

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

2013

SUMMARY AND DISPOSITION OF BILLS

NEBRASKA LEGISLATURE
One Hundred Third Legislature, First Session

Committee Members

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Senator Al Davis, Vice Chairperson
Senator Danielle Conrad
Senator Russ Karpisek
Senator Rick Kolowski
Senator Heath Mello

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TABLE OF CONTENTS

		Pages
I.	NUMERICAL BILL INDEX	1
II.	BILLS LISTED BY SUBJECT MATTER	3-4
III.	STATUS OF RETIREMENT BILLS	5-6
IV.	SUMMARY OF RETIREMENT BILLS	7-37
	Enacted	
	LB 263	7-15
	LB 306	15-16
	LB 553	16-20
	Amended into Another Bill and Enacted	
	LB 229	21
	LB 306	21
	LB 321	21
	LB 554	22
	LB 594	22
	Indefinitely Postponed	
	LB 638	23-28
	LB 639	28-30
	Carried Over in Committee	
	LB 77	30-32
	LB 138	32
	LB 552	33-37
V.	BILL STATUS CHART	39
VI.	INTERIM STUDY RESOLUTIONS	
	Prioritization & Text of 2013 Interim Study Resolutions	41-45
VII.	APPENDICES	
	Appendix A	Updated History of Contribution Rates
	Appendix B	Actuarial Report for LB 553
	Appendix C	Attorney General's Opinion on LB 138

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I. Numerical Bill Index

- LB 77** (*Avery*) Adopt the Nebraska Iran Divestment Act

- LB 138** (*Krist*) Create the Group Health Trust Fund and provide for investment and duties for the State Treasurer

- LB 229** (*Nordquist*) Change the Nebraska Retirement Fund for Judges fee

- LB 263** (*Retirement Committee*) Change provisions relating to government retirement systems

- LB 305** (*Nordquist*) Change provisions relating to State Patrol retirement

- LB 306** (*Nordquist*) Change judges' contribution for retirement as prescribed

- LB 321** (*Crawford*) Change a provision relating to disability retirement payments

- LB 552** (*Nordquist*) Adopt the First Class Cities Firefighters Cash Balance Retirement Act

- LB 553** (*Nordquist*) Change provisions relating to school employees retirement

- LB 554** (*Nordquist*) Change provisions relating to Class V school employees retirement

- LB 594** (*Price*) Provide Nebraska Investment Council duties relating to administration of the Nebraska Veterans Aid Fund

- LB 638** (*Nelson*) Provide a cash balance retirement system for school employees

- LB 639** (*Nelson*) Make new judges and state patrol officers members of the state employees retirement system

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II. Bills Listed by Subject Matter

CLASS V (OMAHA) SCHOOL EMPLOYEES RETIREMENT ACT

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems
- LB 554 (*Nordquist*) Change provisions relating to Class V school employees retirement

COUNTY EMPLOYEES RETIREMENT ACT

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems

FIRST CLASS CITY FIREFIGHTERS

- LB 552 (*Nordquist*) Adopt the First Class Cities Firefighters Cash Balance Retirement Act

FIRST CLASS CITY POLICE OFFICERS

- LB 321 (*Crawford*) Change a provision relating to disability retirement payments

JUDGES RETIREMENT ACT

- LB 229 (*Nordquist*) Change the Nebraska Retirement Fund for Judges fee
- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems
- LB 306 (*Nordquist*) Change judges' contribution for retirement as prescribed
- LB 639 (*Nelson*) Make new judges and state patrol officers members of the state employees retirement system

NEBRASKA INVESTMENT COUNCIL

- LB 77 (*Avery*) Adopt the Nebraska Iran Divestment Act
- LB 138 (*Krist*) Create the Group Health Trust Fund and provide for investment and duties for the State Treasurer
- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems

NEBRASKA STATE PATROL RETIREMENT ACT

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems
- LB 305 (*Nordquist*) Change provisions relating to State Patrol retirement
- LB 639 (*Nelson*) Make new judges and state patrol officers members of the state employees retirement system

PUBLIC EMPLOYEES RETIREMENT BOARD (PERB)

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems

SCHOOL EMPLOYEES RETIREMENT ACT

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems
- LB 553 (*Nordquist*) Change provisions relating to school employees retirement
- LB 638 (*Nelson*) Provide a cash balance retirement system for school employees

STATE EMPLOYEES RETIREMENT ACT

- LB 263 (*Retirement Comm*) Change provisions relating to government retirement systems

III. Status of Retirement Bills

ENACTED

- LB 263 *(Retirement Committee)* Change provisions relating to government retirement systems
[includes LB 321 and LB 594]
- LB 306 *(Nordquist)* Change judges' contribution for retirement as prescribed
[includes LB 229]
- LB 553 *(Nordquist)* Change provisions relating to school employees retirement
[includes LB 554 and provisions from LB 305 and LB 306]

ADVANCED TO GENERAL FILE & INDEFINITELY POSTPONED

- LB 229 *(Nordquist)* Change the Nebraska Retirement Fund for Judges fee
[amended into LB 306]

AMENDED INTO OTHER BILLS

- LB 229 *(Nordquist)* Change the Nebraska Retirement Fund for Judges fee
[amended into LB 306]
- LB 305 *(Nordquist)* Change provisions relating to State Patrol retirement
[amortization provision amended into LB 553]
- LB 306 *(Nordquist)* Change judges' contribution for retirement as prescribed
[amortization provision amended into LB 553]
- LB 321 *(Crawford)* Change a provision relating to disability retirement payments
[amended into LB 263]
- LB 554 *(Nordquist)* Change provisions relating to Class V school employees retirement
[amended into LB 553]
- LB 594 *(Price)* Provide Nebraska Investment Council duties relating to administration of
the Nebraska Veterans Aid Fund
[amended into LB 263]

INDEFINITELY POSTPONED IN COMMITTEE

- LB 638** (*Nelson*) Provide a cash balance retirement system for school employees
- LB 639** (*Nelson*) Make new judges and state patrol officers members of the state employees retirement system

CARRIED OVER

- LB 77** (*Avery*) Adopt the Nebraska Iran Divestment Act
- LB 138** (*Krist*) Create the Group Health Trust Fund and provide for investment and duties for the State Treasurer
- LB 552** (*Nordquist*) Adopt the First Class Cities Firefighters Cash Balance Retirement Act

IV. Summary of Retirement Bills

ENACTED

LB 263e Change provisions relating to retirement

Status: Approved by the Governor

Operative Date: April 25, 2013

Plan/Agency: First Class City Police Officers
County Employees Retirement
Judges Retirement
School Employees
Class V School Employees (Omaha)
Nebraska State Patrol
State Employees
Public Employees Retirement Board
Nebraska Investment Council

Repeals/Amends: 16-1011, 23-2301, 23-2306, 23-2307, 23-2310.04, 23-2315, 23-2317, 23-2319, 23-2319.01, 24-701, 24-703, 24-710.13, 79-902, 79-904.01, 79-917, 79-921, 79-947.06, 79-956, 79-958, 79-962, 79-984, 79-987, 79-990, 79-991, 79-992, 79-996, 79-9,102, 79-9,117, 80-401, 84-1308, 84-1511.01, 81-2014, 81-2016, 81-2017, 81-2027.08, 81-2041, 84-1301, 84-1307, 84-1314, 84-1317, 84-1319, 84-1321, 84-1321.01, 84-1503, and 84-1511

Summary of LB 263 as introduced:

Changes in response to the 2012 Compliance Audit:

Clarifies in the county plan that only those employees who meet the definition of county employee are eligible to participate in the plan. If the board determines members are ineligible then they become inactive after 30 days notice but are fully vested in the plan.

Permanent part-time county employees must exercise the option to join the plan within 30 days of initial employment.

Inserts IRC 414(h)(2) pick up language into all the plans clarifying that employee contributions are considered tax deferred employer contributions.

Designates that DROP funds are placed in an IRC 414(k) account and are subject to the IRC 415 limitations.

Inserts language in the PERB statutes that the board duties include maintaining the plans' qualified status pursuant to IRC 414(d)

Clarifies forfeiture language in the county and state plans

Class V School Employees (Omaha) Updates:

Updates the statute to comply with current practice of completing annual actuarial reports (rather than every 3 years as currently stated in statute)

Clarifies qualifications of an actuary employed by the board

Authorizes the board to determine the amount of interest on purchase of service credit and delayed payments

Adopts changes in response to amendment of applicable tax laws and incorporates by reference the limitations on maximum benefit that may be paid under IRC 415.

Eliminates required registration fee for pre-retirement planning programs.

School Employee Plan clarifications:

Service allowed within 180 days of termination is clarified:

(a) voluntary service provided at least 60 days following termination; or

(b) intermittent substitute service at least 60 days following termination that does not exceed 120 cumulative hours under any employer. Also requires employer to be responsible for maintaining record of employees' substitute service hours with all employers as reported by the employee;

Regular employee definition clarified to include employees who provide service less than 15 hours per week but provide more than 500 hours within a plan year. Once this threshold is reached, contributions will begin with the next full payroll period and apply to all future employment with the same employer.

Requires school member to file retirement application 120 days (was 90 days) prior to effective date of member's initial benefit.

Compensation base definition is clarified to establish base years for the 9% salary cap (base year 2007) and 8% salary cap (base year 2008); also clarifies that the 5-year cap is not limited to service with one employer, but covers all school employers. (These are clean-up provisions from the salary cap legislation passed in 2011)

Termination is determined by end of member's contractual agreement or by the employer if there is no contract or partial fulfillment of a contract.

A member is not deemed terminated if the board determines that: the claimed termination was false and was not a bona fide separation; or the member was compensated for a full contractual period but the member terminated prior to the end of the contract

Requires all school employee contracts to specify the contractual period of employment including the start and end date of the contract.

Miscellaneous Provisions:

Adds definitions of “retirement date” and “retirement application” to all the plans.

Extends period from 30 to 180 days for patrol members to apply for vesting credit for years of service in another Nebraska governmental plan.

Clarifies qualifications of an actuary employed by PERB.

Makes it permissive for NPERS to charge a fee for pre-retirement and retirement education and financial planning programs.

Summary of Committee Amendment AM835:

AM835 becomes the bill and incorporates LB 321 as amended and LB 594. It also makes the following additional clarifying changes to each of the retirement plans:

amends the definition of employee in the County Plan. Employees of counties with population of 200,000 (increased from 150,000) are not eligible to be in the County Plan

requires elected county officials to exercise the option to participate in the County Plan within 30 days of taking office

grants authority to the Public Employees Retirement Board beginning July 1, 2013 to determine whether a governmental entity currently participating in the County Plan is a qualified employer under Internal Revenue Code 414(d); establishes time frames for Board actions, grants full vesting to affected members and grants the Board rule and regulation authority to carry out this provision

clarifies that state employees who become county employees due to transfer of assessment function to a county are not deemed to be terminated for purposes of the state plan

specifies in each of the plans the specific employing unit related to the IRC pick up provisions

clarifies that forfeiture funds are to allocated to the accounts of the remaining members of the County and State Plans

establishes minimum accrual rates for specific years in the Judges, State Patrol and School Plans clarifies in the School Plan that only per diems paid as expenses are not considered compensation

clarifies language for the salary cap applied to School Plan members whose retirement date is between July 1, 2012 and July 1, 2013; establishes new definitions and clarifications for the 8% salary cap applied to all members whose retirement date is on and after July 1, 2013

strikes proposed language that changed provisions regarding service provided within 180 days following termination of service and proposed language regarding part-time employment; reinstates original language

clarifies that employers may adopt a policy which limits or denies employees from providing voluntary or substitute service within 180 days of the employees' termination

LB 321 Amended into the Bill:

LB 321, as amended by the Committee, requires only permanently disabled police officers to spend down all credits for unused annual or sick leave or other similar credits in order to receive disability salary or disability pension. [section 1]

LB 594 Amended into the Bill:

LB 594 directs the Nebraska Investment Council rather than the Board of Education Lands and Funds, to manage and invest the Nebraska Veterans' Aid Fund. [section 29]

Section-by-Section Summary of AM835:

First Class Cities Police Officers Retirement Act

Section 1. [amends 16-1011] incorporates LB 321, as amended by the Committee; only permanently disabled police officers are required to spend down all credits for unused annual or sick leave or other similar credits in order to receive disability salary or disability pension

County Employees Retirement Plan

Section 2. [amends 23-2301] definition section

employees of counties with population of 200,000 (increased from 150,000) are not eligible to be in the County Plan

adds definitions for retirement application and retirement date

- Section 3. [amends 23-2306] clarifies membership requirements in the county plan as follows:
- permanent part-time employees must exercise option to participate in the plan within 30 days of employment and elected county officials must exercise the option within 30 days of taking office
- grants authority to the Public Employees Retirement Board beginning July 1, 2013 to determine whether a governmental entity currently participating in the County Plan is a qualified employer under Internal Revenue Code 414(d); establishes time frames for Board actions, grants full vesting to affected members and grants the Board rule and regulation authority to carry out this provision
- state employees who become county employees pursuant to transfer of assessment function to the county are not considered terminated and receive vesting credit for service as state employee
- Section 4. [amends 23-2307] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding county pick up of employee contributions
- Section 5. [amends 23-2310.04] clarifies use of defined contribution forfeiture funds by remaining defined contribution plan members
- Section 6. [amends 23-2315] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions
- Section 7. [amends 23-2317] strikes obsolete 2009 required minimum distribution language and adds new language regarding such distributions
- Section 8. [amends 23-2319] strikes obsolete forfeiture language
- strikes obsolete 2009 required minimum distribution distribution language and adds new language regarding such distributions
- Section 9. [amends 23-2319.01] inserts internal reference addition regarding use of defined contribution forfeitures

Judges Retirement Plan

- Section 10. [amends 24-701] adds definitions for retirement application and retirement date
- Section 11. [amends 24-703] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding county or state pick up of employee contributions
- Section 12. [amends 24-710.13] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments

School Employees Retirement Plan

Section 13. [amends 79-902] – definition section

amends retirement date definition. also requires member to file retirement application 120 days (was 90) prior to effective date of member's initial benefit

clarifies in the School Plan that only per diems paid as expenses are not considered compensation

clarifies language for the salary cap applied to School Plan members whose retirement date is between July 1, 2012 and July 1, 2013. Establishes new definitions and clarifications for the 8% salary cap that is applied to all members whose retirement date is on and after July 1, 2013

strikes language from termination definition and moves language to sections 79-904.01 and 79-921

Termination of employment date is clarified as follows:

termination is determined by end of member's contractual agreement or by the employer if there is no contract or partial fulfillment of a contract

strikes proposed language that changed provisions regarding service provided within 180 days following termination of service and proposed language regarding part-time employment; reinstates original language

clarifies that employers may adopt a policy which limits or denies employees from providing voluntary or substitute service within 180 days of the employees' termination

member is not deemed terminated if the board determines that a termination was not a bona fide separation or the member was compensated for a full contractual period but the member terminated prior to the end of the contract

strikes proposed language amending regular employee definition and clarifies that once a member has reached the designation of regular employee, then contributions will begin with the next full payroll period and apply to all future employment with the same employer

Section 14. [amends 79-904.01] inserts language stricken from definition of termination regarding repayment of benefits if termination has not occurred

Section 15. [amends 79-917] extends period from 30 to 180 days for school employees to apply for vesting credit for years of service in another Nebraska governmental plan

- Section 16. [amends 79-921] inserts language stricken from definition of termination regarding employers' obligation to notify board of termination date
renumbering and revisor internal reference changes
- Section 17. [amends 79-947.06] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments
- Section 18. [amends 79-956] adds clarifying language regarding member who dies before his or her retirement date
- Section 19. [amends 79-958] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding employer pick up of employee contributions
- Section 20. [amends 79-962] requires all school employee contracts to specify the contractual period of employment including the start and end date of the contract

Class V School Employees Retirement Plan

- Section 21. [amends 79-984] requires annual actuarial reports rather than every 3 years
- Section 22. [amends 79-987] clarifies standards for actuary
- Section 23. [amends 79-990] authorizes interest for purchase of service credit to be determined by the board
- Section 24. [amends 79-991] authorizes interest for purchase of service credit and delayed payments to be determined by the board
- Section 25. [amends 79-992] authorizes interest on restored funds and delayed payments to be determined by the board
- Section 26. [amends 79-996] clarifies how the rate of interest is to be determined by the board for purchase of additional service credit and the interest on delayed payments
- Section 27. [amends 79-9,102] adopts changes in response to amendment of applicable tax laws; incorporates the limitations on the maximum benefit that may be paid under Internal Revenue Code section 415; strikes obsolete language
- Section 28. [amends 79-9,117] eliminates the required registration fee for pre-retirement planning programs

Nebraska Investment Council and Veterans Aid Fund – LB 594

Section 29: [80-401] incorporates LB 594 which directs the Nebraska Investment Council rather than the Board of Educations Lands and Funds, to manage and invest the Nebraska Veterans' Aid Fund

Nebraska State Patrol Retirement Plan

Section 30. [amends 81-2014] adds definition for DROP account

adds definitions for retirement application and retirement date

Section 31. [amends 81-2016] extends period to apply for vesting from 30 to 180 days

Section 32. [amends 81-2017] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding state pick up of employee contributions

Section 33. [amends 81-2027.08] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments

Section 34. [amends 81-2041] designates that DROP funds are placed in an IRC 414(k) account and must meet IRC 415 limitations

State Employees Retirement Plan

Section 35. [amends 84-1301] adds definitions for retirement application and retirement date

Section 36. [amends 84-1307] part-time employees must exercise option to participate in retirement plan within 30 days of employment

Section 35. [amends 84-1308] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding state pick up of employee contributions

Section 38. [amends 84-1314] clarifies use of defined contribution forfeiture funds by remaining defined contribution plan members

Section 39. [amends 84-1317] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions

Section 40. [amends 84-1319] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions

Section 41. [amends 84-1321] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions

Section 42. [amends 84-1321.01] revisor reference change regarding use of defined contribution forfeiture funds

Public Employees Retirement Board

Section 43. [amends 84-1503] adds language to actuary qualifications; requires the next compliance audit to be completed by December 31, 2020

inserts language in board duties to maintain plans' qualified status pursuant to section 414(d) of the Internal Revenue Code

Section 44. [amends 84-1511] makes it permissive to charge a fee for pre-retirement planning program

Section 45. [amends 84-1511.01] makes it permissive to charge a fee for retirement education and financial planning program

Section 46. Severability clause

Section 47. Repealer

Section 48. Emergency clause

LB 306e Changes judges' contribution for retirement as prescribed

Status: Approved by the Governor

Operative Date: July 1, 2013

Plans: Judges Retirement

Amends: 24-201.01, 24-703, and 24-710.13

Summary of LB 306 as Introduced:

LB 306 amends the Judges Retirement Act by eliminating the July 1, 2014 sunset on the additional 1% member contribution rate. It also changes the amortization method for calculating the unfunded actuarial liability from level dollar to level percent of pay.

The operative date of the act is July 1, 2013.

Committee AM 457:

The Committee Amendment strikes the change to the amortization method (which was amended into LB 553).

LB 229 amended into bill:

AM 624 incorporates LB 229 into the bill. LB 229 retains the current \$6 court fee which is earmarked for the judges retirement fund. The fee was scheduled to return to \$5 in 2014.

LB 232 amended into bill:

AM 1114 incorporates LB 232 into the bill. LB 232 was heard and advanced by the Judiciary Committee. As amended by the Committee it provides a 5% salary increase for Supreme Court Judges beginning July 1, 2013 and another 5% salary increase on July 1, 2013. Although the law only specifies salary increases for Supreme Court Judges, district, county, juvenile, appellate and worker's compensation court judges will also receive an increase in salary as their salaries are statutorily tied to the Supreme Court judge salaries.

LB 553e Change provisions relating to school employees retirement

Status:	Passed notwithstanding objections of Governor
Operative Date:	July 1, 2013
Plans:	Judges Retirement School Employees Class V School Employees (Omaha) Nebraska State Patrol
Amends:	24-703, 79-901, 79-902, 79-916, 79-947.06, 79-954, 79-958, 79-966, 79-966.01, 79-9,100, 79-9,103, 79-9,105, 79-9,113 79-1003, 79-1028.01, and 81-2017

Summary of LB 553 as Introduced:

LB 553 creates a new tier of reduced retirement benefits for school employees who begin work for the first time on or after July 1, 2013. Benefits remain unchanged for employees who are members of the School Employees Retirement Plan prior to July 1, 2013. For employees in the new tier, final average salary is averaged over 5 years instead of 3 years, and the maximum cost-of-living adjustment is 1% instead of 2.5%.

The 9.78% school employee contribution rate ends August 31, 2013 and an unspecified employee contribution rate with no sunset begins September 1, 2013.

The state statutory contribution rate in the School Retirement Plan is increased from 1% to 2% of the compensation of all school employees with no sunset.

The state statutory contribution rate remains 1% of compensation in the Class V School Retirement Plan. The 2017 sunset is stricken on the Class V 1% state statutory contribution rate.

The sunset is stricken in 79-1003 and 79-1028.01 for the school budget and lid exclusions for expenditures above the Class V employer contribution rate of 7.37% and the School employer contribution rate of 7.35%.

The amortization method in the School Employees Retirement Act is changed from level dollar to level percentage of salary beginning July 1, 2013.

Committee AM802:

The Committee amendment strikes the original sections and becomes the bill. It includes amendments to LB 553 and incorporates LB 554, as amended regarding similar changes to the Class V School Employees Retirement Act. In addition, it incorporates the amortization changes to the Nebraska State Patrol Retirement Act contained in LB 305, and the amortization changes to the Judges Retirement Act contained in LB 306.

[NOTE: A copy of the actuarial study completed on the benefit changes contained in LB 553 as amended by the Committee is contained in APPENDIX B of this Report]

School Employees Retirement Act provisions:

Benefits remain unchanged for employees who are members of the School Employees Retirement Plan prior to July 1, 2013.

Creates a reduced tier of retirement benefits which applies to all school employees hired on or after July 1, 2013.

For employees in the new tier, final average salary is averaged over 5 years instead of 3 years, and the maximum cost-of-living adjustment is 1% instead of 2.5%.

The employee contribution rate in the School Employees Retirement Act remains 9.78% with no sunset.

The state statutory scheduled contribution rate is increased from 1% to 2% of total compensation of all school employees, beginning July 1, 2014 instead of July 1, 2013.

The amortization method in the School Employees Retirement Act is changed from level dollar to level percentage of salary beginning July 1, 2013.

Eligibility for membership in the school retirement plan is changed from 15 hours per week to 20 hours per week.

The sunset is stricken in 79-1003 and 79-1028.01 for the school budget and lid exclusions for expenditures above the Class V employer contribution rate of 7.37% and the School employer contribution of 7.35%.

LB 554 as amended – Class V School Employees Retirement Act:

Benefits for employees who are members prior to July 1, 2013 remain unchanged.

All Class V school employees hired on or after July 1, 2013 will receive reduced benefits which includes final average salary averaged over 5 years instead of 3 years, and a 1% maximum cost-of-living adjustment.

The employee contribution rate is increased from 9.3% to 9.78% beginning September 1, 2013 with no sunset.

The state scheduled statutory contribution rate for Class V school districts is increased from 1% to 2% of total compensation beginning July 1, 2014 with no sunset.

The sunset is stricken in 79-1003 and 79-1028.01 for the school budget and lid exclusions for expenditures above the Class V employer contribution rate of 7.37% and the School employer contribution of 7.35%.

LB 305 provision – Nebraska State Patrol Retirement Act:

The amortization method is changed from level dollar to level percentage of salary beginning July 1, 2013.

LB 306 provision – Judges Retirement Act:

The amortization method is changed from level dollar to level percentage of salary beginning July 1, 2013.

Section-by-Section of Committee AM802:

Judges Retirement Act

Section 1. [amends 24-703] changes amortization method in the judges plan from level dollar to level percentage of salary beginning July 1, 2013

School Employees Retirement

Section 2. [amends 79-901] references the School Employees Retirement Act

Section 3. [amends 79-902] the final average salary computation for employees hired on or after July 1, 2013 will be based on 5 years rather than 3 years; final average salary for employees hired prior to July 1, 2013 will continue to be based on 3 years

school plan eligibility for employees will require a minimum of 20 hours per week rather than 15 hours per week

Section 4. [amends 79-916] the amortization method for calculation of the actuarial accrued liability of the service annuity is changed from level dollar to level percentage of salary beginning July 1, 2013

Section 5. [amends 79-947.06] only employees who become members prior to July 1, 2013 are eligible to receive a 2.5% maximum cost-of-living adjustment and a purchasing power cost-of-living adjustment

Section 6. [NEW SECTION] cost-of-living adjustments are limited to a maximum of 1% for employees hired on or after July 1, 2013; no additional cost-of-living adjustments will be granted

Section 7. [amends 79-954] the number of hours a disabled beneficiary under age 65 may work and retain his or her disability retirement is increased from 15 to 20 hours

Section 8. [amends 79-958] retains the current 9.78% employee contribution rate and strikes the 2017 sunset

Section 9. [amends 79-966] the 1% state statutory contribution rate sunsets on July 1, 2014 rather than July 1, 2017; beginning July 1, 2014, the state statutory contribution rate is increased to 2% with no sunset

Section 10. [amends 79-966.01] beginning July 1, 2013 the amortization method is changed from level dollar to level percentage of salary; strikes obsolete language

Class V School Employees Retirement Act (Omaha)

- Section 11. [amends 79-9,100] amends the definition of final average compensation for members of the Class V School Employees Retirement System; calculation of final average salary for employees who are members prior to July 1, 2013 continues to be based on the 3 fiscal years compensation was highest; for employees hired on or after July 1, 2013, the calculation is based on the five fiscal years compensation was highest
- Section 12. [amends 79-9,103] for employees who are members of the Class V School Employees Retirement System prior to July 1, 2013, the maximum cost-of-living adjustment remains at 1.5%; for employees hired on or after July 1, 2013, the maximum cost-of-living adjustment is 1%
- Section 13. [amends 79-9,105] revisor technical amendment
- Section 14. [amends 79-9,113] beginning September 1, 2013 the employee contribution rate is increased from 9.3% to 9.78% of compensation
- Section 15. [amends 79-1003] amends the general fund operating expenditure exceptions for purposes of the Tax Equity and Educational Opportunities Support Act; strikes the current 2017 sunset for expenditures to pay for employer (school districts) contributions that exceed the 7.35% employer contribution rate for all school districts except Class V school districts which is 7.37%
- Section 16. [amends 79-1028.01] amends budget lid exceptions by striking the 2017 sunset on expenditures to pay for employer (school districts) contributions that exceed the 7.35% contribution rate for all school districts except Class V school districts which is 7.37%

Nebraska State Patrol Retirement Act

- Section 17. [amends 81-2017] changes the amortization method in the state patrol plan from level dollar to level percentage of salary beginning July 1, 2013
- Section 18. The operative date is July 1, 2013
- Section 19. Severability clause
- Section 20. Repealer
- Section 21. Emergency clause

AMENDED INTO OTHER BILLS

LB 229 Change court fees for the Nebraska Retirement Fund for Judges

LB 229 retains the current \$6 court fee which is earmarked for the judges retirement fund. The fee was scheduled to return to \$5 in 2014. **[amended into LB 306]**

LB 305 Change provisions relating to State Patrol retirement

The amortization method in the Nebraska State Patrol Retirement Act is changed from level dollar to level percentage of salary beginning July 1, 2013. **[amended into LB 553]**

LB 306 Change judges' contribution for retirement

The amortization method in the Judges' Retirement Act is changed from level dollar to level percentage of salary beginning July 1, 2013. **[amended into LB 553]**

LB 321 Change a provision relating to first class city police officer disability retirement payments

As introduced, LB 321 would strike the requirement in the First Class Cities Police Officers Retirement Act, that a disabled police officer must first use all unused annual or sick leave before being allowed to receive salary or pension payments. Salary and pension payments are subject to deduction of amount paid under Workers Compensation Act.

As amended by the Committee:

LB 321 as amended, requires only permanently disabled police officers to spend down all credits for unused annual or sick leave or other similar credits in order to receive disability salary or disability pension.

LB 554 Change provisions relating to Class V school employees retirement

As introduced, LB 554 creates a new tier of reduced benefits for members of the Class V School Employees Retirement System who begin work for the first time on or after September 1, 2013. Benefits remain unchanged for employees who are members of the Class V Employees Retirement Plan prior to September 1, 2013. The new tier changes are:

1. final average salary is averaged over 5 fiscal years instead of 3 fiscal years
2. COLA rate is 1% instead of 1.5%

Beginning September 1, 2013 the employee contribution rate is changed to an unspecified rate with no sunset.

The state contribution rate is increased from 1% to 2% of compensation with no sunset.

The sunset is stricken in 79-1003 and 79-1028.01 for the school budget and lid exclusions for expenditures above the 2008 Class V employer contribution rate of 7.37% and the 2008 School Employees employer contribution of 7.35%.

As amended by the Committee with Committee Amendment 802 to LB 553:

Benefits for Class V school employees who are members prior to July 1, 2013 remain unchanged.

All Class V school employees hired on or after July 1, 2013 will receive reduced benefits which includes final average salary averaged over 5 years instead of 3 years, and a 1% maximum cost-of-living adjustment.

The employee contribution rate is increased from 9.3% to 9.78% beginning September 1, 2013 with no sunset.

The state scheduled statutory contribution rate for Class V school districts is increased from 1% to 2% of total compensation beginning July 1, 2014 with no sunset.

The sunset is stricken in 79-1003 and 79-1028.01 for the school budget and lid exclusions for expenditures above the Class V employer contribution rate of 7.37% and the School employer contribution of 7.35%.

LB 594 Provide Nebraska Investment Council duties relating to administration of the Nebraska Veterans Aid Fund

LB 594 directs the Nebraska Investment Council rather than the Board of Education Lands and Funds, to manage and invest the Nebraska Veterans' Aid Fund.

INDEFINITELY POSTPONED

LB 638 Provide a cash balance retirement system for school employees

LB 638 incorporates into the School Employees Retirement Act, a cash balance benefit for employees hired or rehired on or after July 1, 2014. Under the cash balance benefit, the interest credit rate is the greater of 5% or the federal mid-term rate plus 1.5%. The period of vesting remains 5 years and there is no cost-of-living allowance for cash balance plan members. Members of the cash balance plan are eligible to retire at age 55.

LB 638 also adds four public representatives to the Public Employees Retirement Board. The additional public representatives would create an equal number of plan members and public members on the Board.

Section-by-Section Summary

Section 1. [amends 79-901] incorporates new sections into the School Employees Retirement Act

Section 2. [amends 79-902] in the School Employees Retirement Act:

amends the definition of “employees” to identify those employees who qualify for the cash balance benefit including: those who become employed on and after July 1, 2014; regular employees who retired prior to the operative date and subsequently provide compensated service on a regular basis in any capacity; regular employees hired to assume duties of other regular employees who are temporarily absent; substitute employees, temporary employees; employees who have not attained the age of 18 are not considered school employees

amends the definition of “retirement” by adding cash balance benefit granted under the Act

amends the definition of “actuarial equivalent” to include the same used to in the county and state employees cash balance plans

amends definition of “eligibility and vesting credit” to include vesting under cash balance benefit which grants credit for years of service in other Nebraska governmental or political subdivision plan

amends the definition of “compensation” to include compensation as defined in new subdivision (36) for purposes of the cash balance benefit

inserts new definition of “compensation” for purposes of cash balance benefit which includes only gross wages or salaries; compensation exclusions are the same as defined in the county and state cash balance plans

inserts new definition of “annuity” which tracks the definition in the county and state cash balance plans

inserts new definition of “annuity start date” which tracks the definition in the county and state cash balance plans

inserts new definition of “employee contribution credit” which is equal to the amount described in subsection (1) of section 10 – which is unspecified

inserts new definition of “employer contribution credit” which is equal to the amount described in subsection (2) of section 10 – which is 101% of the employee rate

inserts new definition of “final account” which tracks the definition in the county and state cash balance plans

inserts new definition of “five-year break in service” which tracks the definition in the county and state cash balance plans

inserts new definition of “Guaranteed investment contract” which tracks the definition in the county and state cash balance plans

inserts new definition of “interest credit rate” which tracks the definition in the county and state cash balance plans – which is the greater of 5% or the applicable mid-term rate plus 1.5%, compounded annually

inserts new definition of “interest credits” which tracks the definition in the county and state cash balance plans

inserts new definition of “member cash balance account” which tracks the definition in the county and state cash balance plans

inserts new definition of “one-year break in service” which tracks the definition in the county and state cash balance plans

inserts new definition of “participation” which tracks the definition in the county and state cash balance plans

inserts new definition of “regular interest rate” which tracks the definition in the county and state cash balance plans

inserts new definition of “required contribution” which tracks the definition in the county and state cash balance plans

inserts new definition of “cash balance benefit” which tracks the definition in the county and state cash balance plans

- Section 3. Adds a cash balance benefit to the School Employees Retirement Act for members who begin employment and participation on and after July 1, 2014 (the operative date of the Act)
- enumerates the contents of the employee cash balance account which tracks the county and state employees cash balance plans
- grants the Public Employees Retirement Board (PERB) the authority to enter into administrative service agreements for accounting and record-keeping services and authorizes the cost of such services to be assessed as fees to member accounts (tracks the county and state employees cash balance plans)
- Section 4. Restricts contributions for the cash balance benefit as limited to itemized contributions which tracks the county and state employees cash balance plans
- Section 5. The following sections apply to the school retirement allowance – which is for defined benefit plan members only:
- | | |
|------------------------|---|
| 79-907 | statement of information; board power and duties |
| 79-927 to 79-929 | service credit computation & board verification of service record; board issuance of prior service certificate |
| 79-931 | retirement; when; application |
| 79-933.03 to 79-933.08 | credit for service in other schools and leave of absence; purchase of service within 12 months of service & rules and regulations |
| 79-938 | retirement allowance and method of payment |
| 79-947.06 | annual benefit adjustment – method of adjustment calculation |
| 79-956 | death of member before retirement; how contributions are treated |
| 79-958-60 | employee and employer contributions; credit with regular interest; employer remittance; deductions; fees |
- Section 6. [amends 79-910.01] mandates participation in cash balance benefit for employees who begin employment or are rehired on or after July 1, 2014
- Section 7. [amends 79-920] only members of the Schools Employees Plan before July 1, 2014 who become employed by the State Department of Education may elect to remain in the school defined benefit plan; if an individual terminates from a public school and retires pursuant to the school defined benefit plan and is subsequently employed by the Department on or after July 1, 2014, then the employee is a member of the State Employees Cash Balance plan
- Section 8. [amends 79-921] amends the section to provide that prior to July 1, 2014 the board may reinstate membership in the school defined benefit plan after membership ceases.

- Section 9. [amends 79-922] a new member cash balance account shall be established for a beneficiary retired under the school defined benefit plan who returns to work as a school employee
- Section 10. New Sections 10 to 29 of this Act apply to the cash balance benefit.
- Section 11. Each member pays contribution of xx of compensation; the employer match is 101% establishes the method of payment; requires employers to pick up contributions.
- Section 12. Requires the Public Employees Retirement Board to provide benefit liability information to the Nebraska Investment Council and to verify investments; the assets are the exclusive use of providing benefits to members and members' beneficiaries
- Section 13. Definitions for this section and section 13 regarding rollovers; authorizes Public Employees Retirement Board to adopt rules and regulations regarding direct rollovers.
- Section 14. Requires retirement system to accept cash rollover contributions from members pursuant to sections 21 and 24 of this Act; authorizes Public Employees Retirement Board to adopt rules and regulations defining procedures for acceptance of rollovers.
- Section 15. Authorizes trustee-to-trustee transfers from eligible tax plans
- Section 16. School employees in the cash benefit plan are eligible to retire at age 55 or as the result of disability at any age and shall designate the manner in which he or she wishes to receive the benefit.
- Section 17. The retirement value for a school employee who retires under the cash balance plan is the value of the members cash balance account
- Section 18. Determines how future service retirement benefits are computed and when they are payable based on the annuity selected; Public Employee Retirement Board designated with responsibility to provide information on tax consequences of selecting various retirement options; deferment of benefits described; Board shall perform annual actuarial analysis using described actuarial methods; if the actuarial contribution rate exceeds the rate of all contributions, there shall be a supplemental payment sufficient to pay the actuarial contribution rate; (tracks the language in the county and state cash balance plans)
- Section 19. 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.
- Section 20. Members who terminate prior to vesting forfeit the balance of the member's employer cash balance account. Forfeitures are credited to the School Retirement Fund and shall not be used to increase the benefits of any member; benefit payment suspended pending final outcome of grievance or appeal

- Section 21. Employees who have had a five-year break in service are considered new employees for purposes of the School Employees Act and do not receive credit for prior service; members who cease employment before becoming eligible for retirement under section 16 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.
- Section 22. Establishes retirement due to disability retirement regardless of length of service including examination requirements.
- Section 23. Retirement annuities or benefits are not subject to garnishment, attachment, levy, operation of bankruptcy laws unless member is convicted or pleads no contest to felony of assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement and found liable for civil damages as a result of such felony.
- Section 24. Describes treatment of employees during military service.
- Section 25. Membership status in the school retirement system is not lost as long as members retain status as school employees
- Section 26. False or fraudulent acts are prohibited in claiming a benefit; penalties are described; benefits may be denied.
- Section 27. Retirement allowances and benefits are in addition to benefits and allowance payable under Social Security Act.
- Section 28. 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.
- Section 29. 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
- Section 30. [amends section 79-926] amends military service section in the School Employees Retirement Act and clarifies that this section applies prior to July 1, 2014; after July 1, 2014 credit for military service and related provisions shall be granted in accordance with section xxx
- Section 31. [amends 79-947.06] amends cost-of-living allowances to limit them only to members who participate in the school defined benefit plan
- Section 32. [amends 79-972.01] School Retirement Fund includes payment of cash balance benefits. The Department of Administrative Services is authorized to create sub-funds to separately account for school retirement allowance (defined benefit) and cash balance plan assets

- Section 33. [amends 84-1501] increases the number of members of the Public Employees Retirement Board from 8 to 12; increases from 2 to 6 the number Board members who must have experience in management of public/private organization or field of actuarial analysis and are not employees of the state or political subdivisions
- Section 34. Operative date of the Act is July 1, 2014.
- Section 35. Repealer

LB 639 Make new judges and state patrol officers members of the state employees retirement system

LB 639 moves judges and state patrol officers who begin employment on or after July 1, 2014 into the State Employees Cash Balance Plan. All cash balance members, including judges and patrol officers, contribute 4.8% of compensation with a state match of 156%, which is 7.49%. Because state patrol members do not pay in to social security, under LB 639 state patrol members would make a supplemental member contribution of 7.65% which is matched 100% by the state employer.

LB 638 also adds four public representatives to the Public Employees Retirement Board. The additional public representatives would create an equal number of plan members and public members on the Board.

Section-by-section Summary

- Section 1: [amends 24-701] amends the definition of judge in the current Judges' Defined Benefit Plan as one who began serving prior to the operative date of the Act, July 1, 2014
- 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 48-155.01] acting judges shall not pay contributions and are not eligible to receive retirement benefits under the Judges Defined Benefit Plan or the State Employees Cash Balance Plan

- Section 5. [amends 81-2014] in the State Patrol Retirement Plan – amends the definition of “officer” as one who was initially employed prior to the operative date of the Act, July 1, 2014
- Section 6. [amends 81-1301] amends the definition of “employee” under the State Employees Retirement Act to include judges who begin serving and patrol officers who are employed after July 1, 2014 – the operative date of the act
- amends the definition of contribution for employees and employers to include rates established under section 10 of this act which establish supplemental patrol contributions
- adds a new definition for “judges” to the State Employees Retirement Act
- Section 7. [amends 84-1302] includes in the list of contributions that may be accepted from members and the state, the contributions established in section 10 (which are the supplemental contributions for state patrol members).
- Section 8. [amends 84-1317] clarifies in the State Employees Retirement Act that the retirement eligibility age for state patrol officers is an exception to state employee retirement age of 55.
- Section 9. [New Section] adds to the State Employees Retirement Act the current State Patrol retirement age eligibility: at age 50 with 10, 25 and 30 years of service; mandatory retirement at age 60; describes effective date of retirement payments which may be received no more than 90 days prior to qualifying for retirement; adds State Patrol credit for military service
- Section 10. [New Section] creates supplemental retirement benefit plan for certified law enforcement officers employed on or after operative date of act funded by contributions in excess of amounts employer contribution rate of 4.8% established in 84-1308 and 156% employer contribution rate established in 84-1309; the supplemental member and employer (state) rates are 7.65% of compensation
- Section 11. [amends 84-1320] amends current State Employees Retirement Act annuity language to clarify that State Patrol members receive full annuity at age 60
- Section 12. [amends 84-1325] amends the State Employees Retirement Act and adds reference to new language in Section 9 regarding State Patrol military service credit
- Section 13. [New Section] Adds current language to the State Employees Retirement Act regarding filling of judicial vacancy
- Section 14. [amends 84-1331] Adds reference to sections 9, 10, and 11 as incorporated into the State Employees Retirement Act

- Section 15. [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 16. [amends 84-1501] increases the number of members of the Public Employees Retirement Board from 8 to 12; increases from 2 to 6 the number of Board members who must have experience in management of public/private organization or field of actuarial analysis and are not employees of the state or political subdivisions; judge representative on the board may be a member of either the Judges defined benefit or cash balance plan; patrol representative on the board may be a member of either the Patrol defined benefit or cash balance plan
- Section 17. The operative date of this Act is July 1, 2014.
- Section 18. Repealer.

CARRIED OVER IN COMMITTEE

LB 77 Adopt the Nebraska Iran Divestment Act

Under LB 77 the Attorney General is directed to assemble a list of scrutinized companies within 90 days of the effective date of the Act and then forward the list to the State Investment Officer for action. Scrutinized company is defined as a company with business operations that involve contracts with, or provides supplies or services to, the government of Iran, and includes one of the following:

- more than 10% of the company's revenue or assets are linked to Iran oil-related activities or mineral extraction activities;
- more than 10% of company's revenue or assets are linked to Iran power production activities;
or
- the company supplies military equipment to the government of Iran unless the company clearly shows that the equipment cannot be used to facilitate international acts of terrorism

The State Investment Officer is required to direct the investment managers not to acquire any direct holding in a scrutinized company unless, in the good faith judgment of the Officer, the prohibition, would result in a breach of fiduciary duty of the State Investment Officer or members of the Nebraska Investment Council.

The Act terminates if either of the following occurs:

- Iran is removed from the U.S. Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism; or
- The President determines and certifies that state legislation similar to the act interferes with the conduct of U.S. Foreign policy.

Section-by-Section Summary

- Section 1. Creates Nebraska Iran Divestment Act
- Section 2. Legislative intent
- Section 3. Definitions
- Section 4. Directs the Attorney General to use his or her best efforts to assemble and transmit to the State Investment Officer, a comprehensive list of scrutinized companies
- Section 5. Requires the Attorney General to annually update the list
- Section 6. Prohibits the Nebraska Investment Council from acquiring a direct holding in a scrutinized company unless such prohibition would, in the good faith judgment of the State Investment Officer, result in a breach of fiduciary duty of the Officer or members of the Nebraska Investment Council
- Section 7. If the federal government excludes a scrutinized company from present or future sanctions, then the company is exempt from the divestment and investment prohibitions under this Act
- Section 8. The Act does not apply to direct holdings in a social development company and in a United States company that is authorized by the U.S. Government to have active business operations in Iran
- Section 9. The Act does not apply to indirect holdings. Directs the Attorney General to annually submit letters to managers of indirect holdings stating the policy and requesting managers to consider avoiding acquiring holdings or removing such scrutinized companies from the fund
- Specifically states that nothing in this section requires the State Investment Officer or Nebraska Investment Council to invest in indirect holdings that do not contain scrutinized companies
- Requires the State Investment Officer to submit all necessary information to the Attorney General

- Section 10. Establishes conditions for termination of the Act
- Section 11. Exempts the Attorney General, State Investment Officer, and Nebraska Investment Council from any statutory or common law obligations that conflict with actions taken in compliance with the Act

LB 138 Create the Group Health Trust Fund and provide for investment and duties for the State Treasurer

LB 138 creates the Group Health Trust Fund and directs the State Investment Officer to invest the assets of the Fund which includes monies from employee and employer premiums used to provide health benefits to University of Nebraska employees. The bill also inserts the Group Health Trust Fund among those funds for which the State Treasurer is custodian and charges the Treasurer with making disbursements from the Fund.

- Section 1. [amends 85-122] Inserts the Group Health Trust Fund in the list of university funds which are invested by the State Investment Officer and the NIC.
- Section 2. [New section] Creates the Group Health Trust Fund and directs the State Investment Officer to invest the assets of the Fund which includes monies from employee and employer contributions used to provide health benefits to University of Nebraska employees.
- Section 3. [amends 85-128] Inserts the Group Health Trust Fund among those funds for which the State Treasurer is custodian and charges the Treasurer with making disbursements from the Fund.
- Section 4. [amends 85-129] Includes the Fund in the list of other university funds for which the Treasurer is the designated custodian.

[NOTE: The Committee requested an Attorney General's Opinion. See Appendix C]

LB 552 Adopt the First Class Cities Firefighters Cash Balance Retirement Act

LB 552 creates a Cash Balance Retirement Plan for first class city firefighters hired on and after an unspecified date. Currently, all first class city firefighters hired after 1984 are members of defined contribution plans administered by each first class city.

Current firefighters would have a one-time option between unspecified dates to transfer into the Cash Balance Retirement Plan. The Plan would be structured similar to the County and State Cash Balance Retirement Plans which guarantee a minimum 5% interest rate with possible dividends if the Plan is fully funded.

Employee and employer contribution rates would remain the same as the rates for the current members of the firefighter defined contribution plans. The employee rate would be 6.5% of compensation and the employer rate would be 13%. Firefighters do not participate in Social Security.

The Cash Balance Plan would be administered by the Public Employees Retirement Board. A representative of the first class city firefighters would be added to the membership of the Public Employees Retirement Board.

Section-by-Section Summary

- Section 1. Creates the First Class Firefighters Cash Balance Retirement Act
- Section 2. Definitions
- Section 3. Identifies contributions that will be accepted
- Section 4. The Public Employees Retirement Board is directed to administer the Act and adopt rules and regulations to carry out the Act.
- Section 5. The Board is authorized to refund contributions, require additional contributions, adjust benefits, credit dividend amounts and require repayment of benefits. The Board shall adopt rules and regulations to carry out these provisions including notice and process for disputing adjustments of contributions and benefits
- Section 6. Describes composition of membership in the Cash Balance Plan which includes:
 - employees with an account balance
 - members who exercised the option to transfer into the Plan
 - limits membership to U.S. Citizens or qualified aliens lawfully present in the U.S.

Allows 180 days to apply for vesting credit for participation in another Nebraska governmental plan

Requires cities to ensure that employees authorized to participate in the Plan are enrolled in the plan and make required contributions

- Section 7. Authorizes full-time and part-time employees from various governmental entities who become firefighters for a city pursuant to a merger to pay into the Plan the amount of all the employee and employer contributions that had been made to a previous retirement plan. The payment must be received within 5 years after the merger
- Section 8. Employee/firefighter contribution is 6.5%; includes pick-up language for IRS purposes
- Section 9. Creates the Cities of the First Class Firefighters Cash Balance Retirement Fund. The Fund shall receive the employee contribution of 6.5% and the city contribution of 13% (which is 200% of the employee contribution)
- In addition to daily penalties, the Board may assess a \$25 administrative processing fee if the payments are late
- DAS may create sub-funds for accounting purposes
- Section 10. Establishes legislative intent to improve competitiveness of the retirement for firefighters in cities and creates cash balance benefit for employees who begin employment on and after an unspecified date
- Allows current members to elect to transfer into the Cash Balance Plan between unspecified dates. Establishes what may be included in the accounts of those members who elect to transfer to the Cash Balance Plan
- Section 11. Designates the State Treasurer as custodian of the funds in the Plan
- Section 12. Creates the Cities of the First Class Firefighters Cash Balance Retirement Expense Fund which includes forfeitures that may be used to pay pro rata share of administrative expenses incurred by the Board in administering the Plan
- Section 13. The Director of the Nebraska Public Employees Retirement Systems is required to:
- keep complete records of all the members
 verify the information from time to time provided by the employer
 develop and implement employer education program
- Section 14. The Auditor is required to conduct an annual audit of the Plan and provide its report to the Clerk of the Legislature
- Section 15. 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.

- Section 16. 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
- Section 17. The retirement benefit for a retired employee under this Act is the member's account value
- Section 18. Establishes various annuity options which are the actuarial equivalent of the member's account value; also authorizes selection of a lump sum payment
- Requires annual actuarial valuation beginning in an unspecified year, using a 25 year amortization period. If the actuarially required contribution rate exceeds the rate of all contributions then a supplemental appropriation shall be made.
- If the unfunded accrued actuarial liability is less than zero then the Board may elect to pay a dividend to all members
- Benefits may be deferred no later than age 70 ½ years of age
- Section 19. Upon retirement, non-vested members receive only the amount of the employee contributions
- If vested the termination benefit includes both the employee and employer contributions
- Retiree may choose annuity or lump sum benefit; establishes timing of retirement payment
- Establishes vesting schedule
- | | |
|-------------------|---------------------|
| less than 4 years | zero percent vested |
| 4 to less than 5 | 40% vested |
| 5 to less than 6 | 60% vested |
| 6 to less than 7 | 80% vested |
| 7 or more years | fully vested |
- Section 20. If member is not vested employer account is forfeited. Forfeitures are credited to First Class Firefighters Cash Balance Retirement Fund and first used to meet expense charges incurred for administering the plan, which charges are credited to the First Class Firefighters Cash Balance Retirement Expense Fund and then to restore employer accounts
- Establishes process if employee is terminated and grievance is filed
- Section 21. If an employee has a 5 year break in service, the person is considered a new employee and shall not receive credit for past service.

Members who cease employment before becoming eligible for retirement and again become an employee prior to a five-year break in service, are immediately re-enrolled in the Plan and resume making contributions. If a member withdrew their retirement funds, the re-employed member may repay the value of the benefit

If a member retired and then becomes a full-time employee or permanent part-time employee with the city more than 120 days after his or her retirement date, the member shall continue receiving retirement benefits.

- Section 22. Describes death benefit paid if member dies before retirement
- Section 23. Retirement annuities or benefits are not subject to garnishment, attachment, levy, operation of bankruptcy laws unless member is convicted or pleads no contest to felony of assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement and found liable for civil damages as a result of such felony
- Section 24. Describes treatment of employees during military service
- Section 25. Establishes definitions for this section regarding rollovers; authorizes Public Employees Retirement Board to adopt rules and regulations regarding direct rollovers
- Section 26. Requires retirement system to accept cash rollover contributions from members; authorizes Public Employees Retirement Board to adopt rules and regulations defining procedures for acceptance of rollovers
- Section 27. Authorizes trustee-to-trustee transfers
- Section 28. Persons who become members of the Plan do not lose their status as plan members while they remain employees.
- Section 29. False or fraudulent acts are prohibited in claiming a benefit; penalties are described; benefits may be denied
- Section 30. Retirement allowances and benefits are in addition to benefits and allowance payable under Social Security Act
- Section 31. The provisions of the Act take effect on the operative date
- Section 32. The Act becomes effective for each city upon the adoption by the city council or an unspecified date, whichever is earlier
- Section 33. Once the city council adopts the Plan for its city, the city clerk shall certify such action to the Board, and on an unspecified date provide a list of all eligible employees
- Section 34. Any claim or action filed under this Act is barred unless brought within 2 years of time in which claim accrued

- Section 35. 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
- Section 36. 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
- Section 37. Adds Cities of the First Class Firefighters Balance Retirement Act to prohibition on providing public benefits to persons not lawfully within the United States
- Section 38. Limits provisions of Firefighters Retirement System to members employed prior to unspecified date or such members who elect not to transfer to the Cash Balance Plan.
- Section 39. Adds a representative of the Firefighters Cash Balance Plan, appointed by the Governor, to the membership of the Public Employees Retirement Board
- Section 40. Adds administration of the Cities of the First Class Firefighters Cash Balance Retirement Plan to the duties of the Public Employees Retirement Board
- Section 41. Requires the Board to establish a comprehensive pre-retirement planning program the members of the Cities of the First Class Firefighters Cash Balance Retirement Plan
- Section 42. Repealer
- Section 43. Emergency clause

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V. Bill Status Chart

LB #	INTRODUCER & ONE-LINER	COMMITTEE ACTION	STATUS
77	<i>(Avery)</i> Adopt the Iran Divestment Act		In Committee
138	<i>(Krist)</i> Create the Group Health Trust Fund and provide for investment and duties for the State Treasurer	Attorney General Opinion requested	In Committee
229	<i>(Nordquist)</i> Change the Nebraska Retirement Fund for Judges fee	Advanced to GF	IPP
263	<i>(Ret. Comm.)</i> Change provisions relating to government retirement systems	Amended by Committee; incorporated LB 594 and LB 321 as amended	Enacted
305	<i>(Nordquist)</i> Change provisions relating to State Patrol retirement	Amortization change in Comm AM to LB 553	Portion amended into LB 553 and enacted
306	<i>(Nordquist)</i> Change judges' contribution for retirement as prescribed	Amortization change in Comm AM to LB 553	Enacted
321	<i>(Crawford)</i> Change a provision relating to disability retirement payments	Amended by Committee; incorporated into LB 263	Portion amended into LB 263 and enacted
552	<i>(Nordquist)</i> Adopt the Cities of the First Class Firefighters Cash Balance Retirement Act		In Committee
553	<i>(Nordquist)</i> Change provisions relating to school employee retirement	Amended by Committee; incorporated LB 554 and amortization provisions of LB 305 and LB 306	Enacted notwithstanding objection of Governor
554	<i>(Nordquist)</i> Change provisions relating to school employee retirement (Class V)	Amended by Committee; incorporated into LB 553	Amended by Committee, incorporated into LB 553 and enacted
594	<i>(Price)</i> Provision Nebraska Investment Council duties relating to administration of the Nebraska Veterans' Aid Fund	Incorporated into LB 263	Portion amended into LB 263 and enacted
638	<i>(Nelson)</i> Provide a cash balance retirement system for school employees	IPP	IPP
639	<i>(Nelson)</i> Make new judges and state patrol officers members of the state employees retirement system	IPP	IPP

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VI. Interim Study Resolutions

Prioritization

LR Number	Subject of Interim Study	Priority Ranking
191	<i>(Krist)</i> Interim study to examine the public employees retirement systems administered by the Public Employees Retirement Board including an examination of funding needs, benefits, contributions, and the administration of each retirement system.	2
198	<i>(Retirement Committee)</i> Interim study to examine the employee retirement systems administered by the Public Employees Retirement Board	1
213	<i>(Kolowski)</i> Interim study to examine college savings plans administered under the Nebraska educational savings plan trust and ways to increase plan participation.	4
246	<i>(Retirement Committee)</i> Interim study to conduct a comparison of the school employees and Class V school employees retirement plans	6
247	<i>(Nordquist)</i> Interim study examine the purchase of service credits in public retirement plans.	7
248	<i>(Nordquist)</i> Interim study to examine service requirements in the school employees retirement plan.	8
344	<i>(Retirement Committee)</i> Interim study to examine availability and adequacy of retirement savings of Nebraska private sector workers.	3
369	<i>(Retirement Committee)</i> Interim study to examine guidance principles for pension divestment policy decisions.	5

LR 191

Introduced by Krist

PURPOSE: The purpose of this resolution is to study all state retirement plans administered by the Public Employees Retirement Board, including the State Employees Retirement System of the State of Nebraska, the Retirement System for Nebraska Counties, the School Employees Retirement System of the State of Nebraska, the Nebraska State Patrol Retirement System, and the Nebraska Judges Retirement System.

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

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 198

Introduced by the Nebraska Retirement Systems Committee

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 THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 213

Introduced by Kolowski

PURPOSE: The purpose of this resolution is to study the college savings plans administered under the Nebraska educational savings plan trust and ways to increase plan participation. In conducting this study, the study committee shall consult with the State Treasurer, the plan administrator, First National Bank of Omaha, and other interested parties. Issues considered by the study committee shall include, but not be limited to, the following:

- (1) Current plan participation rates and the demographics of plan participants with regard to family income, race, gender, geographic location, and other variables;
- (2) Fees currently assessed on plan participants and the use of those fees;
- (3) Strategies for raising awareness and encouraging plan participation, especially among lower income families; and
- (4) The relationship between educational savings and the likelihood of pursuing a higher education.

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

That the Education Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 246

Introduced by the Nebraska Retirement Systems Committee

PURPOSE: The purpose of this study is to conduct a comparison of the school employees and Class V school employees retirement plans. The examination shall include, but not be limited to, a comparison of benefits, plan assets and funding obligations, and administrative costs.

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 247

Introduced by Nordquist

PURPOSE: The purpose of this study is to examine purchase of service credits in public retirement plans.

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 248

Introduced by Nordquist

PURPOSE: The purpose of this study is to examine service requirements in the School Employees Retirement Act including, but not limited to, temporary service and service following termination of employment.

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 344

Introduced by the Nebraska Retirement Systems Committee

PURPOSE: The state has an interest in the retirement security of Nebraska workers including the ability of all workers to secure their independence and self-sufficiency upon retirement. Research indicates that since the 1980s there has been a steadily declining savings rate among workers. In addition, only about half the workers have access to a retirement savings plan at work. Workers unable to build up sufficient pensions and savings are more likely to become dependent on state services in their old age.

The study shall include, but not be limited to, an examination of the availability and adequacy of retirement savings of Nebraska private sector workers.

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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 369

Introduced by the Nebraska Retirement Systems Committee

PURPOSE: The purpose of this study is to examine guidance principles for pension divestment policy decisions

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

That the Nebraska Retirement Systems Committee is designated to conduct an interim study to carry out the purpose of this resolution.

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. APPENDIX A

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History of School Contribution Rates – Updated

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	9.78%	101% = 9.88%

History of Nebraska State Patrol Contribution Rates

	1947	1971	1975	1995	1996	2004	2005	2009	2010	2011	2013
Patrol	5%	7%	8%	10%	11%	12%	13%	15%	16%	19%	16%
State	5%	7%	8%	10%	11%	12%	15%	15%	16%	19%	16%

History of Judges Contribution Rates – Updated

	1955	1957	1969	2004	2009
Employee	5%		6%*	8%**	1% added to each rate^
Employer/State^^		\$1.00 fee		\$5.00 fee	\$6.00 fee

* Judges hired prior to 2004 contribute 6% during first 20 years and 0% thereafter

** Judges hired after 2004 and judges who select Joint & Survivor Benefit contribute 8% first 20 years then 4%

^ In 2009, 1% was added to each rate with 2014 sunset; sunset was stricken in 2013 under LB 306
i.e. Judges hired prior to 2004 the rate is 7% for 20 years then 1%;
Judges hired after 2004 and those who select Joint/Survivor benefit the rate is 9% for 20 years then 5%

^^ Employer/state contributions are funded by fees assessed on specific causes of action filed in district and county courts

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VII. APPENDIX B

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Nebraska Public Employees Retirement Systems

*Actuarial Study Results for Proposed
Changes to the School, St. Patrol, and
School Systems as of July 1, 2012*

April 3, 2013

Results of Actuarial Study

Proposed School Retirement System Changes Studied as of July 1, 2012

IAdd a new tier of benefits for all new employees hired after July 1, 2013, with same provisions of current plan except:

IFinal average salary changed to be based on 5 years rather than 3 years of salary.

ICOLA limit reduced from 2.5% to 1.0% per year.

IChange the amortization method from level dollar to level percent of pay beginning with the July 1, 2012 valuation year.

IEliminate the sunset on the 9.78% employee contribution rate in 2017 (was to reduce to 7.28%).

IIncrease the statutory state contribution rate from 1% to 2% beginning July 1, 2014 (without a sunset).

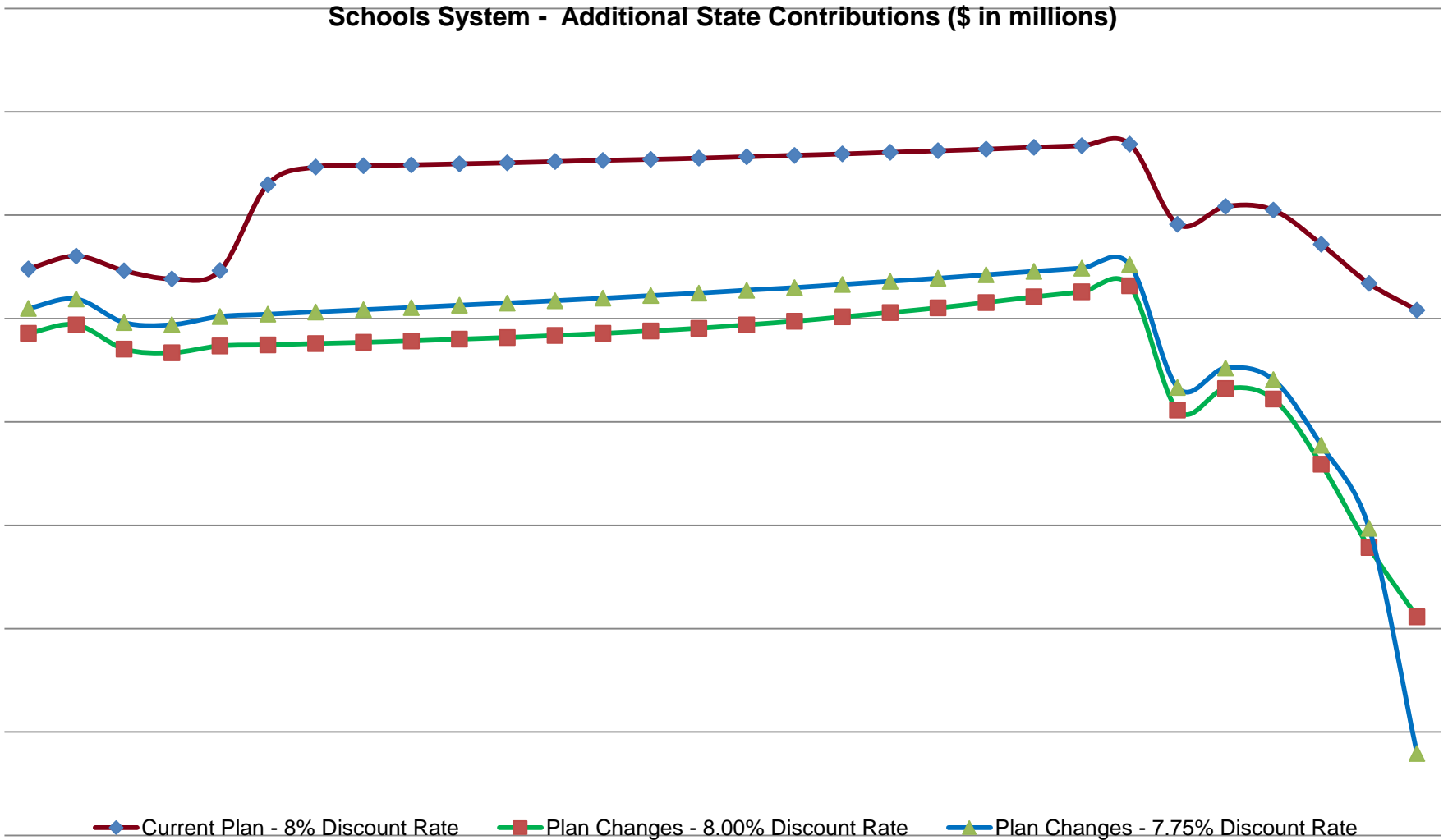
IIncrease eligibility for membership from 15 hours to 20 hours per week.

School Retirement System

Projection of Additional Contributions

Assuming Assets Earn 7.75% Return for All Scenarios

Schools System - Additional State Contributions (\$ in millions)



School Retirement System

Projection of Additional Contributions

Assuming Assets Earn 7.75% Return for All Scenarios

Year	Current Plan	Plan Changes - 8.00%	Plan Changes - 7.75%	Year	Current Plan	Plan Changes - 8.00%	Plan Changes - 7.75%
2012	\$ 48.1	\$ (14.3)	\$ 9.8	2027	\$ 156.6	\$ (6.1)	\$ 27.5
2013	\$ 60.5	\$ (6.0)	\$ 19.0	2028	\$ 157.9	\$ (2.6)	\$ 29.9
2014	\$ 46.3	\$ (29.4)	\$ (3.9)	2029	\$ 159.3	\$ 1.6	\$ 33.0
2015	\$ 38.4	\$ (33.0)	\$ (6.0)	2030	\$ 160.8	\$ 5.9	\$ 36.1
2016	\$ 46.4	\$ (26.4)	\$ 2.0	2031	\$ 162.4	\$ 10.4	\$ 39.0
2017	\$ 129.6	\$ (25.4)	\$ 4.2	2032	\$ 163.9	\$ 15.5	\$ 42.4
2018	\$ 146.7	\$ (24.1)	\$ 6.4	2033	\$ 165.7	\$ 21.0	\$ 45.7
2019	\$ 147.8	\$ (23.0)	\$ 8.6	2034	\$ 167.3	\$ 25.9	\$ 48.8
2020	\$ 148.7	\$ (21.6)	\$ 10.7	2035	\$ 168.8	\$ 31.7	\$ 52.2
2021	\$ 149.7	\$ (19.9)	\$ 12.9	2036	\$ 91.3	\$ (88.6)	\$ (66.7)
2022	\$ 150.7	\$ (18.3)	\$ 15.0	2037	\$ 108.4	\$ (67.7)	\$ (47.8)
2023	\$ 151.9	\$ (16.4)	\$ 17.3	2038	\$ 105.0	\$ (77.8)	\$ (59.1)
2024	\$ 153.1	\$ (14.4)	\$ 19.7	2039	\$ 71.9	\$ (140.8)	\$ (122.6)
2025	\$ 154.0	\$ (11.9)	\$ 22.2	2040	\$ 33.9	\$ (221.4)	\$ (202.9)
2026	\$ 155.2	\$ (9.4)	\$ 24.6	2041	\$ 8.2	\$ (288.4)	\$ (420.8)

School Retirement System Comments

Current plan results are based on the level dollar method of amortizing the unfunded liability. Assumptions are the same as those used in the July 1, 2012 actuarial valuations, including an 8% valuation interest rate (discount rate). For purposes of projecting future assets, we have assumed they will earn 7.75% per year as expected from the 2012 experience analysis.

The difference between the 8% expected return and the 7.75% earned return results in slightly lower returns achieved each year. This creates a slight loss each year that is amortized and slowly increases the contribution amounts. As a result, the unfunded liability is never fully amortized (paid off). Under the current plan, the additional state contribution does reduce to \$8.2M by 2041, but may still be required beyond 2041 as asset losses continue to be experienced.

The plan changes to the amortization method, a new tier of benefits, and increases in the contribution rates significantly reduce the additional state contributions over the next 30 years. The level percent of pay amortization method does increase contributions over time, so additional state contributions are likely necessary during some years in the future, particularly if the discount rate is reduced to 7.75%. However, under this scenario, the unfunded is likely to become fully amortized and the funded ratio will reach 100%. At an 8% discount rate, slight losses are more likely, requiring continued amortization payments.

Results of Actuarial Study

Proposed Patrols Retirement System Changes Studied as of July 1, 2012

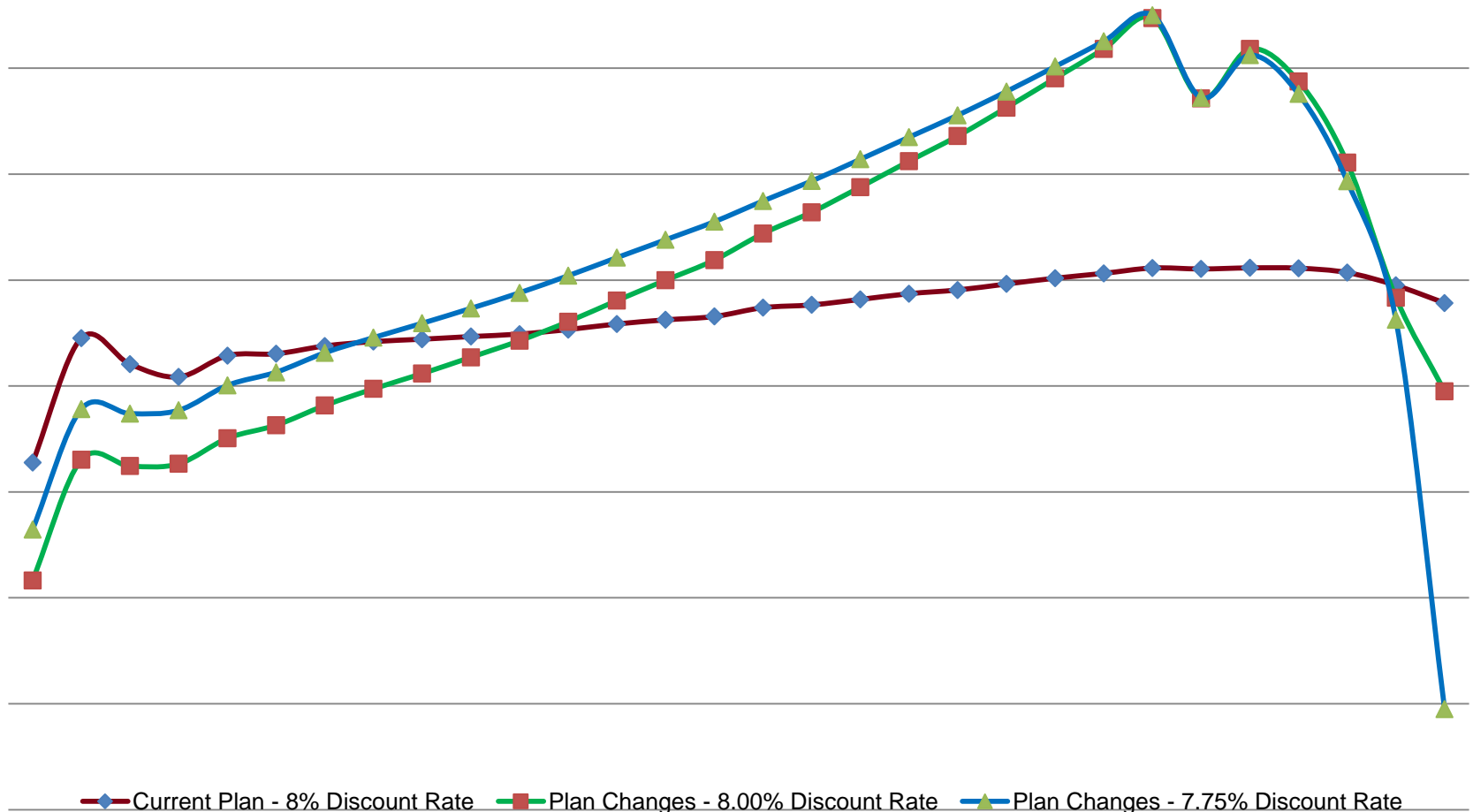
Change the amortization method from level dollar to level percent of pay beginning with the July 1, 2012 valuation year.

State Patrol Retirement System

Projection of Additional Contributions

Assuming Assets Earn 7.75% Return for All Scenarios

State Patrol System - Additional State Contributions (\$ in millions)



State Patrol Retirement System

Projection of Additional Contributions

Assuming Assets Earn 7.75% Return for All Scenarios

Year	Current Plan	Plan Changes - 8.00%	Plan Changes - 7.75%	Year	Current Plan	Plan Changes - 8.00%	Plan Changes - 7.75%
2012	\$ 4.6	\$ 2.3	\$ 3.3	2027	\$ 7.5	\$ 8.9	\$ 9.5
2013	\$ 6.9	\$ 4.6	\$ 5.6	2028	\$ 7.5	\$ 9.3	\$ 9.9
2014	\$ 6.4	\$ 4.5	\$ 5.5	2029	\$ 7.6	\$ 9.8	\$ 10.3
2015	\$ 6.2	\$ 4.5	\$ 5.5	2030	\$ 7.7	\$ 10.2	\$ 10.7
2016	\$ 6.6	\$ 5.0	\$ 6.0	2031	\$ 7.8	\$ 10.7	\$ 11.1
2017	\$ 6.6	\$ 5.3	\$ 6.3	2032	\$ 7.9	\$ 11.3	\$ 11.6
2018	\$ 6.8	\$ 5.6	\$ 6.6	2033	\$ 8.0	\$ 11.8	\$ 12.0
2019	\$ 6.8	\$ 5.9	\$ 6.9	2034	\$ 8.1	\$ 12.4	\$ 12.5
2020	\$ 6.9	\$ 6.2	\$ 7.2	2035	\$ 8.2	\$ 12.9	\$ 13.0
2021	\$ 6.9	\$ 6.5	\$ 7.5	2036	\$ 8.2	\$ 11.4	\$ 11.4
2022	\$ 7.0	\$ 6.9	\$ 7.8	2037	\$ 8.2	\$ 12.4	\$ 12.2
2023	\$ 7.1	\$ 7.2	\$ 8.1	2038	\$ 8.2	\$ 11.8	\$ 11.5
2024	\$ 7.2	\$ 7.6	\$ 8.4	2039	\$ 8.1	\$ 10.2	\$ 9.9
2025	\$ 7.2	\$ 8.0	\$ 8.8	2040	\$ 7.9	\$ 7.7	\$ 7.3
2026	\$ 7.3	\$ 8.4	\$ 9.1	2041	\$ 7.6	\$ 5.9	\$ (0.1)

State Patrol Retirement System Comments

Current plan results are based on the level dollar method of amortizing the unfunded liability. Assumptions are the same as those used in the July 1, 2012 actuarial valuations, including an 8% valuation interest rate (discount rate). For purposes of projecting future assets, we have assumed they will earn 7.75% per year as expected from the 2012 experience analysis.

The difference between the 8% expected return and the 7.75% earned return results in slightly lower returns achieved each year. This creates a slight loss each year that is amortized and slowly increases the contribution amounts. As a result, the unfunded liability is never fully amortized (paid off) and the additional state contribution never reaches \$0.

The plan changes are based on the level % of payroll amortization method. For purposes of the amortization, we have assumed payroll will increase 4.0% per year. Under this method, the initial amortization payments are reduced, but then increase 4.0% per year. By 2023, the payment amount with 8% discount exceeds the current plan amount. Under the 7.75% discount rate for the new amortization method, the payment amount exceeds the current plan amount by 2019. As under the current plan, the unfunded liability is increased by the asset losses at the 8% discount rate, but is fully amortized by 2041 under the 7.75% discount rate.

Results of Actuarial Study

Proposed Judges' Retirement System Changes Studied as of July 1, 2012

IEliminate the July 1, 2014 sunset on the additional 1% member contribution rate.

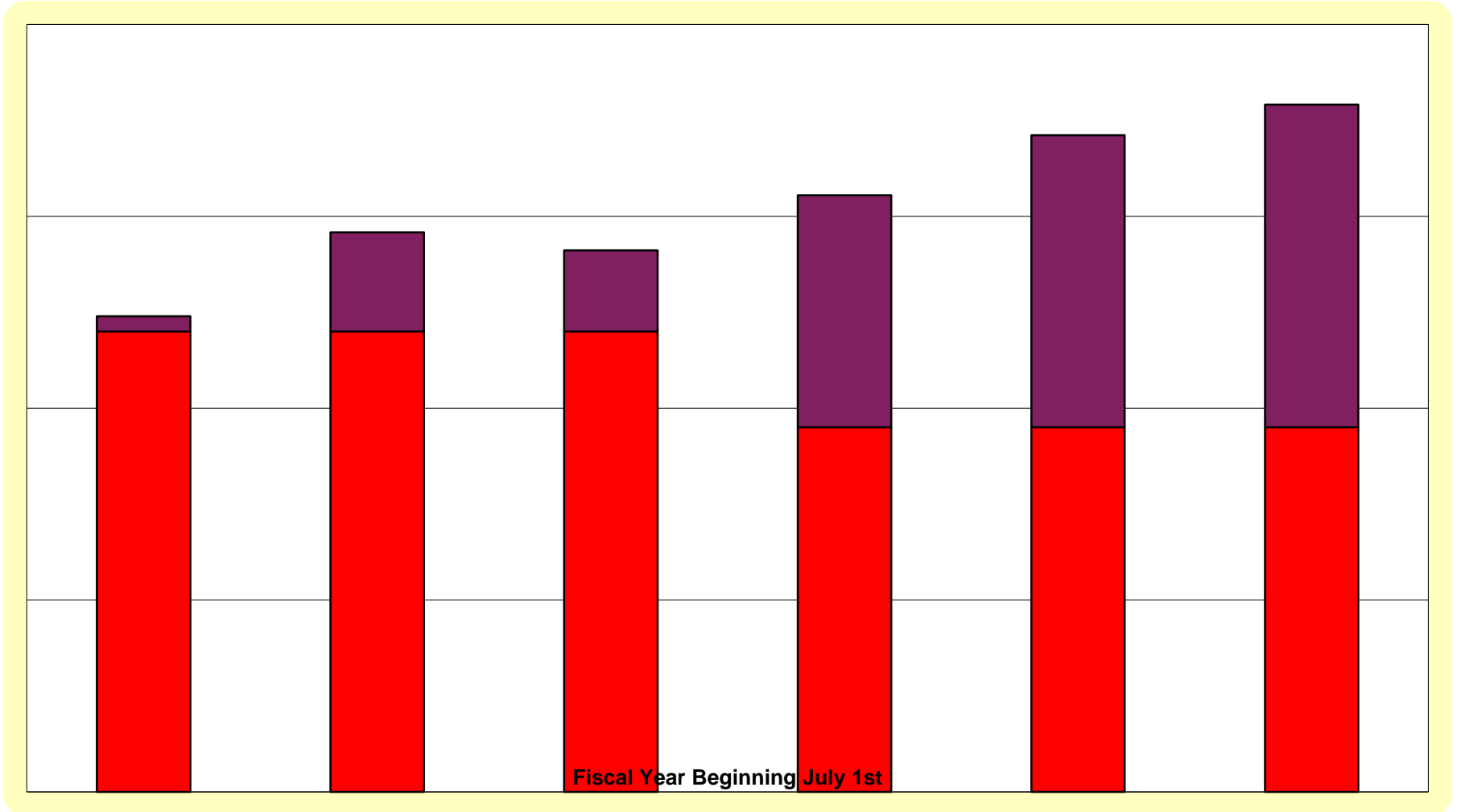
IEliminate the July 1, 2014 sunset on the additional \$1 court fee.

ICheck the amortization method from level dollar to level percent of pay beginning with the July 1, 2012 valuation year.

Judges' Retirement System Projections

Projection of Additional Contribution Amount and Appropriations

Current Plan, 8.00% Discount Rate, Assuming Assets Earn 7.75% Return



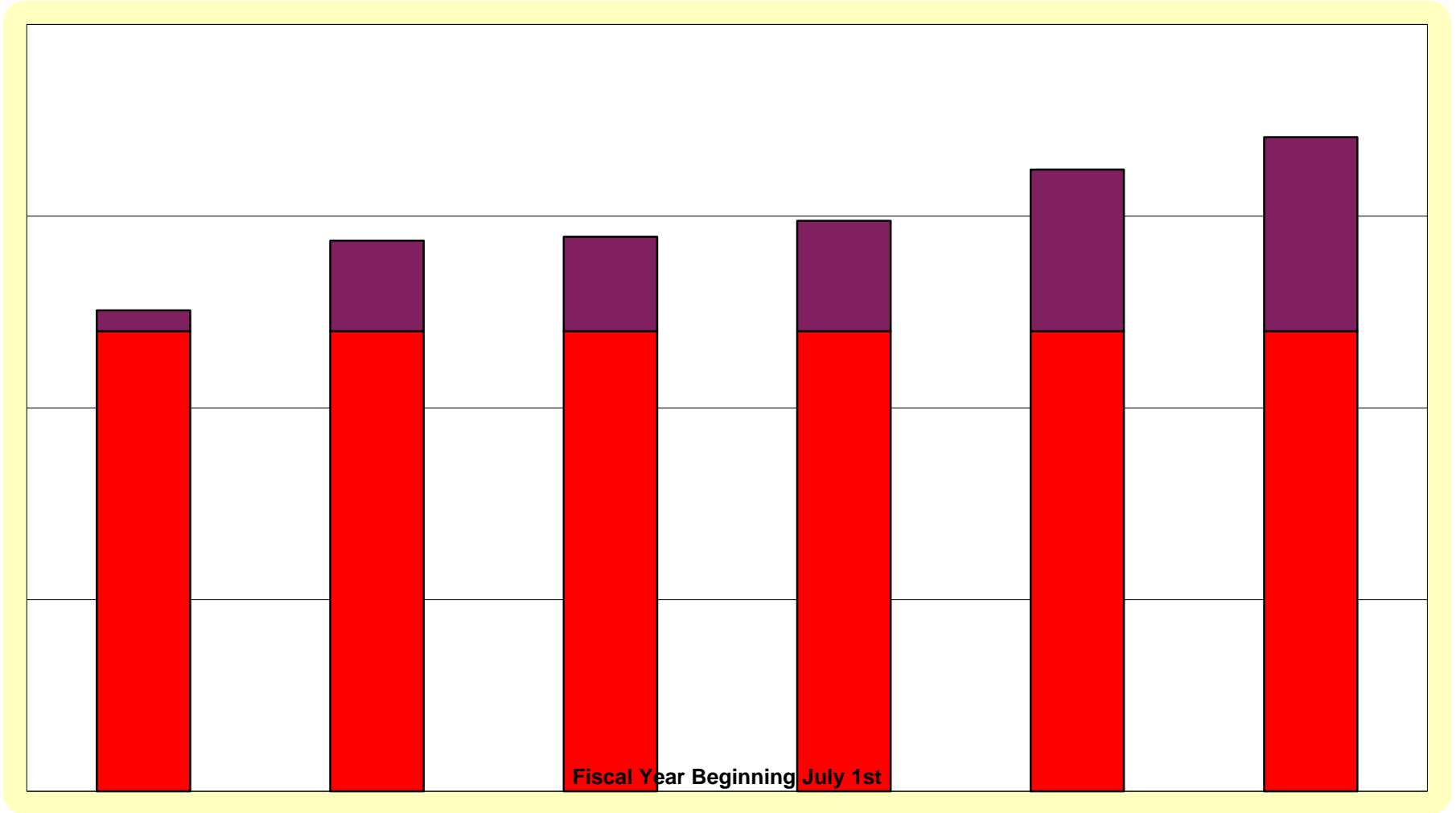
Judges' Retirement System Projections

Projection of Additional Contribution Amount and Appropriations with Plan Changes, 8.00% Discount Rate, Assuming Assets Earn 7.75% Return



Judges' Retirement System Projections

Projection of Additional Contribution Amount and Appropriations with Plan Changes, 7.75% Discount Rate, Assuming Assets Earn 7.75% Return

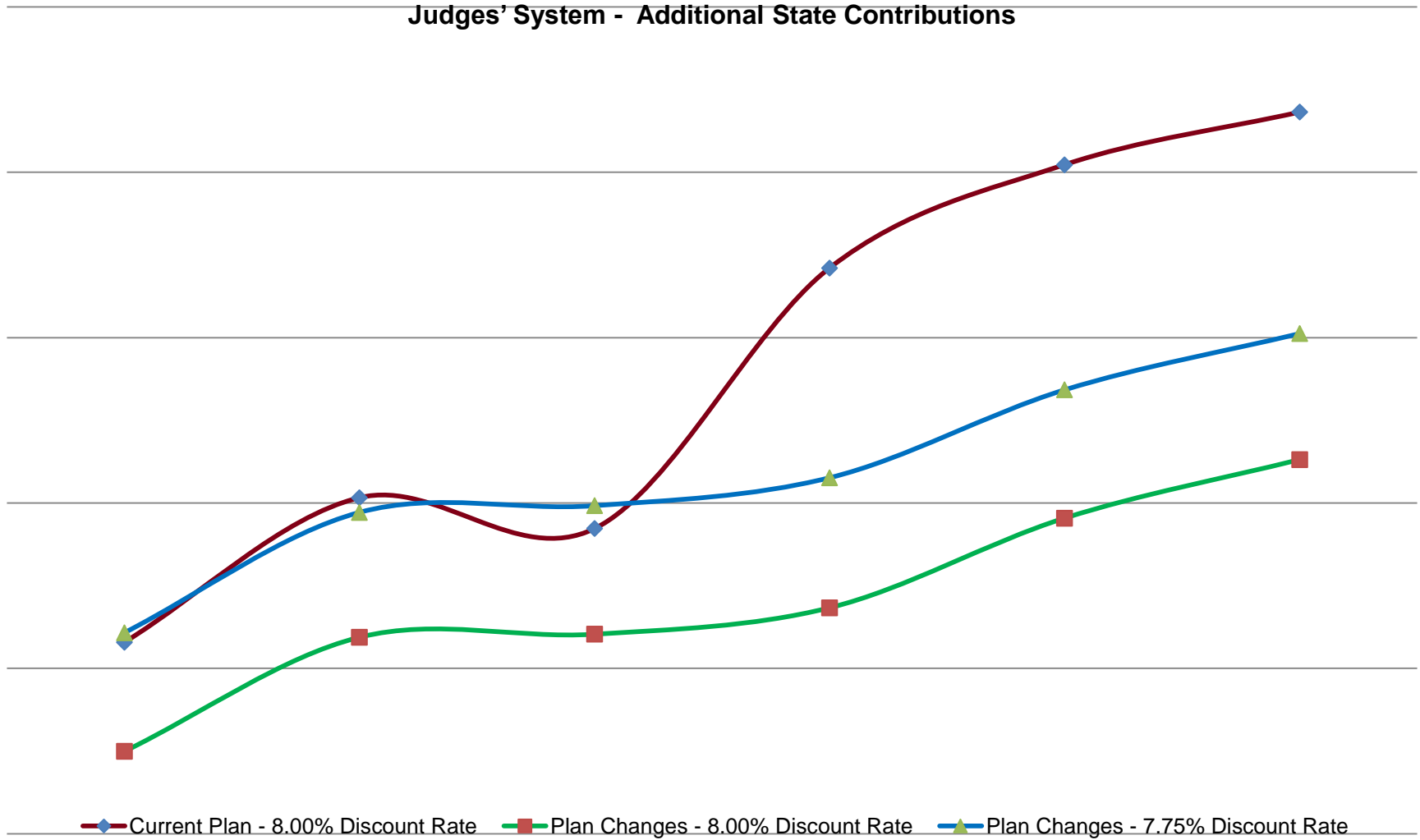


Judges' Retirement System

Projection of Additional Contributions

Assuming Assets Earn 7.75% Return for All Scenarios

Judges' System - Additional State Contributions



Judges' Retirement System Projections

Comments

The 5 year projection model was used for the Judges' study (we do not have a 30 year model for the Judges' System).

Current plan results are based on the level dollar method of amortizing the unfunded liability. Assumptions are the same as those used in the July 1, 2012 actuarial valuations, including an 8% valuation interest rate (discount rate). For purposes of projecting future assets, we have assumed they will earn 7.75% per year as expected from the 2012 experience analysis. The results for the current plan indicate the additional state contribution grows from \$79k in 2012 to \$1,682k by 2017. The sunset of the additional \$1 court fee in 2015 results in a shift of \$500k from the court fees to the additional state contribution in 2015 through 2017.

The plan changes to eliminate the sunset on the additional \$1 court fee and 1% member contribution rate, and the change in the amortization method to a level percent of payroll eliminates the additional state contribution in 2012 and reduces the additional state contribution from 2015 through 2017. The additional state contribution is reduced to \$631k by 2017.

Judges' Retirement System Projections Comments (continued)

IA reduction to the discount rate from 8% to 7.75% increases the contribution requirements over the 6 year period. The additional state contribution is \$108k in 2012 and increases to \$1,012k by 2017, or an increase of \$381k in 2017 from the plan changes under an 8% discount rate. However, as we have seen in the School and St. Patrol projections over 30 years, we would see the impact of the 4% increase in the amortization amount each year whereby the additional state contribution would be higher than the level dollar amortization amount. Only the 7.75% discount rate scenario would produce a fully amortized unfunded liability over a 30 year period.

VII. APPENDIX C

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I # 13015

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December 20, 2013

Senator Jeremy Nordquist, Chairman
Nebraska Retirement Systems Committee
Nebraska Unicameral Legislature
State Capitol, Room 2004
P.O. Box 98920
Lincoln, Nebraska 68509

Dear Senator Nordquist:

On behalf of the Retirement Systems Committee, you have posed several questions to us regarding LB 138 and the Group Health Trust Fund maintained by the University of Nebraska (the "University") in connection with the group health and dental benefits which the University makes available to its employees. We will respond specifically to your various questions after we have provided some background information regarding the matters at issue.

BACKGROUND

1. The University's health insurance program and the Group Health Trust Fund.

Neb. Rev. Stat. § 85-106 (2008) sets out powers of the Board of Regents of the University of Nebraska (the "Board"), and subsection (6) of that section gives the Board the power to "equalize and provide for uniform benefits for all present and future employees, including group life insurance, group hospital-medical insurance, group long-term disability income insurance, and retirement benefits."¹ Accordingly, the

¹ We note that other Nebraska statutes pertaining to group insurance also appear to give the University authority to establish benefit plans for its employees. See Neb. Rev. Stat. §§ 44-1615 through 44-1617 (2010). Under § 44-1615, those statutes apply to "[a]ny political subdivision, community college, municipal corporation, or public body of the State of Nebraska, except a state agency defined in section 81-8,239.01." Under Neb. Rev. Stat. § 81-8,239.01 (Cum. Supp. 2012), the term "state agency" specifically does not include the Board of Regents of the University of Nebraska.

Board created a health insurance plan for its employees which is similar, in many respects, to the health insurance plan created for other state employees. See Neb. Rev. Stat. §§ 84-1601 through 84-1617 (2008, Cum. Supp. 2012). Under that plan, the University acts as a self-insurer for plan benefits, and hires an insurance company to administer the plan for it. The University also agrees to pay a portion of the monthly premium for its employees who choose to participate in the plan, and the remainder of the monthly premium is withheld from the employee's salary.

As best we can tell, there is no one document which creates the University's health "plan." Instead, plan provisions are contained in various Board Resolutions, Board Policies, the administrative agreements with the private plan administrator, collective bargaining agreements with employee unions, and the trust discussed below. The University is also subject to the Nebraska Wage Payment and Collection Act, Neb. Rev. Stat. §§ 48-1228 to 48-1232 (2010), which requires the University to pay all wages due its employees to them on their regular paydays. "Wages" in that Act are defined to include "fringe benefits," which, in turn, are defined to include "health and accident benefit plans."

In 1997, the University established the University of Nebraska Group Health Trust Fund (the "Trust") with National Bank of Commerce acting as the trustee. National Bank of Commerce was subsequently succeeded as trustee by Wells Fargo Bank. It is our understanding that the Trust was set up under the Nebraska Uniform Trust Code, Neb. Rev. Stat. §§ 30-3801 through 30-38,110 (2008, Cum. Supp. 2012). The Board transfers its share of the health insurance premiums for employee health insurance together with the monies withheld from employees' salaries for that purpose to the Trust each pay period.

The trustee under the Trust has authority to manage, invest and reinvest the Trust fund, to collect the income therefrom and add it to the principal, and to make payments therefrom. The Trust instrument specifies that Trust property may only be used to pay health benefits and certain administrative costs including payment of employee medical and dental expenses and expenses incurred in connection therewith. The trustee is required to provide the Board with a written report each quarter describing the Trust's assets and liabilities, the value of its investments, and investment changes during the quarter. A similar report is also provided at the close of each year. The University may terminate the Trust at any time, and if it does so, the University may direct where the balance of the trust fund will be distributed. The University treats the Trust and its health plan as a § 115 plan under the federal tax code, which apparently means that the Trust is not considered a governmental agency, but an "affiliate" of government. The Trust must also apparently be treated as a separate covered entity under the federal Health Insurance Portability and Accountability Act ("HIPAA").

As of February 2013, the Trust contained about \$143 million. Committee Records on LB 138, 103rd Neb. Leg., 1st Sess. 3 (February 28, 2013)(Statement of Auditor Foley). Approximately 30% of those monies are from state appropriations, and the remainder of the commingled funds are from employee contributions, auxiliary operations, federal grants and contracts. Committee Records on LB 138, 103rd Neb. Leg., 1st Sess. 10 (February 28, 2013)(Statement of Mr. Lechner). The monies in the Trust are included in the University's annual audit. Committee Records on LB 138, 103rd Neb. Leg., 1st Sess. 11 (February 28, 2013)(Statement of Mr. Lechner). Under 2013 Neb. Laws LB 620, the University is also required to present its plan for management of its health insurance programs and the Trust to the Appropriations Committee of the Legislature by December 1 of each year, including a statement of the amount of reserves in the Trust.

2. *LB 138*

LB 138 was introduced during the 2013 legislative session by Senator Krist and is before your Committee. That bill would create the University of Nebraska Group Health Trust Fund in the state treasury, and specifically require the Board of Regents to transfer the University's Trust Fund, discussed above, from Wells Fargo Bank into that state fund as of the effective date of the bill. The state trust fund could be used only to provide health benefits to employees of the University and would be invested by the State Investment Officer. The State Treasurer would act as custodian for the state trust fund.

3. *Board of Regents v. Exon*

Your question regarding LB 138 raises issues concerning the Board's power to govern the University in relation to actions by the Legislature. Any discussion of the Board's authority as it interacts with the Legislature and other state officers must take into account *Board of Regents of the University of Nebraska v. Exon*, 199 Neb. 146, 256 N.W.2d 330 (1977)(*"Exon"*). We discussed that case in our Op. Att'y Gen. No. 98006 (January 22, 1998), and we will cite from that opinion at length, as our description of the *Exon* case has application in the present situation:

The *Exon* case involved a declaratory judgment action by the University Board of Regents to determine the constitutionality of certain statutes under Art. VII, § 10 of the Nebraska Constitution. That constitutional provision states, as is pertinent:

The general government of the University of Nebraska shall, under direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated

the Board of Regents of the University of Nebraska, who shall be elected from and by districts . . .

At issue in the *Exon* case was a general appropriation bill which contained numerous statements directing the Board of Regents or employees of the University to take certain actions. In addition, the Court considered whether a number of other statutes which pertained generally to state agencies and governed such matters as acceptance of gifts, raises to be given employees, and participation in such state functions as central data processing, planning and design for new facilities and centralized state purchasing could constitutionally be applied to the University under Art. VII, § 10.

In *Exon*, the court ultimately concluded that:

. . . although the Legislature may add to or subtract from the powers and duties of the Regents, the general government of the University must remain vested in the Board of Regents and powers or duties that should remain in the Regents cannot be delegated to other officers or agencies.

Id. at 149, 256 N.W.2d at 333. Consequently, the statements in the general appropriation bill at issue in that case which contained directions to the Board of Regents and University employees were held to be advisory only and not mandatory. *Id.* at 149, 256 N.W.2d at 333. Moreover, the other statutes governing the various practices of state agencies were held to be inapplicable to the University because, if applied to that agency, they would result in an unlawful delegation of the authority vested in the Regents by the Constitution. *Id.* at 152, 153, 256 N.W.2d at 334, 335. The Court also held that while the Legislature has complete control of the money appropriated to the University from the general revenue of the State, the funds of the University not derived from taxation can be expended only by the Board of Regents for the University, and no annual appropriation of those monies is required when they are once set apart and appropriated for the use of that institution. *Id.* at 151, 152, 256 N.W.2d at 333, 334.

Op. Att'y Gen. No. 98006 (January 22, 1998) at 4, 5.

4. Statutory authority of the State Treasurer

The questions raised in your opinion request implicate the statutory authority of the Nebraska State Treasurer. As we have noted on previous occasions, there are a number of statutes which pertain to the Treasurer's general authority to hold monies of the state and his or her authority to act as Treasurer for the University.

A. Neb. Rev. Stat. § 84-602 (Supp. 2013) provides, in pertinent part:

It shall be the duty of the State Treasurer:

(1) To receive and keep all money of the state not expressly required to be received and kept by some other person;

B. Neb. Rev. Stat. § 77-2301 ((2009) provides, in pertinent part:

(1) The State Treasurer shall deposit, and at all times keep on deposit for safekeeping, in the state or national banks, or some of them doing business in this state and of approved standing and responsibility, the amount of money in his or her hands belonging to the several current funds in the state treasury. Any bank may apply for the privilege of keeping on deposit such funds or some part thereof.

C. Neb. Rev. Stat. § 77-2309 (2009) provides:

It is made the duty of the State Treasurer to use all reasonable and proper means to secure to the state the best terms for the depositing of the money belonging to the state, consistent with the safekeeping and prompt payment of the funds of the state when demanded.

D. Neb. Rev. Stat. § 85-128 (2008) provides:

The State Treasurer shall be the custodian of all the funds of the university. Disbursements from the funds named in sections 85-124 to 85-127 shall be made in accordance with the provisions of law relating to the disbursement of university funds in the hands of the State Treasurer as provided by law.

E. Neb. Rev. Stat. § 85-129 (2008) provides:

The State Treasurer shall be the treasurer of the state university and the custodian of all funds donated to the university or to the Agricultural Research Division by the United States, including the Morrill, Hatch, and

Adams funds, all other donations, gifts, and bequests, income from land and productive funds, fees paid by students, and all funds for the use of the university derived from any source, except (1) funds created by taxation and paid into the state treasury as taxes and (2) the University Trust Fund which shall be held and managed in the manner provided by section 85-123.01.

ANALYSIS

You have posed four questions to us. Three of those questions involve the status of the monies held by the Trust at Wells Fargo Bank, and the fourth question concerns constitutional issues surrounding LB 138.² For reasons that will become apparent, we will respond to your third question first.

Question 3. Are monies held in, and transferred to, the University of Nebraska Group Health Trust Fund held by Wells Fargo considered monies of the State?

The answer to your third question has been the subject of considerable controversy among state officials and is far from clear. However, we recently prepared an informal opinion for the State Treasurer which has some application to the matters at issue in your question. Op. Att’y Gen. No. I-2002 (February 1, 2012). That opinion involved monies paid to the State Law Enforcement Bargaining Council (“SLEBC”), a private organization, for health and dental benefits for its law enforcement officer members. SLEBC had concluded that it could offer health insurance benefits to its members at a lower cost than those offered by the State if it were to establish its own separate, independent health insurance plan. Consequently, SLEBC bargained collectively for the right to establish such a plan and obtained a contract that allowed it to do so. At that point, SLEBC withdrew from the state plan and established a separate health plan for its members which was self-funded and administered by a separate plan administrator hired by SLEBC. SLEBC members paid a portion of the monthly plan premiums, and the remainder was paid by the State. Each month, the State withheld the employee share of the premiums from the paychecks of active SLEBC members, and transferred its share of the premiums, along with the employees’ shares, out of the state treasury and into a separate SLEBC bank account. SLEBC was then responsible for operating and paying the costs of the plan and for providing health insurance to its

² Your first three questions, standing alone, would not qualify for an opinion from this office since they involve no legislative purpose, i.e., those questions do not pertain to your duties as a legislator. See Op. Att’y Gen. No. 157 (December 20, 1985). However, we will assume that those questions relate to your final question pertaining to LB 138, and we will respond to them with that focus.

members. We were asked if the funds held by SLEBC in its separate bank account were “money of the state” which the State Treasurer had a duty to receive and keep. We concluded that they were not. Our opinion regarding the SLEBC funds contains the following discussion of the phrase “money of the state”:

As the Auditor has noted, the phrase “money of the state” is not defined for purposes of § 84-602 (1). However, we have indicated previously that similar language such as “state funds” involves monies which are generated by the operation of general state law such as state fees and state taxes. Op. Att’y Gen. No. 07016 (September 24, 2007); Op. Att’y Gen. No. 87114 (December 9, 1987); Op. Att’y Gen. No. 87001 (January 6, 1987). In that sense, then, the monies paid to SLEBC for health insurance over the years were certainly “money of the state” prior to the time that they were paid to the union, and SLEBC was paid from “money of the state.” But, we do not believe that the inquiry can end at that point. Otherwise, any money lawfully owed and paid to a state employee for his or her salary, or to a state vendor under a contract, could be considered to be “money of the state” which you [the State Treasurer] would have a duty to receive and keep, since it originated from monies generated by the general operation of state law. Instead, it seems to us that the more pertinent inquiry in this instance is whether the State had a legal obligation to make payments for the separate health insurance of SLEBC members under the applicable labor contracts in force over time, and whether SLEBC had a legal right to have those payments made. If so, then the monies at issue became SLEBC’s money when they became payable and were paid over under the terms of the labor contracts, and you have no duty to receive and keep them. Our conclusion in that regard is supported generally by case authority from other jurisdictions which indicates that when state funds are paid to an entity which is legally entitled to receive them, those funds lose their identity as state funds when they are paid to the entity. *Monticello House, Inc. v. Calhoun County*, 20 Mich. App. 169, 173 N.W.2d 759 (Mich. Ct. App. 1969); *State v. Lucas*, 39 Ohio Op. 519, 85 N.E.2d 155 (Ohio Ct. Common Pleas 1949). *Consequently, we must determine if the State had a legal obligation to make payments for the separate health insurance of SLEBC members under the applicable labor contracts in force from 2002 to the present, and if SLEBC had a legal right to have those payments made.*

Op. Att’y Gen. No. I 12002 (February 1, 2012) at 6 (emphasis added).

The circumstances at issue in our opinion regarding the SLEBC funds obviously differ, in several respects, from the current situation. There is no outside organization

similar to SLEBC which negotiated generally on behalf of all University employees for health insurance,³ and no outside organization was legally entitled to receive the funds from the University before it established the Trust. While the funds at issue are obligated to the health insurance plan, the University is a self-insurer which is required to provide health insurance to its employees instead of some outside, private organization. And, the private organization which receives the health insurance monies in this case is a private trust established by the University itself which possesses no right under the trust instrument to have payments made to the Trust. The University also has the right to terminate that Trust and to direct where payments of the Trust proceeds should be paid.

On the other hand, the Board of Regents, acting under the broad authority set out in § 85-106, created a health insurance plan which apparently obligates the University to pay specified portions of the monthly health insurance premiums for its employees who elect to participate in the health plan. The University has thus assumed a legal obligation to make the monthly payments in question, and the plan and its presumed beneficiaries, University employees, have a legal right to have those payments made.⁴ Therefore, it can be argued, as was the case with SLEBC, that the monies at issue are no longer State monies when they become payable each month and are placed in the Trust.

This matter presents a close question where there is no clear answer, absent some definitive case law from the Nebraska Supreme Court. Ultimately, however, we are persuaded that the better answer is that those monies which are required to be paid to the Trust as a part the University's health insurance program together with the monies held by the Trust are not monies of the State. Our conclusion in that regard is based upon the analysis and principles set out in the SLEBC opinion, and the notion that when the monies for health insurance become payable each pay period, the University is legally required to set them aside and cannot use them for other purposes, i.e., they have to be paid, in some fashion, to the employees who are entitled to receive them. Under those circumstances, as was the case in the SLEBC opinion, it is difficult to argue that the monies somehow still belong to the University or to the State. Instead, they are more logically monies of the plan or its beneficiaries which can be moved over to the Trust. Our conclusion regarding monies which have already been placed in the Trust is also influenced by the apparent fact that only 30% of the funds currently in the

³ We understand that certain collective bargaining agreements between the University and the unions for some of its employees do require the University to provide health insurance benefits for those employees.

⁴ Part of that right to have such monthly payments made appears to arise out of the requirements of the Nebraska Wage Payment and Collection Act, Neb. Rev. Stat. §§ 48-1228 to 48-1232 (2010).

Trust are from state appropriations. The remainder of the funds are from employee contributions, auxiliary operations, federal grants and contracts. Committee Records on LB 138, 103rd Neb. Leg., 1st Sess. 10 (February 28, 2013)(Statement of Mr. Lechner). Consequently, in answer to your third question, we do not believe that monies held in, and transferred to, the University of Nebraska Group Health Trust Fund held by Wells Fargo are monies of the State.

Question 1. Is the University's establishment of the Group Health Trust Fund with Wells Fargo contrary to state law designating the State Treasurer as the custodian of all funds of the University?

As our discussion in response to your third question indicates, we do not believe that the health insurance monies placed by the University in the Group Health Trust Fund with Wells Fargo are state monies. For much the same reasons, we do not believe that those monies represent funds of the University. Consequently, the University's establishment of the Trust Fund is not contrary to those state statutes which designate the State Treasurer as the custodian of the University's funds or the University's treasurer.

Question 2. Does conveyance of funds to the University of Nebraska Group Health Trust Fund with Wells Fargo cause the funds to lose their character as "funds of the University?"

For the reasons discussed above, the conveyance of health insurance funds to the University Health Trust on a monthly basis does not cause those funds to lose their character as "funds of the University." Rather, those funds lose their character as funds of the University when they become legally payable for the purposes of the University's health plan on a monthly basis.

Question 4. Would transfer of the Trust Funds to the newly created Fund as proposed in LB 138 infringe on the Board of Regents' power to govern the University of Nebraska?

As noted above, LB 138 is directed specifically to the University, and would require it to move its health insurance funds from the current Wells Fargo Trust account into the state treasury, and to place additional monies for its health insurance program into the state treasury and under control of the State Treasurer in the future. In that context, it appears that your final question is intended to implicate *Board of Regents of the University of Nebraska v. Exon*, 199 Neb. 146, 256 N.W.2d 330 (1977) since, as discussed at length above, that case establishes that while the Legislature may add to or subtract from the powers and duties of the Board of Regents, the general

government of the University must remain vested in that Board, and powers or duties that should remain in the Regents cannot be delegated to other officers or agencies.

In our Op. Att'y Gen. No 98006 (January 21, 1998), we stated:

. . . while *Exon* provides that the "general government" of the University must remain vested in the Board of Regents, it does not state that all statutes which pertain to state government have no application to the University. As we noted in 1979-1980 Rep. Att'y Gen. 166, 167 (Opinion No. 117, dated May 16, 1979):

Despite what *Board of Regents v. Exon* says, the Board of Regents is probably not totally insulated from the impact of general laws passed by the Legislature. When the Legislature attempts to specifically direct or control actions of the Board, the legislation is suspect. But we do not believe the court intended to say that the Board could ignore laws of general application. [The Board of Regents] . . . is not, after all, a separate, independent sovereignty.

As a result, it seems to us that statutes which pertain generally to state agencies and which do not purport to direct the Board of Regents as to matters which are central to the University's educational function or its "government," can have application to the University, even under *Exon*. To some extent, examples of such statutes include those described in *University Police Officers Union, International Brotherhood of Police Officers, Local 567 v. University of Nebraska*, 203 Neb. 4, 277 N.W.2d 529 (1979) in which the Court stated that the University is subject to actions before the Court of Industrial Relations, to the Nebraska Workmen's Compensation Law and the Nebraska Employment Securities Law.

Id. at 5.

LB 138 would specifically require the Board of Regents to move the funds which are currently in the Wells Fargo Trust into the state treasury where the monies at issue could be used only to provide health insurance benefits to University employees. The bill would also specifically require the University to place monies set aside for employee health insurance benefits in the future into the state treasury as well. As a result, the bill constitutes a specific direction to the University concerning the health benefits of its employees rather than a general provision which affects all state agencies. And, in *Exon*, the court indicated that "[t]he determination of salary schedules and the compensation to be paid to the employees of the Board of Regents is an integral part of

Senator Jeremy Nordquist
December 20, 2013
Page 11

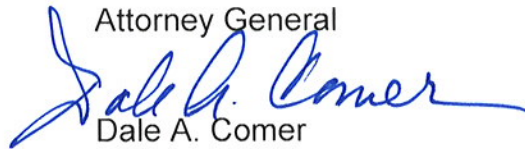
the general government of the University." *Exon*, 199 Neb. at 153, 256 N.W.2d at 335. Consequently, we believe that LB 138 does potentially involve the Legislature in the general government of the University in a manner which is impermissible under *Exon*, and that it may be seen to infringe on the Board's power to govern the University of Nebraska.

CONCLUSION

For the various reasons stated above, we do not believe that the monies held in, and transferred to, the University of Nebraska Group Health Trust Fund held by Wells Fargo are monies of the State. Similarly, the University's establishment of the Trust is not contrary to state law designating the State Treasurer as custodian of funds for the University, and the funds at issue lose their character as funds of the University when they become payable for health insurance on a monthly basis, and not as a result of their conveyance to the Trust. Finally, the specific requirements of LB 138 may well impermissibly infringe on the power granted the Board of Regents to govern the University.

Sincerely,

JON BRUNING
Attorney General



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Assistant Attorney General