan, and
6. Implements provisions of the Heroes Earnings Assistance and Relief (HEART) Act requiring a member's beneficiary to be entitled to an additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when death occurred.

In the School Retirement Plan, membership in the plan is limited to employees who are at least 18 years of age. In addition, voluntary service provided during the 180 days following termination must be bona fide unpaid voluntary service.

LB 916 also authorizes the Public Employees Retirement Board to set materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures.

Committee Amendment AM 1739:

Committee Amendment 1739 adds several technical and clarifying amendments to LB 916 and incorporates two bills as amended -- LB 1036 and LB 973.

LB 916 technical and clarifying amendments:

1. Clarifies a death benefit provision in the school plan;
2. Deletes obsolete language regarding school districts' obligation to inform the Public Employees Retirement Board about salary increases above 7%;
3. Changes notification requirements to plan members if an adjustment is made to a member's account balance by the Public Employees Retirement Board;
4. Clarifies that patrol members who enter the Deferred Retirement Option Plan (DROP) are considered retired, but not terminated; and
5. Adds severability and emergency clauses.

LB 1036 as amended:

LB 1036 as amended provides an additional opportunity for active county and state defined contribution plan members to opt in to the cash balance plans September 1, 2013 through October 31, 2013.

In addition, LB 1036 eliminates the State and County Employer Retirement Expense Funds effective July 1, 2012, which were held outside the trust. It disallows use of forfeiture funds (the state and county employer contributions for members who have not vested) to reduce employer contributions. The Department of Administrative Services is authorized to establish sub-funds to separately account for defined contribution and cash balance assets in the County Employees Retirement Fund and State Employees Retirement Fund.

LB 973 as amended:

LB 973 as amended, provides an exception to the prohibition on the attachment of pension benefits in the following public retirement plans: metropolitan utility district; first class city police officers and fire fighters; counties; judges; county, municipality, or other political subdivision deferred compensation plans; schools; Class V Omaha school; state patrol; state employees; and deferred compensation administered by the Public Employees Retirement Board.

Once member pension benefits, annuities or deferred compensation are distributed, they may be attached to satisfy civil damages if a civil judgment has been entered for damages resulting from assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement and the member has been convicted or plead no contest to such felony.

The court may exempt amounts necessary for the support of the member or beneficiaries. An order for payment of benefits is not stayed on appeal of the conviction. If the conviction is reversed, all benefits paid are forfeited to the member. The provisions of LB 973 operate retroactively and apply to persons convicted of a felony or persons who plead no contest and were found liable for civil damages prior to, on, or after the effective date of the act.

Section-by-Section Summary of Committee AM 1739:

Metropolitan Utility District Pension

Section 1. [amends 14-2111] Allows attachment of metropolitan utility district pensions once the pension benefit is distributed to the employee or appointee if the employee or appointee has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 1-5)

First Class City Police and Firefighters Pensions

Section 2. [amends 16-1019] Allows attachment of first class city police officer pension benefits once the pension is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 5-8)

Section 3. [amends 16-1038] Allows attachment of first class city firefighter pension benefits once the pension is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 8-11)

County Employees Retirement Plan

Section 4. [amends 23-2301] Clarifies that per diems are not compensation for purposes of the county plan; clarifies that it is the responsibility of the county/employer that terminates employment to notify the Public Employees Retirement Board of any change in employment following termination. (pages 11-18)

Section 5. [amends 23-2308] Allows Department of Administrative Services to create sub-funds in the County Employees Retirement Fund to separately account for defined contribution and cash balance assets. (pages 18-19)

- Section 6. [amends 23-2308.01] Creates a window beginning September 1, 2012 through October 31, 2012 for active county employees who are currently defined contribution plan members, to opt in to the cash balance plan. For those who opt in, membership in the cash balance plan commences January 2, 2013. (pages 19-22)
- Section 7. [amends 23-2309.01] Reference update. (page 22-25)
- Section 8. [amends 23-2310.05] Revisor internal reference change. (page 25-26)
- Section 9. [amends 23-2317] Internal reference change; strikes obsolete language. (page 26-32)
- Section 10. [amends 23-2319.01] Clarifies that forfeited amounts may be used to calculate possible dividends for county cash balance members, but may not be used to increase any other benefit a member may receive; eliminates the County Employer Retirement Expense Fund effective July 1, 2012; disallows the use of forfeiture funds to reduce county employer contributions; strikes language that becomes obsolete directing the Director of the Nebraska Public Employees Retirement System to certify to Department of Administrative Services when forfeiture funds are available; effective July 1, 2012, money in the County Employer Retirement Expense Fund is transferred to the County Employees Retirement Fund. (pages 32-34)
- Section 11. [amends 23-2321] In the county plan, provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 34-36)
- Section 12. [amends 23-2322] Allows attachment of county employee pension benefits once the pension is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 36-37)
- Section 13. [amends 23-2323.02] Allows members or surviving spouse to rollover into a Roth IRA ; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 37-39)

Judges Retirement Plan

- Section 14. [amends 24-701] Clarifies that per diems are not compensation for purposes of the judges' plan; requires the employer in the judges' plan to notify the Public Employees Retirement Board if there is a change in the member's employment following termination; the Public Employees Retirement Board has the authority to determine if termination has occurred, and if termination has not occurred, may require the member to repay any retirement benefit received. (pages 39-47)

- Section 15. [amends 24-707] In the judge's plan, provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 47-48)
- Section 16. [amends 24-710.02] Allows attachment of judge pension benefits and annuities once the pension or annuity is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 48-50)
- Section 17. [amends 24-710.05] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by Internal Revenue Code. (pages 50-52)

County, Municipality and Other Political Subdivision Deferred Compensation Plan

- Section 18. [amends 48-1401] Allows attachment of county, municipality, or other political subdivision deferred compensation once the compensation is distributed to the participant if the participant has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 52-56)

School Employees Retirement Plan

- Section 19. [amends 79-902] Participation in the School Employees Retirement Plan is limited to employees who have attained the age of 18; strikes obsolete language; removes per diem as compensation for the purposes of retirement; clarifies requirement that an employer notify the Public Employees Retirement Board upon a termination of an employee member; requires that a retirement benefit paid in error must be returned to the Public Employees Retirement System; clarifies that voluntary service during the 180 days following termination must be bonafide unpaid voluntary service. (pages 56-70)
- Section 20. [amends 79-906] Deletes obsolete language regarding school districts' obligation to inform the Public Employees Retirement Board about salary increases above 7%. (pages 70-71)
- Section 21. [amends 79-933.01] In the school plan, provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; provides for a lump sum death benefit direct

transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 71-73)

- Section 22. [amends 79-948] Allows attachment of school employee pension benefit or annuity once the pension or annuity is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 73-74)
- Section 23. [amends 79-956] Clarifies the death benefit provision found in the school plan; if the deceased member worked more than 20 years, the beneficiary may take a lump sum death benefit that includes the employee's contribution plus the employer match; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 74-77)

Class V (Omaha) School Employees Plan

- Section 24. [amends 79-980] Clarifies references to the Internal Revenue Code in the Class V School Employees Retirement Plan. (pages 77-80)
- Section 25. [amends 79-998] Clarifies references to the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 80-84)
- Section 26. [amends 79-9,104] Allows attachment of Omaha school employee pension benefit and annuity once the pension or annuity is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 84-86)
- Section 27. [amends 79-9,106] Enables a non-spousal beneficiary to make a direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 86-87)

Nebraska State Patrol Retirement Plan

- Section 28. [amends 81-2014] Clarifies in the Nebraska State Patrol Retirement Plan that per diems are not compensation for purposes of the state patrol plan; requires the employer in the state patrol plan to notify the Public Employees Retirement Board if there is a change in the member's employment following termination; the Public Employees Retirement Board has the authority to determine if termination has occurred, and if termination has not occurred, may require the member to repay any retirement benefit received; strikes obsolete language; clarifies that an officer is considered retired, but not terminated upon entering the Deferred Option Retirement Plan (DROP). (pages 87-92)
- Section 29. [amends 81-2026] Provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 92-98)
- Section 30. [amends 81-2031.03] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 98-101)
- Section 31. [amends 81-2032] Allows attachment of state patrol annuities or pension benefit once the annuity or pension is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 101-102)
- Section 32. [amends 81-2041] Clarifies that an officer is considered retired, but not terminated upon entering the Deferred Option Retirement Plan (DROP). (pages 102-105)

State Employees Retirement Plan

- Section 33. [amends 84-1301] Clarifies that per diems are not compensation for purposes of the state employees plan; revisor technical change. (pages 105-114)
- Section 34. [amends 84-1309] Allows Department of Administrative Services, to create sub-funds in the State Employees Retirement Fund to separately account for defined contribution and cash balance assets. (pages 114-115)
- Section 35. [amends 84-1309.02] Creates a window beginning September 1, 2012 through October 31, 2012 for active state employees who are currently defined contribution plan members, to opt in to the cash balance plan. For those who opt in, membership in the cash balance plan commences January 2, 2013. (pages 115-118)

- Section 36. [amends 84-1310.01] Reference update and internal reference change. (pages 118-121)
- Section 37. [amends 84-1311.03] Revisor technical internal reference change. (pages 121-122)
- Section 38. [amends 84-1312] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 122-124)
- Section 39. [amends 84-1319] Revisor technical internal reference change, (pages 124-130)
- Section 40. [amends 84-1321.01] Clarifies that forfeited amounts may be used to calculate possible dividends for state cash balance members, but may not be used to increase any other benefit a member may receive; eliminates the State Employer Retirement Expense Fund effective July 1, 2012; disallows the use of forfeiture funds to reduce state employer contributions; strikes language that becomes obsolete directing the Director of the Nebraska Public Employees Retirement System to certify to Department of Administrative Services when forfeiture funds are available; effective July 1, 2012, money in the State Employer Retirement Expense Fund is transferred to the State Employees Retirement Fund. (pages 130-132)
- Section 41. [amends 84-1323] Provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 133-134)
- Section 42. [amends 84-1324] Allows attachment of school employee annuities or pension benefits once the annuity or pension is distributed to the member if the member has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 134-135)

Public Employees Retirement Board

- Section 43. [amends 84-1503] Grants the Public Employees Retirement Board the authority to adopt rules and regulations regarding materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; clarifies references to the Internal Revenue Code. (pages 135-141)
- Section 44. [amends 84-1505] Allows attachment of deferred compensation administered by the Public Employees Retirement Board for state employees once deferred compensation is distributed to the participant if the the participant has been convicted or plead no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft

by embezzlement and a civil judgment has been entered for restitution for damages resulting from such felony; provisions apply retroactively. (pages 141-143)

- Section 45. Severability clause. (page 143)
- Section 46. Repealer. (page 143)
- Section 47. Repealer. (page 143)
- Section 48. Emergency clause. (pages 143-144)

LB 1082e Change provisions of the Police Officers Retirement Act

Status:	Approved by the Governor, April 16, 2012
Operative Date:	April 17, 2012
Plans:	First Class City Police Officer First Class City Firefighters
Amends:	16-1001, 16-1002, 16-1003, 16-1004, 16-1005, 16-1006, 16-1007, 16-1009, 16-1010, 16-1012, 16-1013, 16-1014, 16-1016, 16-1017, 16-1019, and 16-1038

Summary of LB 1082 as Introduced:

LB 1082 names the Police Officers Retirement Act and provides comparability of police officer pensions in all cities of the first class. The Act includes unspecified contribution rates for police officers with matching contribution rates for first class cities, a revised five-year vesting period, and unspecified dates for each of the changes. LB 1082 strikes the requirement that all city council appointees to the retirement board must have a general knowledge of retirement plans. Cities' payments for increases in contribution rates are outside lid and levy restrictions. The effective date and duration of the levy and lid exceptions are unspecified.

Summary of Committee Amendment 2105 to LB 1082:

Under Committee Amendment 2105, contribution rates for police officers and first class cities increase to a minimum of 6.5% beginning January 1, 2013. Each city may enact an ordinance to increase contribution rates beyond the minimum rate. Any increased rate adopted by a city becomes a mandatory contribution rate for all police officers within the city's jurisdiction. All rates, including increases in rates, must be matched 100% by the city.

Beginning January 1, 2013, the vesting schedule is changed to a seven year vesting schedule. AM2105 reinstates the requirement that all city council appointees to the retirement board must have a general knowledge of retirement plans. There are no exceptions to the levy and lid limitations for payment of increased contribution rates.

AM 2695 to the Committee Amendment:

Following the adoption of the Committee Amendment, interested parties, including the League of Municipalities and police officer organizations, negotiated new provisions. AM 2695 amends the Committee Amendment by striking all the provisions. Here are the substantive provisions of AM 2695 which becomes the bill:

1. Beginning October 1, 2013, police officer and first class city contribution rates increase to 6.5%.
2. Beginning October 1, 2015 police officer and first class city contribution rates increase to 7%.
3. Beginning July 1, 2012, the vesting schedule is reduced from 10 years to 7 years.
4. There are no exceptions to the levy and lid limitations for payment of increased contribution rates; and
5. The emergency clause is added.

Select File – AM 2719 to AM 2695:

AM 2719 inserts several IRS updates into the first Class City Police Officers and the Firefighters Retirement Acts including:

1. Implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a police officer's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the police officer been employed during the period of qualified military service when the death occurred;
2. Adds specific provision regarding the treatment of incidental death benefit distributions

History of Benefit Changes to First Class City Police Officer Retirement Plan

Prior to 1984, first class city police officers were enrolled in defined benefit plans. In 1983 legislation was enacted which closed the defined benefit plans to new members and replaced the plans with defined contribution pension plans. The member contribution rate was set at 6% which is matched by the city. The 6% contribution rate which was established 29 years ago has never been increased.

In 2005 the Fraternal Order of Police, the Police Officers Associations of Nebraska, and the Nebraska Sheriffs Associations contracted with the actuarial firm of Milliman and Associates to conduct an actuarial study of the their current retirement system, and to look at several models changing from a defined contribution to a defined benefit plan. In response to this study, LB 371 was introduced in 2006 to create a defined benefit plan. The plan was based on comparable plans in the states that border Nebraska. All surrounding states provide a defined benefit plan for their police officers.

The League of Municipalities opposed the creation of a defined benefit plan citing unknown costs and future funding liabilities for cities, and instead offered enhancements to the defined contribution plan, but the police officer groups wanted to move forward with a defined benefit plan.

In 2008 when the economy took a severe downturn, police officers reevaluated their position and abandon their request for a defined benefit plan and reached agreement with the League for increased contribution rates and reduced vesting period.

As a result, LB 426 was introduced in 2009, which proposed to increase the officer and city contribution rates from 6% to 8% beginning in 2009 and further increase contribution rates to 9% beginning in 2012. LB 426 also contained a new 5-year vesting schedule (the current vesting schedule is 10 years), and exempted the city's contribution rate increase cost from the levy and lid limitations.

LB 426 was designated a Retirement Committee Priority Bill in 2009 but due to concerns about the levy/lid exception in the bill, the legislation was held in Committee. At that time two cities were up against their lids – La Vista and Plattsmouth.

During the 2009 interim the Committee met with interested parties to try to find ways to move forward on the bill, however the budget/lid exception remained the sticking point. The Committee took no action on LB 426 in 2010 and the bill died in Committee. No legislation was introduced in 2011 because of the budget deficit issues that were the focus of that session.

Comparison of Nebraska Law Enforcement Pension Plans and Contribution Rates

Law Enforcement Public Entity	Type of Plan	Member Rate	Employer Rate
Nebraska State Patrol	Defined Benefit	19%*	19%*
Nebraska Counties – population under 85,000 (law enforcement)	Pre-1984 Defined Benefit 1984 –2003 Defined Contribution Post 2003 Cash Balance	4.5 + 1.0 = 5.5%	6.75 + 1.0 = 7.75% (150% = 100% of officer rate)
Nebraska Counties – population under 85,000 (law enforcement)	Pre-1984 Defined Benefit 1984 -2003 Defined Contribution Post 2003 Cash Balance	4.5 + 2.0 = 6.5%	6.75 + 2.0 = 8.75% (150% = 100% of officer rate)
Omaha Police Department	Defined Benefit	16.35%	33.17%
Lincoln Police Department	Defined Benefit	7% to 8%**	Actuarially required contribution

* The 19% member and employer/state rates return to 16% July 1, 2013. State Patrol members do not pay into Social Security

** Rate depends on length of service

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AMENDED INTO OTHER BILLS

LB 973 Provide for the use of retirement benefits to pay civil damages

LB 973 as originally introduced, provides an exception to the prohibition on the attachment of public pension benefits. The employee or beneficiary's benefits may be attached to satisfy civil damages if the employee or beneficiary has been convicted or pleads no contest to a felony and a civil judgment has been entered. The felony is limited to assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement. The court may exempt amounts necessary for the support of the member or beneficiaries. An order for payment of benefits is not stayed on appeal of the conviction. If the conviction is reversed all benefits paid are forfeited to the member.

The provisions of LB 973 operate retroactively and apply to persons convicted of a felony and found liable for civil damages prior to, on, or after the effective date of the act.

Background

The changes proposed in LB 973 were triggered by a 2011 Nebraska Supreme Court ruling in *J. M. v Hobbs*, 281 Neb. 539. Mr. Hobbs, a State Trooper with 27 years of service, was arrested and convicted of sexually assaulting a girl. Mr. Hobbs resigned from the State Patrol after his arrest and began receiving retirement benefits. He is currently serving 25 to 30 years in prison and continuing to draw his pension.

The girl's father sued Hobbs on her behalf and won a \$325,000 civil judgment. He filed a motion to attach Hobbs nonexempt property, including Hobbs' State Patrol retirement benefits, in order to satisfy the judgment. Hobbs objected, claiming his retirement benefits were specifically exempt under 81-2032.

The District and State Supreme Courts agreed with Mr. Hobbs and denied attachment. LB 973 has been introduced to provide an specific exception to the non-attachment provisions within each public pension plan.

Other States Exceptions to Anti-Alienation Pension Provisions

According to a 2011 Summary prepared by the National Association of State Retirement Administrators (NASRA), 33 states have enacted policies allowing termination or garnishment of public pensions. Of the state policies listed, most, but not all, forfeitures are related to termination of employment or conviction related to some sort of "violation of public trust", for crimes such as: embezzlement of public funds, perjury, receiving a bribe, misconduct associated with service as an elected official or public employee, making a false statement in order to receive benefits, violation of federal or state election laws.

Currently, the following 17 states do not have any exceptions to anti-alienation provisions: Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Maryland, Mississippi, Nebraska, New Hampshire, New Mexico, North Dakota, New York, Oregon, Utah, and Vermont.

As amended by the Committee:

LB 973 was amended by the Committee and incorporated into LB 916. The amendments were in response to fiscal and administrative concerns. Under the bill as originally introduced, each retirement system would have incurred considerable programming and administrative costs in order to comply with attachment orders filed with the retirement system. In addition, several concerns and questions were raised about complying with federal and state tax withholding requirements on distributions to persons pursuant to attachment orders under this act.

As a result of these administrative concerns and fiscal impacts, the bill was amended so the attachment does not occur until the pension benefit, annuity or deferred compensation is distributed to the member. This change eliminates reprogramming costs and resolves tax withholding issues. The amendment also clarifies that the retroactive application of the bill applies not only to persons convicted of one of the listed felonies, but also to persons who plead no contest to one or more of the felonies.

LB 1036 Provide for a cash balance benefit election for county and state employees and create county and state retirement funds

LB 1036 as originally introduced, provides another opportunity for County and State Defined Contribution Retirement Plan members to elect to join the County and State Cash Balance Plans. In addition, LB 1036 eliminates the State and County Employer Retirement Expense Funds effective July 1, 2012, which were held outside the “trust” (the State and County Employees Retirement Funds). It disallows use of forfeiture funds (the state and county employer contributions for members who have not vested) to be used to reduce employer contributions. It also strikes language that becomes obsolete directing the Director of the Nebraska Public Employees Retirement System (NPERS) to certify to the Department of Administrative Services when forfeiture funds are available.

Background:

In 2003 when the county and state cash balance plans were created, all new state and county employees were automatically entered into the cash balance plans and all current state and county employees were given the option of joining these plans. An additional election period was offered in 2007 for state and county members. Currently, two-thirds of all state and county employees are members of the cash balance plans. The original intent of the creation of the cash balance plans was to ultimately have all state and county employees in the cash balance plans.

As amended by the Committee:

LB 1036 as amended changes the election period to September 1, 2012 through October 31, 2012. The transfer takes affect on January 2, 2013. The election opportunity is also limited to just active county and state defined contribution plan members and members are limited to a one-time election during the two month period (i.e. members may not opt in and out and in again).

The amendment also authorizes the Department of Administrative Services to establish sub-funds to separately account for defined contribution and cash balance assets in the County Employees Retirement Fund and State Employees Retirement Fund.

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INDEFINITELY POSTPONED
[DIED IN COMMITTEE AT THE END OF SESSION]

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

Under LB 678, 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.

LB 680 Adopt the School Employees Cash Balance Retirement Act

LB 680 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.

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

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.

Law Enforcement and Firefighter Rate and Retirement Age Comparisons:

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

LB 1022 Change officer and employer contribution rates under the
Nebraska State Patrol Retirement Act

LB 1022 was introduced as a placeholder bill for the Nebraska State Patrol Retirement Plan. Beginning July 1, 2012 through June 30, 2013, the existing 19% employee and employer contribution rates are stricken and replaced with unspecified employee and employer contribution rates.

Beginning July 1, 2013, the current statutory 16% employee and employer contribution rates are stricken and replaced with unspecified employee and employer contribution rates.

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V. Bill Status Chart

LB #	INTRODUCER & ONE-LINER	COMMITTEE ACTION	STATUS
867	<i>(Karpisek)</i> Change employer contributions for Lancaster County	Committee Priority Bill	Enacted – Effective Date April 6, 2012
916	<i>(Retirement Committee)</i> Change provisions relating to retirement	Committee Priority Bill Advanced with Comm AM 1739	Enacted – Effective Date April 6, 2012
973	<i>(Coash)</i> Provide for the use of retirement benefits to pay civil damages	Amended into LB 916 in Comm AM 1739	Enacted as part of LB 916 – Effective Date April 6, 2012
1022	<i>(Nordquist)</i> Change officer and employer contribution rates under the Nebraska State Patrol Retirement Act		Died in Committee at the end of session
1036	<i>(Nordquist)</i> Provide for cash balance election for county and state employees and create county and state retirement funds	Amended into LB 916 in Comm AM 1739	Enacted as part of LB 916 –Effective Date April 6, 2012
1082	<i>(Karpisek)</i> Name and change provisions of the Police Officers Retirement Act	Speaker Priority Bill Advanced with Comm AM 2105	Enacted –Effective Date
2011 Carryover Bills			
679	<i>(Heidemann)</i> Provide for new judges and State Patrol officers to become members of the State Employees Retirement System		Died in Committee at the end of session
680	<i>(Heidemann)</i> Adopt the School Employees Cash Balance Act for new school employees		Died in Committee at the end of session
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		Died in Committee at the end of session

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VI. Interim Study Resolutions

Prioritization

LR Number	Subject of Interim Study	Priority Ranking
452	<i>(Nordquist)</i> Interim study to examine the employee retirement systems administered by the Public Employees Retirement Board	1
518	<i>(Mello & Nordquist)</i> Interim study to examine issues surrounding investment of state funds.	2
628	<i>(Retirement Committee)</i> Interim study to examine pension of first class city firefighters.	3

LR 452

Introduced by Nordquist, 7

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, SECOND 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 518

Introduced by Mello, 5; Nordquist, 7

PURPOSE: The purpose of this interim study is to examine issues surrounding investment of state funds. This study shall include an examination of whether section 72-1239.01 should be amended to allow the Nebraska Investment Council to invest or reinvest assets of Nebraska's retirement systems or the Nebraska educational savings plan trust into economic development within the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SECOND LEGISLATURE OF NEBRASKA, SECOND 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 628

Introduced by Nebraska Retirement Systems Committee, Nordquist 7, Chairperson; Karpisek 32; Loudon 49; Mello, 5

PURPOSE: To study the pensions provided for firefighters from cities of the first class.

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