

A Historical Organization Case Study of the School Employees Retirement Act of
Nebraska and the Class V School Employees Retirement Act of the State of Nebraska

by

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A Dissertation

Presented to the Faculty of
The Graduate College of the University of Nebraska
In Partial Fulfillment of Requirements
For the Degree of Doctor of Education

Major: Educational Administration (UNL-UNO)

Under the Supervision of Professor Jody Isernhagen

Lincoln, Nebraska

November, 2015

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University of Nebraska, 2015

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The purpose of this study was to create a legislative and actuarial history of the School Employees Retirement Act and the Class V School Employees Retirement Act of the State of Nebraska. These acts define the retirement plans of every public school employee across the state of Nebraska. The case study was conducted by analyzing documents, including legislative journals, session laws, committee hearing and floor debate transcripts, and actuarial reports to create a history of the bills passed by legislators from 1945 until today, and identify the impact they had on the function of the plans. Further information was gathered by identifying current policy shaping individuals and conducting face to face or phone interviews to gather information regarding perceived strengths, weaknesses, and the future of the plans. The result is a historical document that summarizes the many changes the plans have undergone, and to inform current lawmakers of the history of those changes, in an effort to assist in making decisions connected to future legislation.

Acknowledgments

Without the support of many, this accomplishment would not be a reality.

First, this project would not be possible without the direction of my advisor, Dr. Jody Isernhagen. Thank you for keeping me motivated and giving me deadlines, advice, structure, and support. Thank you also to Cindy DeRyke in the EDAD office of UNL for the hours you assisted in making sure the document was properly put together; what an invaluable service!

To my mentor superintendent, Pat Osmond, who supported this challenge, even when there was important work to be done as your principal, I thank you. Many times you helped me focus my priorities and balance everything.

To the many wonderful educational leaders across the state of Nebraska, who encouraged me, I thank you as well. At every turn there was an encouraging word or an offer to assist. Many would not allow me to get off track, continually reminding me the work was important, but also reminding me that finishing this project was just as important as beginning.

For my children, who hope that soon I will be able to leave my computer and papers at home when we take family trips, I thank you. My hope is that someday you recall this effort, and realize that education is vital and valuable throughout your lifetime. You remind me often why I started this work.

Finally, to my husband, Clint, for graciously understanding why I had to disengage from family life on many weekends to finish this project, I thank you. You encouraged me to begin this process without fully knowing how irritable it would make me at times, and you have dealt with a lot of extra responsibilities to make it reality. You realize that allowing me to grow in this way is inherently a part of who I am, and you accept that about me. There has rarely been a time in our marriage that I have not been toting around books or talking about writing papers or turning in assignments. Those days are soon to be over. You share in this accomplishment as an equal partner.

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Chapter I

Introduction

Statement of the Problem

Nebraska Public School employees and Omaha School employees enjoy the benefit of a retirement system that is funded by the state, public school employees, and school districts. The Nebraska codified laws that regulate the system, §79-901 through §79-977.03, are known as the “School Employees Retirement Act,”¹ and §79-978.01 through §79-9,118 are known as the “Class V School Employees Retirement Act.”²

A defined benefit system indicates employees are entitled to a specific amount of retirement benefit for a lifetime, based on their years of service and their salary at the time of retirement, according to “Welcome, New School Plan Member.”³ The components of this formula in Nebraska are years of service, average of highest years salary, formula factor, and option as stated at the Official Nebraska Government Website.⁴ These components have remained consistent over the years, but the formula has changed through legislative action.

Omaha Public Schools has had its own retirement system since 1909, and since 1951 that system has been governed by state legislation.⁵ These systems are often

¹ School Employees Retirement Act, Nebraska Codified Statute 79-901 (2013).

² Class V School Employees Retirement Act, Nebraska Codified Statute 79-978.01 (2011).

³ Nebraska Public Employees Retirement Systems, *Welcome, New School Plan Member!* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, date unknown)

⁴ Nebraska Public Employees Retirement Systems, "School Pension Plan," Nebraska Public Employees Retirement Systems, 2001, accessed September 11, 2014, <http://npers.ne.gov/SelfService/public/planInformation/school/schoolPlanInfo.jsp>.

⁵ "About Osers: History of Osers," Omaha School Employees Retirement System, 2011, last accessed September 2, 2014, <http://osers.org/AboutOSERS/HistoryofOSERS.aspx>.

referred to in the same piece of legislation. For example, the latest bill that made changes to the system, Legislative Bill (LB) 553,⁶ has components that make changes to both systems. It is worthwhile to examine both in a similar manner to determine what changes have been made to impact these systems, and what changes have been most beneficial.

The history of the School Employees Retirement Act administered by Nebraska Public Employees Retirement System (NPERS) is directly linked to its future as an institution, as is the Omaha School Employees Retirement System (OSERS). After searching the Nebraska Unicameral Website, the NPERS website, and discussion with Nebraska education leaders and lobbyists, the conclusion that there is not a document that exists as a comprehensive history of the NPERS for School Employees or OSERS can be reached.

Purpose of the Study

The purpose of this study is to create a comprehensive legislative and financial history of both the School Employees Retirement Act administered by Nebraska Public School Employees Retirement System (NPERS) and the Class V School Employees Retirement Act, also referred to as Omaha School Employees Retirement System (OSERS). The intent is to increase ease of access to information for lawmakers, Nebraska school administrators and employees, and others with an interest in fully understanding the Nebraska retirement systems for school employees. This will be accomplished through document review and analysis, followed by interviews with key leaders.

⁶ Change Actuarial Valuations of retirement systems and school employee retirement provisions, LB-553, Legislature of Nebraska, 103rd Legislature, First Session, (2013).

Theoretical Framework

The research is predicated by the fact that such a document does not exist for either system, and therefore the research will be “new.” The study seeks to create a decade-by-decade account of legislative activity pertaining to the Nebraska Public Employees Retirement System and Omaha School Employees Retirement System, and the financial information available for each time period.

Research Questions

- What is the legislative history of the School Employees Retirement Act?
- What is the financial history of this Act from the year of inception (1945) until today?
- What is the legislative history of the Omaha School Employees’ Retirement System (OSERS) or the Class V School Employees Retirement Act?
- What is the financial history of OSERS from its inception (1951) until today?

Sub Questions

- In chronological order, what legislative bills define the retirement benefit to public school employees?
- What year was initial legislation enacted that made the plans “defined benefit” by definition?
- How has the financial status of the system changed over time?
- What legislative and financial changes have been made to the Class V School Employees Retirement Act, which is exclusive to Omaha Public Schools?

Definition of Terms

School Employees Retirement Act: Enacted by the Nebraska legislative session in 1945. This is administered by Nebraska Public Employees Retirement System (NPERS).

Class V School Employees Retirement Act, or Omaha School Employees Retirement System (OSERS): Developed in 1909, and enacted into legislation in 1951. This definition is specific to Omaha school employees only, and is often referred to as Class V school system in legislation. Omaha Public Schools is currently the only Class V school district in the state of Nebraska.

Retirement: The period of time in which a school system employee is drawing retirement benefits from one of the two state systems mentioned in the “definitions.” This currently may or may not include employees who are not of normal “retirement age” as defined by social security, but meet the “Rule of 85,” meaning their years of service and their age totals 85. Employees considered “retired” may still be employed by a school district, so this term does not necessarily mean “no longer working.”⁷

Methodology

Wiersma and Jurs⁸ stated that historical research has been around a long time. “When we think of historical research, a process of searching for, summarizing, and interpreting information from the past comes to mind . . . specifically, historical research

⁷ Nebraska Public Employees Retirement Systems, "School Pension Plan," Nebraska Public Employees Retirement Systems, 2001, accessed September 11, 2014, <http://npers.ne.gov/SelfService/public/planInformation/school/schoolPlanInfo.jsp>.

⁸ William Wiersma and Stephen G. Jurs, *Research Methods in Education: An Introduction*, 8th ed. (Boston: Pearson/A and B, 2005), p. 224.

is a systematic process of describing, analyzing, and interpreting the past based on information from selected sources as they relate to the topic under study.”

This will be a case study of the history of these retirement systems. Data will be collected through document review, and personal interviews with key policy makers and executives. Documents to be reviewed include actuarial studies, legislative bills, committee and general session transcripts of the Nebraska legislature when pertaining to the retirement system(s), and publications detailing benefits produced by both systems.

Once exhaustive data review is complete, interviews will be conducted to gather further information from those who would be considered experts in the NPERS and OSERS. Some of these key persons are clearly known, and others will be revealed through document analysis.

Significance of the Study

This study will serve as a reference for those who are unaware of the history of the School Employees Retirement Act and the Class V School Employees Retirement Act. In order to make wise decisions about the future of the systems, we must understand its past. A single comprehensive document such as this has not yet been created; the intricacies of the system exist in multiple pieces of literature that span its existence. In order to create a secure future for our public servants in schools, it is imperative that everyone understand where we have been, and at what stages in history the retirement plan has been at its strongest, and weakest.

Omaha Public Schools has operated independently, as the only Class V School in the state. It is worth examining it's history in a similar manner even though similar

changes have been made to the plan, as details regarding the impact those changes had on OSERS can help strategically plan for the future.

Limitations

Limitations are defined as the restrictions created by your methodology.⁹ The limitations of the study include access to persons willing to be interviewed, political situations that may keep some from being completely forthcoming with their thoughts, and access to older historical documents. While all attempts will be made to collect data from as far back as possible, it may be discovered that certain key policy makers are no longer living, or that documents from earlier years may be difficult or impossible to locate.

Delimitations

Bryant also defines delimitations as being those factors that prevent you from generalizing the findings to a larger population.¹⁰ This is a very specific audience, limited to a specific group of people. The information in this historical case study will only have an impact on those subject to or involved in the development of the School Employees Retirement Act and the Class V School Employees Retirement Act.

Summary

Nebraska laws and statutes regulate a defined benefit retirement system for public school employees. Changes are made to this system regularly, but it is a challenge to understand how changes may impact the system. Compiling a comprehensive, decade-by-decade history of the financial health and legislative actions taken toward the

⁹ Miles Taft Bryant, *The Portable Dissertation Advisor* (Thousand Oaks, CA.: Corwin, 2004), p. 58.

¹⁰ Miles Taft Bryant, *The Portable Dissertation Advisor* (Thousand Oaks, CA.: Corwin, 2004), p. 57.

retirement systems through document review and interviews, will create a useful “go to” study for legislators, administrators, and others with vested interest in the retirement system.

Chapter II

Review of Literature

Introduction

It has been a challenge to create what seems to be an exhaustive literature review for this historical case study, as much of the literature itself will become a part of the comprehensive history, which will be created through the research process. The literature review contains an overview of the most recent changes made in the legislature that has sparked interest in understanding more about the system. This spark has grown into a desire to complete a dissertation on this topic. The review of literature also contains details from our neighboring states, which lend some comparisons between states of similar mid-western cultural norms.

Prior Research Available

The state of Nebraska has provided public school retirees with a defined benefit plan entitled to them by law since 1945, which is now based on the following formula: (Years of Creditable Service) X (Final average Compensation based on three highest paid years) X (2%) = (Retirement Benefit Payment) as set forth in Nebraska Revised Statutes §79-901-79-977.03.¹¹ There is a cost of living adjustment (COLA) included in the formula for employees, or which is based upon the consumer price index. This amount may be less than, but will not be more than, 2.5%.¹²

¹¹ Nebraska Public Employees Retirement Systems, *School Employees Retirement System* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, December, 2012), p. 7.

¹² Nebraska Public Employees Retirement Systems, *School Employees Retirement System* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, December, 2012), p. 33.

As designated by §79-966, the state of Nebraska, local districts, and school employees each contribute a specified dollar amount to this defined benefit system.¹³ The total state contribution was 1% of the total compensation of all members until June 30, 2014. After July 1, 2014, the state of Nebraska was required to deposit 2% of the total compensation of all members. In addition to this amount, the retirement board determines what additional funds the state will be required to deposit based on actuarial studies, and the state must also deposit the amount necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit. The employee and school district contribution, as set forth by Legislative Bill 553¹⁴ in 2013, were set at 9.78% of the employee's total compensation, and the district matches that amount at 101%.

Over the last eight years, the rate of contribution of employees and school districts to the public school employee's retirement fund has varied. In July 2005, it was reported that the employee contribution rate was set at 7.98%, and the employer must match the employee contribution, plus an additional 1%.¹⁵ A year later, in 2006, that rate went down slightly, to 7.83%.¹⁶ Again in 2007, the rate was lowered to 7.28%.¹⁷ In 2009, the

¹³ School Retirement Fund, Nebraska Codified Statute 79-966 (2013).

¹⁴ Change Actuarial Valuations of retirement systems and school employee retirement provisions, LB-553, Legislature of Nebraska, 103rd Legislature, First Session, (2013).

¹⁵ Cheryl Mueller and Sarah Moore, *School Reporting Contact Newsletter: Summer 2005*. Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, 2005, p. 1.

¹⁶ Sheryl Hesseltine and Linda Davis, *School Reporting Contact Newsletter: Summer 2006* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, 2006), p. 1.

¹⁷ Jason Bailey and Missy Maguire, *School Reporting Contact Newsletter: Summer 2007* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, 2007), p.1.

rate was increased a full percentage point, to 8.28%.¹⁸ New legislation in 2011 increased the rate of contribution to 8.88% for the 2011-2012 school year, with an additional increase to 9.78% in place for 2012-2013. That rate was scheduled remain in place until 2017, when the rate would return to 7.28%.¹⁹

LB 553²⁰ was a significant law addressing retirement systems that emerged from the Nebraska Unicameral during the 2013 Legislative Session, making changes to both systems. Executive Director Dulaney summarized the components of the bill in the *Legislative Update* report to Nebraska Council of School Administrator members.²¹ This bill eliminated the sunset on the 9.78% employee rate of contribution (meaning it would not be required to end as of 2017) and it increases the employer contribution match from 101% to 102%, with no sunset. LB 553 also changed the formula completely for new hires after July 2013 (often referred to as a second tier) who are eligible for retirement benefits, changing their average three highest years to five, and reducing their cost of living adjustment (COLA) to 1%. According to the final revision of this bill, the definition of part-time employee changed for those working 15 hours per week, to those working 20 hours per week.

Driving this radical change was the prediction of funding shortfalls of the following amounts: \$48.1 million in 2013, and \$60.2 million in 2014. The six-year

¹⁸ Jason Bailey and Linda Davis, *Retirement Report: Bi-Annual Update for Nebraska School Employer Contacts* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, 2009), p. 1.

¹⁹ Jason Bailey and Linda Davis, *Retirement Report: Bi-Annual Update for Nebraska School Employer Contacts* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, 2011), p. 3.

²⁰ Change Actuarial Valuations of retirement systems and school employee retirement provisions, LB-553, Legislature of Nebraska, 103rd Legislature, First Session, (2013).

²¹ Michael Dulaney, e-mail to NCSA Legislative News mailing list, April 9, 2013.

actuarial projection indicated that if no changes were made, then the annual funding requirement would continue to grow to \$123.8 million in 2017. This program is required to be funded by §79-966.01. The proposed changes of LB 553 eliminated estimated funding shortfalls due to market downturns.²²

Retirement Systems of Neighboring States

Neighboring states are experiencing similar issues with their retirement systems for school employees. South Dakota Retirement System (SDRS) recently underwent a sustainability study. As reported by Robert A. Wylie, Executive Director/Administrator, the future is unpredictable.²³ South Dakota bases its retirement system on a simple mathematic equation in which contributions and investment earnings must equal benefits and expenses. Factors like inflation, salary growth, mortality, retirement age, likelihood of disability or death, contributions, and investment returns all are factors when looking at the long-term viability of the retirement program. Based on the study, the retirement Board determined it would be prudent to lower the assumed investment return.

According to the “Annual Report of the Funded Status of the South Dakota Retirement System To the Governor and Legislature of the State of South Dakota,” changes were made that have paid off.²⁴ South Dakota was able to fund the SDRS at a

²² Jason Hayes, "Testimony from Jason Hayes, Director of Public Policy, Nebraska State Education Association" (lecture, Appropriations Committee-Nebraska State Legislature, Lincoln, Nebraska, February 28, 2013).

²³ Robert Wylie, *Sustainability: A Message from the Office of the South Dakota Retirement System* (Pierre, South Dakota: South Dakota Retirement System, August 23, 2013), p. 1.

²⁴ South Dakota Retirement System, *Annual Report of the Funded Status of the South Dakota Retirement System to the Governor and Legislature of the State of South Dakota: January* (Pierre, South Dakota: South Dakota Retirement System, January 2014).

103.2% at market value basis, and 100.0% on an actuarial basis during the fiscal year 2013.

Kansas is making adjustments to a 50-year-old-system to increase the stability of its plan. In 2012, the Kansas Legislature passed Sub House Bill 2333, which increased employer and employee contributions from 4% at the time, to 5% by 2014, and 6% by January 1, 2015. They predict this will add an additional \$500 million per year over the next 10 years. Kansas also provides three tiers; those hired before July 1, 2009, and those hired after this date, and those hired after January 1, 2015, who will receive a cash balance plan.²⁵

The Wyoming Retirement System (WRS) also has multiple tiers in their system. Employees hired before September 1, 2012 are in Tier 1, and receive a benefit based on 2.125% of their first 15 years of service, 2.25% of their years of service after the first 15 years of service, and their three highest years salary after meeting the Rule of 85, while those making their first contribution after September 1, 2012 are in Tier 2, and will receive a benefit based on their highest five years average salary and 2% for all years of service.²⁶

It was reported on December 7, 2012, in the *Des Moines Register* article entitled “Iowa’s Unfunded Liability,” that Iowa experienced a \$29.5 billion shortfall at the fiscal year ending June 30, 2012 in its retirement system, IPERS.²⁷ According to the *Register*,

²⁵ Kansas Public Employees Retirement System, *Benefitwise* (Topeka, KS: Kansas Public Employees Retirement System, September, 2013), p.1.

²⁶ Wyoming Retirement System (WRS), *Wyoming Retirement System: Public Employee Pension Plan Handbook* (Cheyenne, WY: WRS, January 2013).

²⁷ "IPERS' unfunded liability hits \$5.9 billion; consultant says pension fund stabilizing," *Des Moines Register*, December 7, 2012, accessed October 10, 2013,

Legislation in Iowa in 2010 addressed the issue by making changes that increased pension contributions and revised the benefit structure. According to the IPERS website, the law the article refers to is House File 2518.²⁸ These revisions raised the number of years worked before becoming vested in the plan from four to seven, and increased the highest years average salary from three to five. Early retirees also received lower benefits.

Iowa bases its contribution rate on a collective percentage shared by employer and employee at a 40/60 rate. Whatever the contribution rate set, the employee contributes 40%, and the employer 60%. In the fiscal year from July 1, 2012 to June 30, 2013, that rate was 14.45%. The employee contributed 5.78 percent of their salary, and the employer paid the other 8.67 percent. Vestment before July 1, 2012 was reached at four years of service, and after this date vestment was reached at seven years, and employees are eligible for retirement when they reach the age of 65, or their years of service and age total 88.²⁹

Availability of Historical Information

While there is information available on each of these state systems in those that border Nebraska, few have comprehensive historical documents available. South Dakota has published “Historical Highlights of the South Dakota Retirement System,” which

<http://blogs.desmoinesregister.com/dmr/index.php/2012/12/07/ipers-unfunded-liabty-hits-5-9-billion-consultant-says-pension-fund-stabilizing/article>.

²⁸ An Act Concerning Public Retirement Systems, Iowa House File 2518, (2010).

²⁹ Iowa Public Employees' Retirement System (IPERS), *Member Handbook* (DesMoines, IA: IPERS, July, 2012), p. 12.

gives limited detail about significant periods in time for the system.³⁰ It begins with a timeline from 1939-1972, which are the years considered “pre-consolidation” during which eleven public entities, including teachers, judges, law enforcement, Board of Regents, municipal employees, and the state cement plant employees had separate plans with different rules. These became one consolidated plan in 1974, after two years of legislative committee work. Several periods in time are included in the contents that indicate significant changes in legislation. Included in the forty-page document is one graph generalizing how the plan moved from grossly underfunded in 1973 (40.0%) to fully funded in 2013 (100.0%). Contributions to the content of the document were made by teachers, school boards, state governments, state employees, county commissions, county employees, municipal governments, and municipal employees.

The OSERS website for Omaha School Employees offers a brief online history that details years in which changes were made to this particular system.³¹ The historical timeline shares what years amendments were made to the legislation that created the system, and how it impacted benefit members. The history ends in 2010, and it was published online in 2011, so it does not include the most recent legislation and its impact.

The Nebraska State Education Association (NSEA) website contains a brief, history of School Employees Retirement Act under NPERS, from 1945 through 2010. According to <http://www.nsea.org/teacher-retirement-history>, the NSEA has for many years worked to improve teacher retirement benefits, and will continue to do so. The

³⁰ Robert Wylie et al., *Historical Highlights of the South Dakota Retirement System: 1973-2013* (Pierre, South Dakota: South Dakota Retirement System, 2014).

³¹ "About Osers: History of Osers," Omaha School Employees Retirement System, 2011, last accessed September 2, 2014, <http://osers.org/AboutOSERS/HistoryofOSERS.aspx>.

summary list included on the webpage dates back to the creation of the OSERS plan in 1909, and continues through 2011, during which the sunset on the 9.78% contribution rate was still in force.³² This may be a useful resource throughout the research, although it does not contain precise names of bills, laws, or statutes, and does not contain the most recent legal activity regarding NPERS. One can use the dates provided to move forward with more detail.

The OSERS website also includes a list of all legislative measures that have had an impact on how it functions. One can peruse the legislative measures and gain a confident understanding of how the system works.³³

Summary

There is a need to create a comprehensive history for both School Employees Retirement Act and the Class V School Employees Retirement Act. The availability of research materials to compile a comprehensive history of each from inception to current status is plentiful. Legislative records are archived and can be requested, and the most current are available in digital form. Transcripts of committee hearings are also available, and although tedious to sort through, can offer great insight into the purpose or intent of legislative measures, including those that failed and those that succeeded in becoming laws. There are key people who introduced bills, served on committees, and influenced legislation who may be available for interviews. Members of associations

³² "Teacher Retirement History," Nebraska State Education Association, accessed September 2, 2014, <http://www.nsea.org/teacher-retirement-history>.

³³ Omaha School Employee Retirement System, "Nebraska State Statutes Related to Public School Employees' Retirement," OSERS, accessed September 11, 2014. <http://osers.org/AboutOSERS/NebraskaStateStatutes.aspx>.

who lobby for legislative changes to the retirement systems, or who administrate benefits are available to contribute to this research. Actuarial studies of the last thirteen years are available in digital form, and others may be retrievable upon request. The abundance of such materials lends itself to the creation of this comprehensive document, which can provide senators, lobbyists, and educators a great deal of insight into where the plans have been, and how to best shape the plans in the future based on history.

Chapter III

Methodology

Research Design

Qualitative inquiry is an effort to generate interpretations for phenomena to be shared with colleagues and others for modifying their own understandings.³⁴ This statement supports the effort of this research, which is to generate a document that details what has intentionally shaped the Nebraska Public Employees Retirement System and Omaha School Employees Retirement System into what they are today. Lawmakers and those who influence public policy need an easy reference to what has already been done, as they shape legislation for the future.

Stake also stated that most of the time, we are not historians, but examiners of the here and now.³⁵ The creation of a historically accurate document will generate a “here and now” for those who do not have time to be historians. This is of the utmost importance when shaping the future; there must be a guide from the past to clearly see the future.

Merriam stated case study is an in-depth analysis of a bounded system, or a single entity around which there are boundaries, as in a program or institution.³⁶ This research is intended to create an in-depth analysis of the retirement acts, which are programs that are governed by legislation. The topic can be easily “fenced-in” and thoroughly studied.

³⁴ Robert E. Stake, *Qualitative Research: Studying How Things Work* (New York: Guilford Press, ©2010), p. 57.

³⁵ Robert E. Stake, *Qualitative Research*, p. 58.

³⁶ Sharon Merriam, *Qualitative Research: A Guide to Design and Implementation* (San Francisco, CA: Josey-Bass, 2009), p. 40.

From a research standpoint, if the data are limitless, or the number of people to be interviewed endless, then the phenomenon is not a case; therefor defining your research as “case-study” is inappropriate.³⁷ The data collection for this case study is limited to actuarial reports, pieces of legislation, committee transcripts, and interviews with lawmakers who influenced the legislation. There is a limit on who holds valuable information, and what documents can be analyzed, so it is a true case, and therefor case study is the correct category.

Bogdan and Biklen further narrowed the case study into a more specific type called “Historical Organizational.”³⁸ The historical organizational case study is the study of the development of a particular organization over time, a holistic description and analysis of a specific case, presented from a historical perspective. This research will compile and analyze all relevant information regarding the history of an organization, so further defining this research as an historical organizational case study is the precisely accurate description.

Research Questions

- What is the legislative history of the School Employees Retirement Act administered by Nebraska Public Employees Retirement System (NPERS)?
- What is the financial history of the School Employees Retirement Act from the year of inception (1945) until today?

³⁷ Sharon Merriam, *Qualitative Research: A Guide to Design and Implementation* (San Francisco, CA: Josey-Bass, 2009), p. 41.

³⁸ Robert Bogdan and Sari Knopp Biklen, *Qualitative Research for Education: An Introduction to Theories and Methods*, 5th ed. (Boston, Mass.: Pearson A & B, 2007), 60.

- What is the legislative history of the Class V School Employees Retirement Act, or Omaha School Employees' Retirement System (OSERS)?
- What is the financial history of OSERS from its legislated inception (1951) until today?

Sub Questions

- In chronological order, what legislative bills define the retirement benefit to public school employees?
- What year was initial legislation enacted that made the plans “defined benefit” by definition?
- How has the financial history of the system changed over time?
- What legislative and financial changes have been made to the Class V school system, which is exclusive to Omaha Public Schools?

Purpose of the Study

The purpose of this study is to create a comprehensive legislative and financial history of both the School Employees Retirement Act and the Class V School (Omaha) Employees Retirement Act. The intent is to increase ease of access to information for lawmakers, Nebraska school administrators and employees, and others with an interest in the Nebraska retirement system. This will be accomplished through document review and analysis, followed by interviews with key leaders.

Case Description

The subjects for this historical organizational case study are the School Employees Retirement Act administered by Nebraska Public Employees Retirement

System (NPERS) and the Class V School Employees Retirement Act, or OSERS. The purpose for choosing two cases to analyze is the two organizations are frequently shaped by the same pieces of legislation, mentioned separately in the same laws (i.e., LB 553), and collectively they impact all education employees of the state. These bounded systems have an abundance of data that is available for analysis, and persons available for interviews.

Documents, bills, and laws, including transcripts, pertaining to the cases are located on the Nebraska Legislature website (nebraskalegislature.gov), on the NPERS Website (NPERS.ne.gov), and on the OSERS Website (OSERS.org). Lobbyists such as the leaders of organizations like Nebraska Council of School Administrators (NCSA) and Nebraska Education Association (NEA) are located in offices in Lincoln, Nebraska, our state capital. Offices of lawmakers are also located in Lincoln when the legislature is in session, and in their home districts, as analysis reveals who should be interviewed. The administration offices of OSERS, and the persons responsible, are located in Omaha, Nebraska. The majority of research and analysis will be conducted from the home office of the researcher, and on site in Lincoln and Omaha.

Data Collection

Bryant maintains that in qualitative research, you want data rich in detail that will give an adequate base for analysis.³⁹ Qualitative studies that utilize multiple data sources typically prove to be more persuasive than studies that do not. For this reason the researcher will not rely on one source of data, one set of documents, or a few key

³⁹ Miles Taft Bryant, *The Portable Dissertation Advisor* (Thousand Oaks, CA: Corwin Press, 2004), p. 106.

interviews. Many data sources will be melded together to create an accurate and detailed history of the case.

Accessing data in a digital society can be so easy that one may overlook other useful data sources, or choose to forgo them completely to achieve an end product more quickly. The aim of the researcher in this historical organizational case study is to exhaust all sources of data, from online transcripts, bills, laws, and actuarial reports, to those available upon request only going back to the beginning of the legislation of the School Employees Retirement Act and Class V School Employees Retirement System in 1945 and 1951 respectively.

Data Sources

The following documents will be accessed or requested, and thoroughly reviewed:

- Transcripts available from legislative sessions addressing the shaping of legislation that impacted the retirement system, as far back as possible
- Actuarial reports regarding the past financial performance of the retirement systems as far into the past a possible
- Bills that became law in final draft that shape the retirement systems

The documents will be numerically coded by the researcher to allow for the emergence of themes that were present during the shaping of laws, and common themes that appear to always be present when proposing changes or passing new laws.

Interviews

By analyzing all available documents, key persons who have influenced the performance of the systems by proposing or introducing legislation will be identified. All

attempts will be made to interview each of the key players revealed in documentation.

The researcher also intends to interview:

- Director of NCSA, Mike Dulaney⁴⁰: Dr. Dulaney is a respected leader of the Nebraska Council of School Administrators, and works closely with administrators, the NSEA, and legislators to support and advance legislation that is good for Nebraska schools.
- Director of NSEA, Craig R. Christensen⁴¹: As the director of this organization, which voices the concerns of employees from schools across Nebraska, it is important to understand what impact legislative action taken regarding NPERS has on his constituents.
- School members of the Retirement Board, Janis Elliot and Stuart Simpson.⁴² The Public Employees Retirement Board was created in 1971 to administer Nebraska retirement plans for school employees, state employees, judges and the State Patrol. According to *Public Employees Retirement Board Policies*, the members of this board are to provide oversight to the director, and to determine the actuarial and other financial assumptions used to predict assets and liabilities, which will inform and assist in managing the assets of the

⁴⁰ “NCSA Staff,” Nebraska Council of School Administrators, accessed September 15, 2014, <http://www.ncsa.org/ncsa-staff>.

⁴¹ “Directory NSEA,” Nebraska State Education Association, accessed September 15, 2014, <http://www.nsea.org/directory>.

⁴² “Retirement Board,” Official Nebraska Government Website, accessed September 15, 2014, <http://npers.ne.gov/SelfService/public/aboutus/rtrmtbrd.jsp>.

retirement systems.⁴³ (*At the time of intense research, Stuart Simpson was no longer a PERB member, and Janis Elliot was not mentioned throughout the research at all as a key person, so these were eliminated*)

- Director of NPERs, Phyllis Chambers⁴⁴
- Director of OSERS, Michael W. Smith⁴⁵
- Chairperson of the Retirement Committee in the Nebraska Unicameral, Jeremy Nordquist⁴⁶.

Analysis of Data

Data analysis is the process of making sense out of data involving consolidating, reducing, and interpreting what people have said and what the researcher has seen and read; the process used to answer your research questions.⁴⁷ The data collected from these sources and interviews will be thoroughly reviewed and coded manually by the researcher by reading each transcript thoroughly and making notes in margins, a process of *open coding* to identify any segment of data that might be useful.⁴⁸ The codes will be placed into categories for general themes, intent of legislation, and actual outcome of legislation. The themes will be organized into a chronological analysis of School

⁴³ Nebraska Public Employees Retirement Systems, *Public Employees Retirement Board Policies* (Lincoln, Nebraska: Nebraska Public Employees Retirement Systems, July, 2014), p. 1.

⁴⁴ “Organizational Structure,” Nebraska Public Employees Retirement Systems, accessed September 15, 2014, <http://npers.ne.gov/SelfService/public/aboutus/staffList.jsp>.

⁴⁵ “Staff - Omaha School Employees Retirement Systems,” Omaha School Employees Retirement System, accessed September 15, 2014, <http://osers.org/AboutOSERS/Staff.aspx>.

⁴⁶ “Nebraska Retirement Systems Committee,” Nebraska Legislature: The official site of the Nebraska Unicameral Legislature, accessed September 15, 2014, <http://news.legislature.ne.gov/nrs/>.

⁴⁷ Sharon Merriam, *Qualitative Research: A Guide to Design and Implementation* (San Francisco, CA: Josey-Bass, 2009), p. 175-176.

⁴⁸ Merriam, *Qualitative Research*, 2009, p. 178.

Employees Retirement Act and the Class V School Employees Retirement Act, or OSERS.

This data collected from documents and interviews will be examined for validity through a process of triangulation, to be more confident that the meaning developed through coding and themes is accurate. Interviewing multiple participants and comparing points of view through the analysis of the data is one method of checking for validity. Presenting each interviewee with quotes from transcribed interviews for verification of accuracy is another check for validity. Finally, the interview transcripts will be compared with the notes from document review to verify accuracy.⁴⁹

The material will be organized for presentation in the findings section of the research document in chronological order, to paint a clear roadmap of the performance from one piece of legislation to the next, one bill to the next, one group of years to the next. After the chronological history is created, a discussion of the differences and similarities of the two systems will be written, with suggestions indicated in the research that may strengthen the systems.

External reviews of the finished manuscript will be provided to selected individuals in an effort to reveal bias. The intent of the feedback is not to change the findings, but perhaps for clarification of statement or intent.

Summary

The methodology for this study will follow that of an historical organizational case study. Data will be collected in two phases, the first being document review and

⁴⁹ Robert E. Stake, *Qualitative Research: Studying How Things Work* (New York: Guilford Press, ©2010), p. 123-125.

coding, and the second being interviews, which will be transcribed and coded. The codes will be merged into themes that define the history of School Employees Retirement Act and the Class V School Employees Retirement Act, and finally the researcher will offer suggestions deducted from the history to improve or strengthen the systems.

Chapter IV

Findings: Nebraska Retirement System Findings (NPER)

Initial Statement

Nebraska codified laws §79-901 through §79-977.03 are known as the School Employees Retirement Act.⁵⁰ Nebraska codified laws §79-978.01 through §79-9,118 are known as the Class V School Employees Retirement Act.⁵¹ The findings of this research are a history of these acts.

Early Structure of Unicameral

In 1937, the Nebraska bicameral legislature was replaced by a unicameral legislature. This happened gradually; discussion surrounding the change began as early as 1913 with the progressive movement in Nebraska, which called for a move to a one-house legislature.⁵² From 1937 until 1970, the Unicameral only met once every other year unless a special session was called in extraordinary situations.⁵³ The sessions referred to throughout this history, until 1970, reflect this unique characteristic.

Codification

Throughout this history, laws and bills that have been passed will be referred to in subsequent years by their codified statute name. According to Scott Harrison, who works in the Revisor of Statutes/Bill Drafting Office for the Nebraska Legislature, codification

⁵⁰ Neb. Rev. Stat. §79-901. *Act, how cited.*, Accessed on November 7, 2014, <http://nebraskalegislature.gov/laws/statutes.php?statute=79-901>.

⁵¹ Neb. Rev. Stat. §79-978.01, *Act, how cited.* Accessed on July 26, 2015, <http://nebraskalegislature.gov/laws/statutes.php?statute=79-978.01>.

⁵² Michael Dulaney. "Legislative News: Unicameral History," (Lincoln, NE: NCSA, unknown). Accessed March 16, 2015. Accessed March 16, 2015, <http://legislative.ncsa.org/nebraska-unicameral/unicameral-history>.

⁵³ Id.

occurs after laws have been passed so they are easier to find. This is the process followed:

“Codification involves assigning a place in the current set of statutes. The current set of statutes were last reorganized in 1943, hence the title "Reissue of 1943". The 1943 reissue is the base document to which we add the new sections that are adopted. The office assigns new sections from bills to existing chapters of the state statutes. Each chapter of the statutes deals with a general subject; for example Chapter 79 deals with schools. The chapters are further broken down into articles, that again contain sections related to the same subject as the article heading.

When the legislative session ends, office staff goes through all the bills and assigns a new section to each new section and writes a catchline (the short description following the section number). In addition, index entries are written for the new sections to be added to the General Index of the statutes.”⁵⁴

Nebraska Legislative Districts

Senators in the Unicameral each represent a district, or territory, of Nebraska, and are elected by voters in their district. Through this historical organizational case study, the senators will be identified with their district number in parentheses immediately following their name, beginning with the year 1955, as reference to each district is included in Nebraska Legislative Journals. Appendix A shows the district numbers and coordinating territories by year is included for reference. Prior to 1955, the senators were associated with the name of the county they represented, as indicated in the findings.

The district boundaries were changed many times during the duration of this history. For this reason, there are multiple tables, each with the years indicated at the top.⁵⁵

⁵⁴ Scott Harrison, emailed to author, February 26, 2015.

⁵⁵ Appendix A

Establishing a School Retirement System

1945. Prior to 1945, several small steps toward establishing a retirement plan for teachers in Nebraska had been considered. In 1911, the National Education Association Committee on Salaries, Tenure, and Pensions began advocating retirement systems in each state, and provided national data on this effort in 1919. In 1926, a formal request was made of the Governor to include an appropriation for a study of a retirement system, and three years later the assembly presented a booklet of questions and answers about the proposed system, intended for PTA's, civic clubs, and the general public, as well as teachers. However, due to World War I, the Great Depression, and World War II, the enactment was delayed. When teachers were specifically left out of the Social Security Act established in 1935 by Congress, and after two failed attempts to establish a system in 1941 and 1943, a formal retirement system was finally enacted by the Legislature of the State of Nebraska 1945.⁵⁶

During the Legislative Session of the Nebraska Unicameral of 1945, Legislative Bill (LB) 120 was introduced -- the first bill to legislate a retirement system for school employees. This bill, "Establishing a School Retirement System,"⁵⁷ was introduced by Earl J. Lee of Dodge, William Hern of Dawes, and Walter R. Raecke of Merrick.

Mr. Lee of the Eleventh District was a lawyer from Fremont, Nebraska.⁵⁸ Mr. Raecke represented the Thirteenth District, and was from Central City. Also a lawyer by

⁵⁶ Craig R. Christiansen, *The Nebraska State Education Association 1867-1997: A 130-year History*, (unknown). 37-38.

⁵⁷ Hugo Srb, *Session Laws* (Lincoln, NE: 1945), 637.

⁵⁸ *Nebraska Blue Book* (Lincoln, NE: unknown, 1944), 196-212, accessed February 4, 2015, <http://nlcs1.nlc.state.ne.us/statepubsonline/pubs/legisbios/leg1944-1945.pdf>. 208.

trade, he served his state and nation as a second lieutenant in WWI.⁵⁹ According to the *Legislative Journal of the State of Nebraska*, William Hern was a Rancher from Chadron and represented the Forty-First District.⁶⁰ Lee and Raecke served on the Judiciary Committee, and Hern was appointed to the Government Committee and the Labor and Public Welfare Committee.⁶¹

LB 120 was introduced on the Ninth Day of the 58th Legislature, January 12.

When introduced, it read as follows:

AN ACT relating to schools; to provide for retirement of school employees; to establish a school retirement system and provide for its administration; to provide for five distinct funds and for the administration thereof; to appropriate each biennium the amount necessary, out of the general funds of the State of Nebraska, to pay the service annuities provided in the acts, and the state's share of the expenses of administering said system; to define terms; to provide penalties therefor; and to declare an emergency.⁶²

LB 120 was placed on general file on February 20, 1945 with seventy-six amendments being made to the originally introduced bill.⁶³

Throughout the fifty-eighth legislative session, several communications were presented to the legislators in support of LB 120; Kiwanis Club, Assoc. of University Women, Residents of District 34, Faculty Members of the State Teachers College in

⁵⁹ *Blue Book, 1944*, 210

⁶⁰ Hugo Srb, *Legislative Journal of the State of Nebraska, Fifty Eighth Session*, (Lincoln, NE: State Journal Printing Co., 1945), 1, accessed February 4, 2015, <http://www.nebraskalegislature.gov/FloorDocs/58/PDF/Journal/r1journal.pdf>, 5.

⁶¹ Srb, *Legislative Journal, Fifty-Eighth Session*, 46.

⁶² Srb, *Legislative Journal, Fifty-Eighth Session*, 92-93.

⁶³ Srb, *Legislative Journal, Fifty-Eighth Session*, 424-432.

Kearney, the Ministerial Association, and the Preschool Study Group all voiced their support for the passing of LB 120 and the creation of a school retirement system.⁶⁴

A final vote was taken on the amended bill on April 11, 1945. Those voting in the affirmative numbered thirty-five; those negative, four; and those abstaining, four. A constitutional two-thirds majority having voted in the affirmative, the bill was declared “passed”⁶⁵ and was signed by Governor Dwight Griswold on April 17, 1945.⁶⁶

The passed bill read as follows:

AN ACT relating to schools; to provide for retirement of school employees; to establish a school retirement system and provide for its administration; to provide for five distinct funds and for the administration thereof; to appropriate each biennium the amount necessary, out of the general funds of the State of Nebraska, to pay the service annuities provided in the acts, and the state’s share of the expenses of administering said system; to define terms; to provide for certain appeals; to provide the duties of certain officers, employees and other persons; to provide for certain payments, deductions, audits and investigations; to provide for a initial appropriation of eighty-five thousand dollars for the specified purposes; to provide for the compensation and expenses of certain persons; to provide for certain statements and certificates; to make certain acts unlawful; to provide penalties; to provide a savings clause; to provide for certain exemptions from taxes and from certain legal process or proceedings; and to declare an emergency.⁶⁷

The law authorized the School Retirement System of the State of Nebraska to become operational on July 1, 1945, to be administered by the Board of Educational Lands and Funds. A bonded executive officer would be hired by the board to administer this act.⁶⁸

⁶⁴ Srb, *Legislative Journal, Fifty-Eighth Session*, 536, 551, 584, 659, 677.

⁶⁵ Srb, *Legislative Journal, Fifty-Eighth Session*, 1022-1023.

⁶⁶ Srb, *Legislative Journal, Fifty-Eighth Session*, 1101.

⁶⁷ Hugo Srb, *Session Laws* (State Journal Printing Co: Lincoln, NE, 1945), 637-638.

⁶⁸ Srb, *Session Laws, 1945*, 640-641.

Senior school employees, or those over the age of twenty-one, would automatically become members, except for those who elected, prior to October 1, 1945, to not become members, or those who were serving in a school operating any other regularly established retirement or pension system. Junior employees could elect to become members. Membership would only cease upon withdrawal of all contributions, upon taking a school retirement or disability allowance as provided, or death. Members who withdrew contributions could have membership reinstated upon rehire by repaying the withdrawal amount within three years of becoming re-employed, or else they would be established as a new member.⁶⁹ LB 120 specified that an employee had to complete thirty-five years of creditable service for eligibility, and specified sixty-five as the age which one could request to retire.⁷⁰

Members were required, within two years of the establishment of the act, to file their own service records with the board detailing their years of service prior to July 1, 1945, and must have reported four years of service during the five calendar years immediately preceding the effective date of the act, to qualify for prior service credit toward an annuity, with special conditions for military service credit or extended years of service. Such filed service records resulted in the issuance of a valid prior service certificate.⁷¹

The original act paid retirement benefits as an employee contribution savings annuity, and a state service annuity. The dollar amount of the service annuity, paid by

⁶⁹ *Srb, Session Laws, 1945, 643.*

⁷⁰ *Srb, Session Laws, 1945, 645.*

⁷¹ *Srb, Session Laws, 1945, 645.*

the state, was one dollar per month for each year of service multiplied by twelve, provided that the maximum annual service annuity would not exceed \$360, or thirty dollars per month.⁷² Part time employees were paid an annuity on a pro-rated basis. Annuity payments would be received for life.

LB 120 provided for payment to the estate of the employee if the employee passed away prior to retirement, and clarified that employees who ceased employment prior to retirement would be eligible for benefits accumulated to the termination of employment date, upon reaching retirement age. The original law stated that upon retirement, the employee could choose to take a reduced benefit, so that in the event he or she would die prior to receiving one hundred twenty payments, those would continue to be paid to his estate or beneficiary until one hundred twenty monthly payments had been made.⁷³

The employee contribution rate to the saving annuity was five percent of all total compensation up to \$2400, annually. Schools were to withhold this amount monthly, and send the money to the state retirement system within thirty days, or six percent interest would be assessed to the school.

It was legislated that it was the State of Nebraska's obligation to fund the annuity with an amount sufficient to pay the annuity, pay the retiree, or pay the estate of deceased employee.⁷⁴

⁷² *Srb, Session Laws, 1945, 646.*

⁷³ *Srb, Session Laws, 1945, 648.*

⁷⁴ *Srb, Session Laws, 1945, 651.*

The actuary would, based on all of the data available from the retirement board, determine the necessary state contribution amount annually, by the first day of July. All available funds not necessary to make payments to beneficiaries would be invested in securities “approved for authorized investment of domestic insurance companies under the laws of Nebraska.”⁷⁵

The process of revising the rate, in order to maintain plan solvency, at which benefits would be paid was not to adversely affect the rights of any member who, to that particular point in time, had been subject to provisions in the act.⁷⁶

All retirement allowances or benefits created by the act, and all income thereof, were to be exempt from state, county, municipal or other local taxation, and would not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws.⁷⁷

The state of Nebraska initially contributed \$85,000 to cover the cost of the service annuities provided by the school retirement system and the state’s share of the expense of the operation and administration of the system from July 1, 1945 until June 30, 1947.⁷⁸

Every contract of employment with a school employee made after the effective date of the act was required to be subject to the provisions of the state retirement law.⁷⁹

⁷⁵ *Srb, Session Laws, 1945, 651-652.*

⁷⁶ *Srb, Session Laws, 1945, 652.*

⁷⁷ *Srb, Session Laws, 1945, 656.*

⁷⁸ *Srb, Session Laws, 1945, 656.*

⁷⁹ *Srb, Session Laws, 1945, 650.*

After the law passed, it became codified as §79-1501 through §79-1553. Since the Unicameral only met every other year,⁸⁰ the next session was held in 1947, during which no bills or laws proposed changes to the fledgling School Retirement System.

The initial actuary report indicated that a single deposit from the state would be required in the amount of \$7,698,747, which represented the present value of future obligations, and a statement was made that some method must be adopted for amortizing the accrued obligation over a period of years, and level deposits be made.⁸¹ The second annual report from 1947 indicated there were 7,928 contributing members, of which seventy two percent were women. The assets and liabilities of the system, including the required future state contribution \$15,721,851.⁸² In 1948, there were 8,761 contributing members. The cash balance of the system was over \$1.7 million, with \$75,000 being paid in annuities, and just over \$91,000 paid in refunds to members withdrawing from the system. The total plan assets and liabilities were reported as \$22,448,298.⁸³

1949. The School Retirement System was addressed again during the 1949 legislative session, but no action was taken. In the time that passed since 1945, Senator Lee, who introduced LB 120, had become Speaker of the Nebraska Legislature.⁸⁴

Legislative Bill 132 was introduced in 1949 by Senators Ogden, Benesch, and Tvrdik, all

⁸⁰ Michael Dulaney, *Unicameral History*, accessed March 2, 2015, <http://legislative.ncsa.org/nebraska-unicameral/unicameral-history>.

⁸¹ C. H. Rhoades and A. M. Haight, *First Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1946).

⁸² A. M. Haight and C. M. Mills, *Second Annual Actuarial Report on the Assets and Liabilities of the School Retirement System of the State of Nebraska*, (Omaha, NE: 1947).

⁸³ A. M. Haight and S. W. Dale, *Third Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1948).

⁸⁴ Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-First Session*, (Lincoln, NE: Cornhusker Printing Co., 1949), III.

of Douglas County, for the purpose of amending the Teacher's Retirement System to provide for all school employees who retired under any regularly established retirement or pension system to receive service annuities contributed to by the state.⁸⁵ The bill was referred to the Miscellaneous Appropriations and Claims Committee.⁸⁶ On February 25, Senator Schroeder, as Chairman of the Miscellaneous Appropriations and Claims Committee, was presented with a "large bouquet of roses from the Central Park PTA of Omaha, Nebraska, urging this Committee to wisely consider LB 132...and act justly."⁸⁷ The bill, however, was indefinitely postponed, and the statute remained unchanged.⁸⁸

Actuaries reported the cash balance of the plan to have over \$2.3 million in the plan year ending in 1949, with \$98,000 paid out in annuities, and \$145,000 paid in refunds. Total assets and liabilities were approximately \$24.5 million. There were over slightly more than 9,000 contributing members, and 326 members receiving retirement annuity benefits.⁸⁹

Comments from the Director of the retirement plan, Glenn I. Anderson, indicated that a retirement system considered to be adequate provided about one half of the member's average salary in benefits, of which member and employer typically contribute equal amounts, as was the case with the State Safety Patrol System at the time. In 1950, the benefit was about one-fourth of the average salary of members, and the state waited

⁸⁵ *Srb, Legislative Journal, Sixty-First Session, 1949, 94.*

⁸⁶ *Srb, Legislative Journal, Sixty-First Session, 1949, 151.*

⁸⁷ *Srb, Legislative Journal, Sixty-First Session, 1949, 576.*

⁸⁸ *Srb, Legislative Journal, Sixty-First Session, 1949, 804.*

⁸⁹ A.M. Haight and S.W. Dale, *Fourth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1949).

until a member retired to allocate funds for the service annuity, which was also less than one-fourth of salary, making this an inadequate system. Actuaries reported the cash balance as slightly over \$3 million, with \$117,116 being paid out in service annuities, \$4,876 in savings annuities, and \$207,566 paid in refunds of contributions. The assets and liabilities were valued at \$21,813,550. There were 9,726 members actively contributing, and 415 members were receiving benefits.⁹⁰

1951. During the Sixty-Second Legislature in 1951, changes, introduced as LB 132 in 1949, were reintroduced by Senator Charles F. Tvrdik, of Douglas County as Legislative Bill 337. His co-introducers included Senators John J. Larkin, Jr., Sam Klaver, Karl E. Vogel, William Moulton, George Syas, and John Adams, Sr.. These names represented all of the senators from Omaha.⁹¹ LB 337 was referred to the Education Committee.⁹² The bill was bracketed on March 21,⁹³ meaning there was a delay to the consideration of the bill,⁹⁴ but was taken up again on April 6,⁹⁵ and voted upon on April 18. Forty voted affirmative, one negative, and two abstained.⁹⁶ The bill

⁹⁰ A.M. Haight and S.W. Dale, *Fifth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1950).

⁹¹ Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-Second Session*, (Lincoln, NE: Cornhusker Printing Co., 1951), IV, 262, accessed March 16, 2015, at <http://nebraskalegislature.gov/FloorDocs/62/PDF/Journal/r1journal.pdf>.

⁹² Srb, *Legislative Journal, Sixty-Second Session, 1951*, 301.

⁹³ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 859.

⁹⁴ "Glossary of Legislative Terms," Nebraska Council of School Administrators (Lincoln, NE: unknown), Accessed March 16, 2015, <http://nebraskalegislature.gov/about/glossary.php>.

⁹⁵ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 1010.

⁹⁶ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 1138-39.

was declared passed. The bill became law on April 26, when signed by Governor Peterson.⁹⁷

LB 337 repealed §79-1512, which stated that any public school employee who had another established retirement or pension plan would not be subject to the School Employees Retirement Act. The modified §79-1512 ensured all school employees, regardless of any other regularly established retirement or pension system, would be eligible for specific annuity provisions in the School Employees Retirement Act.⁹⁸ This entitled Class V School Employees, who had a previously established system, to receive the state service annuity.

LB 134 was introduced by Senators Hugh Carson of Valley County, William Hern of Dawes County, and K.W. Peterson of Custer County,⁹⁹ to amend sections of the School Retirement System of the State of Nebraska.¹⁰⁰ The proposed changes included conditions of membership of senior employees, conditions for prior service, to disallow contributions after the age of sixty-five, to increase retirement allowances, to impose conditions on credits for out-of-state service, to disallow paying annuities to a retired member who substituted more than fifty days in a year, and to increase employee contributions. This was introduced on January 16, the eleventh day of the session, and was referred to the Education Committee.¹⁰¹ On May 26, LB 134 was voted upon, and

⁹⁷ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 1250.

⁹⁸ Hugo Srb, *Session Laws, 1951* (Lincoln, NE: 1951), 970-971.

⁹⁹ Srb, *Legislative Journal, Sixty-Second Session, 1951*, IV, V.

¹⁰⁰ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 124.

¹⁰¹ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 135.

thirty-eight members voted affirmative, none negative, and five abstained. The bill was declared passed.¹⁰² LB 134 was signed by the Governor on May 31.¹⁰³

In comparing *Session Laws* from 1949 and 1951, the changes made were more clearly delineated. The changes made by LB 134 were:

- Those who had not attained the age of sixty-five preceding the date of employment could not become members; amended §79-1509.¹⁰⁴
- Those school employees who were not required to hold a certificate, degree, or credentials could elect to not be included in the system in writing within sixty days of the enactment of the bill; and in doing so, would waive all rights to the system except to request a refund of his own contributions; amended §79-1509.¹⁰⁵
- School employees were required to become members of the retirement system before July 1, 1951, if they wished to qualify for prior service credit toward a service annuity; amended §79-1515.¹⁰⁶
- After the age of sixty-five, employees could no longer make contributions nor receive further credit toward any service annuity; amended §79-1521.¹⁰⁷
- Members only became eligible or vested after five years of creditable service; amended §79-1522.¹⁰⁸

¹⁰² Srb, *Legislative Journal, Sixty-Second Session, 1951*, 1617-1618.

¹⁰³ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 1629.

¹⁰⁴ Srb, *Session Laws, 1951*, 964.

¹⁰⁵ Srb, *Session Laws, 1951*, 965.

¹⁰⁶ Srb, *Session Laws, 1951*, 966.

¹⁰⁷ Srb, *Session Laws, 1951*, 966.

- The amount of the service annuity for a fulltime employee was raised to one and one half dollar per month per year, not to exceed \$540; amended §79-1522.¹⁰⁹
- Members who retired as employees in Nebraska would not receive more credit for out of state service than the amount of in state service years; amended §79-1522.¹¹⁰
- No members receiving benefits could work for a public school more than fifty days as a substitute teacher without forfeiting retirement allowances; amended §79-1522.¹¹¹
- Members could choose to take a reduced benefit, so that in the event of death, they may have the difference between contributions and any amount already received, paid to beneficiary, or to have actuarial equivalent paid to the estate or spouse or other designated beneficiary as an annuity for life, in additions to the original provisions; amended §79-1530.¹¹²
- Members could elect to contribute five percent of all compensation, not to exceed \$3600, within sixty days after the effective date of the act, which was an increase from the required deposit of five percent up to \$2400; amended §79-1531.¹¹³

¹⁰⁸ Srb, *Session Laws, 1951*, 966.

¹⁰⁹ Srb, *Session Laws, 1951*, 967.

¹¹⁰ Srb, *Session Laws, 1951*, 967.

¹¹¹ Srb, *Session Laws 1951*, 967.

¹¹² Srb, *Session Laws, 1951*, 968.

¹¹³ Srb, *Session Laws, 1951*, 968-969.

- School districts were enabled to make the exception of an increased deposit made electively by the employee as amended in §79-1531; amended §79-1533.¹¹⁴

Glenn Anderson, Director of the School Employees Retirement plan, shared thoughts in the actuary report, stating that changes made during this session, including an increase in the service annuity, made the plan about average in comparison with School Retirement Plans of other states. The assets and liabilities were reported at \$23,914,811, not considering the additional service annuity that was to also be paid to Class V school members commencing after the 1951 legislative session. There were more than 10,000 contributing members, and 460 members receiving benefits.¹¹⁵

In 1952, Anderson alluded to the use of the retirement system as a recruiting mechanism for teachers. Also included in the report were assets and liabilities of \$27,370,528, which slightly increased due to Class V employees receiving the service annuity, with real assets of the system of almost \$6.5 million between cash and investments. The unfunded liabilities were reported to be \$15,830,139. Slightly more than \$160,700 were paid in savings annuities, almost \$3 million paid for service annuities, with 9,568 members contributing, 460 receiving benefits, and about 1,300 Omaha employees who were eligible for the service annuity.¹¹⁶

¹¹⁴ Srb, *Session Laws, 1951*, 969.

¹¹⁵ S. W. Dale and R. P. Brady, *Sixth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1951).

¹¹⁶ A. M. Haight and S. W. Dale, *Seventh Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1952).

1953. Several bills introduced in the Sixty-Fifth Legislative Session in 1953 addressed the school employees retirement system. Among those were LB 149, LB 327, LB 423, and LB 362.

LB 423 was introduced by Senators Liebers (Lancaster), Cramer (Boone), and Vogel (Douglas). The intent of the bill was to amend §79-1501, §79-1509, and §79-1522 to redefine certain terms, to require those choosing to not participate inform their employers, and to include emeritus members in the retirement system.¹¹⁷ The bill was referred to the Education Committee for further review.¹¹⁸ On April 7, the bill was voted upon, with thirty-seven voting affirmative, none voting negative, and six members not voting. The bill was declared passed.¹¹⁹

§79-1501 was amended with enactment of this law, adding an additional definition of terms to include “Emeritus Member,” defined as a member who had retired under the established retirement system, and who thereafter was re-employed in any capacity by a public school in Nebraska, or who became a state school official or county school official after such retirement, and applied to the board for emeritus membership in the retirement system and received approval.¹²⁰ Christensen referred to this as a means of assisting retired members in qualifying for social security benefits.¹²¹

¹¹⁷ Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-Fifth Session* (Lincoln, NE: Joe Christensen Printing, 1953). 308.

¹¹⁸ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 366.

¹¹⁹ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 1012.

¹²⁰ Srb, *Session Laws, 1953*, 1045.

¹²¹ Christensen, phone conversation.

§79-1509 was revised to include an additional section to add emeritus members as defined in §79-1501 as eligible participants in the retirement system. When such member wished to retire again, he was required to submit a written application to do so once his employment terminated.¹²² Finally, §79-1522 was revised to read “an employee *or emeritus member*” in two separate statements, with no further revisions to any other content of the statute.¹²³

Legislative Bill 362 was introduced by Senators Marvel (Adams), Anderson (Hamilton) and Martin (Hall). The bill related to members of the School Employees Retirement System who, while a school employee, entered into and served, or previously entered into and served, in the armed forces of the United States.¹²⁴ The bill was referred to the Education Committee,¹²⁵ and was voted upon on April 14. Forty-two members voted affirmative, none voted negative, and one member did not vote. The bill was declared passed¹²⁶ and was signed by the Governor to become law.¹²⁷

LB 362 amended §79-1515 to adjust the period of time that a soldier could take to become re-employed upon returning from one year to three years, or gave a soldier a period of one year from the completion of training provided in Servicemen’s Readjustment Act of 1944 or Veterans Readjustment Assistance Act of 1952, to become re-employed. If these requirements were met, the soldier would be credited for all time

¹²² Srb, *Session Laws, 1953*, 1046.

¹²³ Srb, *Session Laws, 1953*, 1047.

¹²⁴ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 289.

¹²⁵ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 294.

¹²⁶ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 1090-91.

¹²⁷ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 1932.

actually served in the armed forces as if such person had been a school employee throughout the time of their military service.¹²⁸

LB 149 was introduced by Senator Cramer (Boone) to provide for the Department of Insurance to cause an annual audit of the School Retirement System. This was not a proposed revision of the School Employees Retirement Act, but a proposed revision to §84-304.¹²⁹ This was referred to the Banking, Commerce and Insurance Committee.¹³⁰ It was voted upon on March 9, with a unanimous vote in the affirmative.¹³¹ With the passing of this bill, it became law that the Department of Insurance would annually value or cause to be valued the reserve liabilities of the school retirement system, and that a record would be maintained for each member.¹³² Governor Crosby signed the bill on March 13.¹³³

Actuaries reported for 1953 the real assets of the School Employees Retirement plan to be over \$7 million, with total liabilities of nearly \$29 million. Of those, nearly \$22 million were considered unfunded because they were considered obligations the state had not yet paid for. There were slightly more than 10,000 contributing members, and 1,354 Omaha employees who would be eligible for the service annuity. 580 members were receiving benefits.¹³⁴ In 1954, the real value of all assets was almost \$9 million,

¹²⁸ Srb, *Session Laws, 1953*, 1049-50.

¹²⁹ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 148.

¹³⁰ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 152.

¹³¹ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 668.

¹³² Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 668.

¹³³ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 752.

¹³⁴ S. W. Dale and F. R. Isaacson, *Eighth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1953).

with total assets of \$31,600,567. There were 10,296 contributing members, and 226 members receiving benefits. Omaha had 1,641 members who were eligible to receive the service annuity from the state.¹³⁵

The actuarial report from 1955 revealed growth in real assets to almost \$11 million, and total assets climbed to just over \$34 million. There were 10,746 contributing members, and 1,516 Omaha plan members.¹³⁶ The same auditors in 1956 reported the real assets of the plan at almost \$13 million, showing a steady increase, and the total assets and liabilities were increased to \$36.5 million. There were 11,114 plan members, and 1,617 members from Omaha. Glenn Anderson, director of Nebraska School Retirement System, indicated that a one-half mill levy provided funds for current costs of the service annuity, placing the system on a sound basis, and that the addition of Social Security had created a reasonable retirement benefit within the ability of Nebraska to finance.¹³⁷

In 1957, actuaries reported real assets values had crept to \$14,759,000, with total assets and liabilities valued at close to \$31 million. There were about 11,500 contributing plan members, and 1,612 Omaha plan members. There were 930 members receiving retirement benefits.¹³⁸ In 1958, real assets of \$16,766,693 were reported, with assets and liabilities of \$41,688,743. 12,012 members were contributing, with 1,624 Omaha

¹³⁵ A. M. Haight and F. R. Isaacson, *Ninth Annual Report of The Nebraska School Retirement System*, (Omaha, NE: 1954).

¹³⁶ A. M. Haight and F. R. Isaacson, *Tenth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1955).

¹³⁷ A. M. Haight and F.R. Isaacson, *Eleventh Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1956).

¹³⁸ A. M. Haight and F. R. Isaacson, *Twelfth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1957).

members eventually entitled to the service annuity, and 1,083 members drawing a benefit.¹³⁹

1959. During the 1959 Legislative Session, two bills were introduced to amend the School Retirement System. Both LB 380 and LB 410 proposed changes to §79-1522, 1531, and 1533.

Senators Otto (34) Syas (Douglas), and Liebers (Lancaster) introduced LB 380, to provide for a service annuity for emeritus members, to change the amount of deposit, and to change the retirement allowance.¹⁴⁰ However, on April 7, the Miscellaneous Subject Committee moved to indefinitely postpone LB 380.¹⁴¹

LB 410 was introduced by Marvel (31) and Moulton (10) to change the allowance, increase the amount of deposit, and to withdraw the amount of deposit directly from the paycheck of members.¹⁴² LB 410 was referred to the Miscellaneous Subjects Committee.¹⁴³

LB 410 emerged from committee, and was voted upon on June 3, with thirty-nine affirmative, none negative, and four abstaining. It was declared passed.¹⁴⁴ However, on June 5, Senator Otto made a motion to request that the bill be returned by Governor Brooks, which it was, and the bill was amended from its original “passed” form to

¹³⁹ A. M. Haight and F. R. Isaacson, *Thirteenth Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1958).

¹⁴⁰ Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-Ninth Session*, (Lincoln, NE: Joe Christensen Printer, 1959), 245.

¹⁴¹ Srb, *Legislative Journal, Sixty-Ninth Session, 1959*, 1110.

¹⁴² Srb, *Legislative Journal, Sixty-Ninth Session, 1959*, 253-254.

¹⁴³ Srb, *Legislative Journal, Sixty-Ninth Session, 1959*, 302.

¹⁴⁴ Srb, *Legislative Journal, Sixty-Ninth Session, 1959*, 1869.

include emeritus members.¹⁴⁵ Another vote was held, which increased the affirmatives to forty, and again the bill was declared passed.¹⁴⁶ The bill was signed by the Governor on June 23.¹⁴⁷

LB 410 amended §79-1531, and §79-1522, which had been amended in the same session by LB 224¹⁴⁸ was introduced by Committee on Judiciary, to harmonize the provisions impacted by previous legislation and eliminate obsolete internal references.¹⁴⁹ §79-1522 was amended by LB 224 to include emeritus members in the system.¹⁵⁰ LB 410 was amended §79-1522 further to limit the annuity paid to school employees or emeritus members to one and one half dollars per month per year, for no more than thirty-five creditable years.¹⁵¹

§79-1531 was amended to add a provision that if, within sixty days after the effective date of the revision, or within sixty days of becoming an employee of a public school, the employee chose to deposit five percent of all compensation not exceeding \$3,600, he may elect to do so in writing on the proper forms. Such employee would still have five years to revert back to the original provision of five percent of salary not to exceed \$2,400.¹⁵²

¹⁴⁵ *Srb, Legislative Journal, Sixty-Ninth Session, 1959, 1910.*

¹⁴⁶ *Srb, Legislative Journal, Sixty-Ninth Session, 1959, 2078.*

¹⁴⁷ *Srb, Legislative Journal, Sixty-Ninth Session, 1959, 2183.*

¹⁴⁸ *Hugo Srb, Session Laws, 1959, (Lincoln, NE: 1959), 1326.*

¹⁴⁹ *Srb, Legislative Journal, Sixty-Ninth Session, 1959, 167.*

¹⁵⁰ *Srb, Session Laws, 1959, 1327.*

¹⁵¹ *Srb, Session Laws, 1959, 1387.*

¹⁵² *Srb, Session Laws, 1959, 1388.*

The fourteenth financial report from 1959 indicated increase in real assets of more than \$2 million, up to \$18,928,755, with investments totaling more than \$18 million. Only fund balances and investment data were included in the report for this year.¹⁵³ In 1960, the report was also indicated to be the fourteenth annual report, but contained more actuarial and valuation information. The real assets of the plan were valued at over \$21 million, with total assets and liabilities of \$48.5 million. There were about 13,000 contributing members, and 1,779 Omaha plan members entitled to the service annuity. 1,288 members were receiving annuity payments, not including the Omaha members receiving the service annuity.¹⁵⁴

1961. Several bills were introduced in the Seventy-Second Session of the Nebraska Legislature. Two bills addressed the State Retirement System; Legislative Bill 248, and Legislative Bill 309.

LB 248 was introduced by Senators Kjar (36), and Orme (20).¹⁵⁵ Senator Fern Orme is referred to as one of the “Notable Former Nebraska Legislators” as selected in 1997 to commemorate the 60th anniversary of the Unicameral, on www.nebraskalegislature.gov, for receiving the Nebraska Builders award for leadership and advancing education throughout the state, and for promoting professional and economic opportunities for women, and the Addison E. Sheldon Award for preserving or

¹⁵³ G. I. Anderson, *Fourteenth Annual Financial Report of the Nebraska School Retirement System as of June 30, 1959*, (Lincoln, NE: 1959).

¹⁵⁴ G. I. Anderson and F. R. Isaacson, *Fourteenth Annual Report of the Nebraska School Retirement System as of June 30, 1960*, (Omaha, NE: 1960).

¹⁵⁵ Hugo Srb. *Legislative Journal of the State of Nebraska, Seventy-Second Session*, (Lincoln, NE: Joe Christensen Printer, 1961), IV-V, 167.

interpreting history in Nebraska.¹⁵⁶ The bill was bracketed¹⁵⁷ and after some effort to revive it, was indefinitely postponed.¹⁵⁸

The second bill introduced, LB 309, from Senators Staubitz (34), and Adamson (40) was an effort to redefine terms in § 79-1501.¹⁵⁹ The Education Committee gave the bill a favorable report, since it would cost nothing to make the changes.¹⁶⁰ The bill was voted upon, receiving thirty-four affirmative votes, no negative votes, with nine not voting.¹⁶¹ A comparison from 1953, the last year that terms were re-defined, shows a slight modification to the definition of full-time employee, removing the terminology of “all of each school day” in §79-1501.¹⁶²

In 1962, Haight, Davis and Haight reported growth in real assets to over \$25 million, with assets and liabilities of \$53,595,546. There were 13,665 active contributing plan members, with Omaha including more than 2,000 employees entitled to the service annuity. 1,471 members were receiving retirement annuity payments.¹⁶³

1963. During the Seventy-Third Session of the Nebraska Legislature, numerous bills were introduced that might have impacted the school retirement systems. From those, LB 395 and LB 465 emerged as law.

¹⁵⁶ “Notable Former Nebraska Legislators,” Nebraska Legislature: the official site of the Nebraska Unicameral, (Lincoln, NE: unknown), accessed April 25, 2015, <http://www.nebraskalegislature.gov/education/former.php>.

¹⁵⁷ *Notable Legislators*, 395.

¹⁵⁸ Srb, *Legislative Journal, Seventy-Second Session, 1961*, 1312.

¹⁵⁹ Srb, *Legislative Journal, Seventy-Second Session, 1961*, 192.

¹⁶⁰ Srb, *Legislative Journal, Seventy-Second Session, 1961*, 426.

¹⁶¹ Srb, *Legislative Journal, Seventy-Second Session, 1961*, 755.

¹⁶² Hugo Srb, *Session Laws, 1961*, (Lincoln, NE: 1961), 1229-1231.; Srb, *Session Laws, 1953*, 1042-1045.

¹⁶³ F. R. Isaacson and M. M. Twinney, Jr., *Fifteenth Actuarial Report of the Nebraska School Retirement System as of June 30, 1962*, (Omaha, NE: 1962).

LB 395 was introduced by McGinley (39)¹⁶⁴ to authorize the governing body of any school to purchase retirement annuity contracts for its employees.¹⁶⁵ The bill was referred to the Education Committee.¹⁶⁶ The committee requested an interpretation from the Attorney General, as “the language of this bill could be interpreted as permitting any school board to set up a retirement system for its employees, subject only to the condition that it be funded through the purchase of retirement annuities.” This created the danger that school boards might set up overly-liberal past service benefits without really understanding the cost involved.¹⁶⁷

The final reading of the bill provided a provision to withhold payments to such annuitants from wages, and was voted upon, on April 18. Thirty-nine members voted affirmative, no members voted negative, and four members did not vote. The bill was declared passed¹⁶⁸ and Governor Frank Morrison signed it into law on April 23.

LB 465, introduced by Rasmussen (11) and Warner (18) proposed changes to §79-1501 and §79-1522 in the form of redefined terms, and in adding the provision that substitute teachers could become regular school employees, and such teachers would need to provide written notice before regular employment begins.¹⁶⁹ This was referred to the Education Committee.¹⁷⁰ It was amended to include changes to §79-1523, addressing

¹⁶⁴ Hugo Srb, *Legislative Journal of the State of Nebraska, Seventy-Third Session*, (Lincoln, NE: Joe Christensen Printer, 1963), VI.

¹⁶⁵ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 228.

¹⁶⁶ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 242.

¹⁶⁷ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 650.

¹⁶⁸ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 1232.

¹⁶⁹ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 254.

¹⁷⁰ Srb, “*Legislative Journal, Seventy-Third Session*,” 272.

retirement upon disability.¹⁷¹ A hearing was held on this, and all bills proposed affecting the retirement systems, with the resulting recommendation the bill pass, as it created no major cost to the state of Nebraska.¹⁷² The final reading of the bill resulted in forty-two affirmative votes, no negative votes, with one member not voting.¹⁷³ The Governor signed the bill on April 9, and it became law.¹⁷⁴

LB 465 made no significant changes to definitions. §79-1522 sub-section four, was amended to add the provision that a retired teacher receiving annuity payment, as long as he or she was not working more than fifty days per school year, could elect to waive receiving payments and return to regular employment in a public school if the retirement board was notified in advance.¹⁷⁵ §79-1523 was changed to state that a member with one year of full-time creditable service and one year of college attendance earning credits toward a degree just prior to applying for disability would be eligible for disability retirement benefits, as long as the member applied for benefits within one year, and that the disability did not occur while pursuing another occupation.¹⁷⁶

The actuarial report dated September 28, 1964 reported real assets of over \$30 million, and total assets and liabilities of slightly less than \$46 million. 14,402 members were active and contributing, and the Omaha plan included 2,193 members active, eligible to eventually receive the service annuity. 1,656 members were receiving

¹⁷¹ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 461.

¹⁷² Srb, *Legislative Journal, Seventy-Third Session, 1963*, 792.

¹⁷³ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 1133.

¹⁷⁴ Srb, *Legislative Journal, Seventy-Third Session, 1963*, 1214.

¹⁷⁵ Hugo Srb, *Session Laws, 1963*, (Lincoln, NE: 1963), 1584.

¹⁷⁶ Srb, *Session Laws, 1963*, 1585.

retirement annuity payments. A new system of valuation assumptions was used for the first time in this report, developed from a study of the System's experience from 1954-1964, and the required state contribution decreased by almost \$3 million due to this.¹⁷⁷

1965. 1965 brought a flourish of bills related to retirement in general. The Nebraska Retirement Systems Advisory Committee presented reports to the Legislature on five separate occasions to provide guidance on seventeen separate legislative bills proposed. Those bills addressed the needs of retirees of state school employees, Omaha school employees, Nebraska University employees, Nebraska state college employees, employees of villages and cities, state patrolmen, employees of Class III Schools (Lincoln), city policemen, county employees, firemen, judges, newly elected judges, and judges of municipal courts.¹⁷⁸ The Advisory Committee asked for Legislative Resolution 55 to study all of the existing public retirement systems, to explain details of each plan, how they were financed, whether or not they were funded, their coverage, and their weakness.¹⁷⁹ The request was not recommended since other such studies had already been conducted, and the newly appointed members of the committee could do this work.¹⁸⁰ Once the resolution was officially rejected, Senator Orme immediately presented a request to be allowed to utilize public funds to continue studies, and that motion prevailed.¹⁸¹

¹⁷⁷ F. R. Isaacson and M. M. Twinney, Jr., *Sixteenth Actuarial Report of the Nebraska School Retirement System as of June 30, 1964*, (Omaha, NE: 1964).

¹⁷⁸ Hugo Srb, *Journal of the Legislature of the State of Nebraska, Seventy-Fifth Session*, (Lincoln, NE: Joe Christensen Printer, 1965), 586, 768, 838-839, 998-1000, 1089, 1707.

¹⁷⁹ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 1925-1926.

¹⁸⁰ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 2685.

¹⁸¹ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 2811.

LB 110 was introduced by Senators Cooper Hughes (1), Gerdes (49), and Lysinger (36) to modify §79-1514 and §79-1527 to allow members of the State College System to withdraw their funds from the state School Employees Retirement System and terminate their membership.¹⁸² The advisory committee supported this bill, since they could see no reason why they should not be able to terminate membership if they so chose.¹⁸³ Upon Final Reading, forty-seven senators supported the bill, and two did not vote.¹⁸⁴ The bill was signed into law on April 17.¹⁸⁵

The final version of the bill stated, in §79-1527, any member of the State School Employees Retirement System whose school employment ceased for any cause other than death or retirement, and became a member of any other state or school retirement system authorized by the Legislature, could make an election within ninety days to terminate membership from the school system and have contributions returned forthwith.¹⁸⁶

LB 275 was submitted by Senators Orme (29), Marvel (33), Stryker (23), and Gerdes (49) to propose that proceeds of the Service Annuity Fund be combined with the Annuity Reserve Fund, with emergency.¹⁸⁷ LB 275 was referred to the budget

¹⁸² Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 72.

¹⁸³ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 837.

¹⁸⁴ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 1171-1172.

¹⁸⁵ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 1209.

¹⁸⁶ Hugo Srb, *Session Laws, 1965*, (Lincoln, NE: 1965), 1676-1677.

¹⁸⁷ Srb, *Legislative Journal, Seventy-Fifth Session, 1965*, 165.

committee¹⁸⁸ and had a final reading with a unanimous “aye” vote of forty-nine legislators on March 25.¹⁸⁹ On April 5, the governor signed the bill into law.¹⁹⁰

The passage of this bill amended §79-1501, §79-1512, §79-1539, §79-1540, §79-1545, §79-1547.04, §79-1548, and §79-1549.¹⁹¹ The appropriate changes were made to all references of the “Service Annuity Fund,” changed to “Annuity Reserve Fund.”¹⁹²

LB 229 was introduced by Knight (26), Warner (25), Bauer (28), and Orme (29) to increase the amount of annuity received by fulltime or emeritus members per month, and to provide for certification when an annuitant became reemployed.¹⁹³ The bill was referred to the budget committee¹⁹⁴ and after some delay, and a recommendation by the advisory committee to not pass LB 229 due to the additional cost to Nebraska,¹⁹⁵ the bill was voted upon after final reading. With a vote of thirty-six affirmative, two negative, and eleven members not voting on August 12, the bill was passed with a constitutional majority.¹⁹⁶ It was signed into law on August 17.¹⁹⁷

Upon passage of LB 229, §79-1522 was amended to state that the state service annuity for fulltime members or emeritus members would be two dollars and twenty-five cents per month for each year of service, provided it was evidenced that the member was

¹⁸⁸ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 185.*

¹⁸⁹ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 920.*

¹⁹⁰ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 1042.*

¹⁹¹ *Srb, Session Laws, 1965, 1663.*

¹⁹² *Srb, Session Laws, 1965, 1663-1670.*

¹⁹³ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 150.*

¹⁹⁴ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 157.*

¹⁹⁵ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 768.*

¹⁹⁶ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 2804.*

¹⁹⁷ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 2841.*

not eligible for Social Security, and the application to receive the increased amount was made. Non-qualifying or non-applying members were to receive payment at one dollar and fifty cents per month for each year of service, not to exceed credit for more than thirty-five years.¹⁹⁸

During this session, LB 486 was introduced as an effort to combine the School Employees Retirement System with all other public employees into the State Employees Retirement System.¹⁹⁹ Even with a recommendation from the advisory committee that the bill be passed, as the benefits would be better with the state employee system, fewer legislative bills would need to be introduced in future years, and the current system was not fully funded due to arbitrary appropriation amounts not related to the actual cost of the plan²⁰⁰ the bill was indefinitely postponed.²⁰¹

Actuaries in 1966 reported just over \$15.5 million in real assets, with about \$50.5 million in total assets and liabilities. It was noted that an unusual circumstance which existed was that the actual benefit payouts exceeded the funding cost for benefits being credited at the time, largely due to prior service credits granted when the System was first established and as amended. The state was required to contribute \$15,655,890, down just slightly from 1964. 15,217 members were actively contributing, and Omaha had 2,613 members. 1,857 members were receiving retirement benefits.²⁰²

¹⁹⁸ *Srb, Session Laws, 1965, 1674-1675.*

¹⁹⁹ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 277.*

²⁰⁰ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 769-770.*

²⁰¹ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 1478.*

²⁰² *F. R. Isaacson and M. M. Twinney, Jr., Seventeenth Actuarial Report of the Nebraska School Retirement System as of June 30, 1966, (Omaha, NE: 1966).*

1967: Formula annuity introduced. In 1967, three bills were introduced that made changes to the State School Employee Retirement System. These bills were LB 186, LB 356, and LB 494.

LB 186 was introduced by Cooper Hughes (1), and Ely (37) to eliminate the ninety-day requirement to elect to not become a member, or to remain a member, of the retirement system.²⁰³ The bill was initially assigned to the Public Health and Welfare Committee²⁰⁴ but was later routed to the Budget Committee.²⁰⁵ The bill was heard on Final Reading on May 1, and declared passed after thirty-six senators voted affirmative, none negative, and thirteen not voting. The bill was signed into law on May 4.²⁰⁶

LB 186 amended §79-1527 to allow members of the state school retirement system, when ceasing to be a school employee for any reason other than death or retirement, to request payment of accumulated retirement contributions of his individual account, eliminating the requirement that the member only has ninety days to make such request.²⁰⁷

LB 356 was introduced by Senators Whitney (44), Holmquist (16), Cooper-Hughes (1), and Knight (26) to allow for investment of retirement funds²⁰⁸ of the school

²⁰³ Hugo Srb, *Legislative Journal of the State of Nebraska, Seventy-Seventh Session*, (Lincoln, NE: Joe Christensen Printer, 1967), 103.

²⁰⁴ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 130.

²⁰⁵ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 162.

²⁰⁶ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 1679.

²⁰⁷ Hugo Srb, *Session Laws, 1967*, (Lincoln NE: 1967), 1825.

²⁰⁸ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 191.

system, and other retirement systems legislated. The bill was signed into law on July 22.²⁰⁹

When the changes were made to Nebraska codified statutes, §79-1502, §79-1503, and §79-1541 were amended by the bill to include provisions for retirement funds to be invested according to changes made by the act.

LB 494, introducing a formula annuity allowance, was introduced by Senators Luedtke (28), Orme (29), Carpenter (48), Bloom (20), Mahoney (5), Klaver (9), Pedersen, Jr. (4), and Payne (3). The purpose of the legislation was to coordinate retirement systems, reduce the service required for vestment, increase the amount of service annuity, provide an optional retirement allowance, increase contributions, establish a School Employers Deposit Fund and a Service Annuity Fund, and change the method of how to finance the state's share.²¹⁰ This bill was referred to the budget committee²¹¹ and advanced to Final Reading on July 22, where it was passed on a vote of forty-two affirmative, none negative, and seven members not casting votes. The Governor signed the bill the day it was passed in the Unicameral.²¹²

LB 494 amended §79-1501, changing the definition referring to the "Annuity Reserve Fund,"²¹³ to state that funds would be deposited into and payments made from this fund for the retirement system,²¹⁴ and adding the definition of "Primary Carrier" to

²⁰⁹ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 2990.*

²¹⁰ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 246-247.*

²¹¹ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 276.*

²¹² *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 2992.*

²¹³ *Srb, Session Laws, 1965, 1673.*

²¹⁴ *Srb, Session Laws, 1967, 1800.*

mean the life insurance company or trust company designated by the retirement board as the underwriter or trustee of the retirement system. In section three, duties of the board were defined, including that written proposals from domestic companies, life insurance companies, banks or trust companies authorized to conduct business in Nebraska would be considered to serve as trustee for or to underwrite the retirement system, as long as the funds would be invested under state laws; that whomever was selected as underwriter or trustee could be changed if the board so chose by giving thirty days written notice; that the board would determine eligibility of members should there be a dispute; that the board could adopt rules and regulations; keep records of their proceedings; and employ actuarial or other assistance as necessary.²¹⁵

Prior to LB 494, §79-1508 simply stated the retirement board would keep actuarial data convenient, and make an annual report to the governor.²¹⁶ The new revision clarified it would be the duty of the Director of Insurance to make an annual audit, and to make a biennial report to the Legislature, and the expense of this would be paid for out of the Expense Fund.²¹⁷

§79-1512 was revised twice in 1967, first by LB 24²¹⁸ and next by LB 494. The final revision due to LB 494 stated that if a school employee reached the age of retirement working for a school which had another pension or established retirement plan (Omaha employees), upon certification by the school, the retirement board would transfer

²¹⁵ *Srb, Session Laws, 1967*, 1801-1802.

²¹⁶ *Srb, Session Laws, 1949*, 843-844.

²¹⁷ *Srb, Sessions Laws, 1967*, 1802.

²¹⁸ *Srb, Sessions Laws, 1967*, 1810.

funds from that other pension into the state retirement system, and the employee would have the same qualification as member schools, so long as meeting the same qualifications for prior service as member school employees. The annuity would be paid from the state retirement system in an amount equivalent to the member's contributions plus accumulated interest, and the sum of his service annuity.²¹⁹

§79-1522 was amended to increase the amount of state service annuity to be received by fulltime or emeritus employees. For years prior to July 1, 1968 the amount was set to be one and one half dollars for each month of service, removing the years of service limit, and the amount increased up to three dollars per month for each year of service for fulltime school employees, for years after July 1, 1968. If a member retired before January 1, 1955, and was not then eligible for Social Security benefits, the annuity amount would be two dollars and twenty-five cents per month for each year of service up to July 1, 1968.²²⁰ Furthermore, part time benefits would be paid at a reduced rate of fifty percent for employees with ninety days of service per school year, who would have the opportunity to become employed fulltime if the retirement board would be notified in writing.²²¹

Additionally, LB 494 added to §79-1522. It allowed for members who became eligible for retirement after July 1, 1968 to elect to receive a formula annuity allowance, to be determined by multiplying the number of years of service credited after July 1, 1968 by one half of one percent of final average compensation, so long as the member had

²¹⁹ *Srb, Sessions Laws, 1967*, 1803.

²²⁰ *Srb, Session Laws, 1967*, 1803-1804.

²²¹ *Srb, Session Laws, 1967*, 1804.

reached the age of sixty-five. The member would receive payments for life, unless he died before receiving sixty payments, at which point his estate would receive the remainder of sixty payments. Final average compensation would be calculated by dividing the member's total compensation for ten fiscal years after July 1, 1968, in which such compensation was the highest, by one hundred twenty. Payments would be made out of the Service Annuity Fund, the School Employee's Savings Fund, and the School Employer's Deposit Fund. The passage of the bill provided for employers to make deposits of a uniform percentage of the contributions of the employee, which was originally set at twenty percent of employee contribution, to be re-determined by the retirement board each year upon recommendation of the actuary.²²²

§79-1530 was amended so optional annuities would be paid at the actuarial equivalent of the normal straight life annuity. §79-1531 was changed to reflect an employee deposit rate of three and one half percent of all compensation, removing the cap of a salary \$2,400 annually from prior revisions.²²³ §79-1532 was revised to reflect that a deposit would be made on June 30 of each year to credit the account of each member in the School Employees' Saving Fund, with interest determined by the carrier.²²⁴ §79-1533 also reflected the removal of the \$2,400 maximum annual contribution salary base, and changed the contribution rate from five percent to three and one half percent.²²⁵

²²² *Srb, Session Laws, 1967, 1805-1806.*

²²³ *Srb, Session Laws, 1967, 1806-1807.*

²²⁴ *Srb, Session Laws, 1967, 1807.*

²²⁵ *Srb, Session Laws, 1967, 1807.*

§79-1545 was revised to add a sixth fund with which to hold assets in; the School Employers' Deposit Fund. Funds deposited on behalf of members by their school districts would be held in this fund until retirement was reached, at which point they would be transferred to the Annuity Reserve Fund. The Service Annuity Fund was defined as the fund that would hold the state deposits. On January 1 of each year, the State Treasurer was required to transfer the amount as determined by the retirement board necessary to maintain assets.²²⁶ §79-1548 was amended to clarify that upon retirement, all funds containing accumulated contributions on behalf of each member would be deposited into the Reserve Fund, from which all annuities would be paid. If a beneficiary were restored to active status after receiving retirement benefits due to disability, the funds would be transferred out of the Reserve Fund and back into the School Employees' Savings Fund.²²⁷

Actuaries in this plan year used a different set of assumptions in calculating the values and liabilities of the plan, based on the System's experience between July 1, 1954 and June 30, 1968. The total assets and liabilities of the system were \$55,406,701. The recommended state contribution was set at \$2,580,728. The unfunded liability of the system was just shy of \$13 million. There were 2,038 annuities being paid to members, and approximately 16,500 active contributing members.²²⁸

1969. During the Eightieth Legislative Session in 1969, the Legislature adopted a change, proposed by Senator Holmquist, to add the Nebraska Retirement Systems

²²⁶ Srb, *Session Laws, 1967*, 1808.

²²⁷ Srb, *Session Laws, 1967*, 1809.

²²⁸ F. R. Isaacson, *Eighteenth Actuarial Report of the Nebraska School Retirement System as of June 30, 1968*, (Omaha, NE: Milliman & Robertson Inc., 1968).

Advisory Committee as a standing committee of the Unicameral Legislature.²²⁹ This is one of the fourteen standing committees of the Legislature yet today.²³⁰ From this point in this document going forward, in proposed legislation, all retirement bills were referred to the retirement committee, unless otherwise notated.

The Eightieth Legislative Session brought three bills to fruition that made changes to the State School Employees Retirement System. Those bills were LB 790, LB 793, and LB 1345.

LB 1345 was introduced by Senator Proud (12) at the request of Governor Norbert T. Tiemann to create the Nebraska Investment Council.²³¹ This bill was referred to the Committee for Banking, Commerce, and Insurance,²³² later to be rerouted to the Nebraska Retirement Systems Advisory Committee.²³³ The creation of this council affected many codified statutes, but the portions of the legislative bill that impacted the school retirement system were eighty-four through eighty-eight.²³⁴ The bill was heard upon Final Reading on September 18, when thirty-six members voted affirmative, four voted negative, and nine members did not vote. It was declared passed with emergency.²³⁵ LB 1345 was signed into law the very next day.²³⁶

²²⁹ Hugo Srb, *Legislative Journal of the State of Nebraska, Volume I, Eightieth Session*, (Lincoln, NE: Joe Christensen, Inc., 1969), 901, 1022.

²³⁰ Standing Committees, *Nebraska Legislature: the official site of the Nebraska Unicameral Legislature*, (Lincoln, NE: unknown) Accessed on May 17, 2015, <http://nebraskalegislature.gov/committees/standing-committees.php>.

²³¹ Srb, *Legislative Journal, Eightieth Session, 1969*, 1004.

²³² Srb, *Legislative Journal, Eightieth Session, 1969*, 1006.

²³³ Srb, *Legislative Journal, Eightieth Session, 1969*, 1188.

²³⁴ Srb, *Legislative Journal, Eightieth Session, 1969*, 4073

²³⁵ Srb, *Legislative Journal, Eightieth Session, 1969*, 4180.

LB 1345 made some minor changes to §79-1501, definition twenty-nine, by removing the trust company that would be “designated by the retirement board.”²³⁷ §79-1502 was changed to clarify investment procedures for funds, and the same language was changed in §79-1503.²³⁸ Also amended was §79-1503.01, which defined the duties of the Board of Educational Lands and Funds as determining eligibility of members, adopting rules and regulations for managing itself, keeping a record of all proceedings, and employing actuarial assistance if necessary.²³⁹ Two funds were added to §79-1545, namely the School Employer’s Deposit Fund, and the Service Annuity Fund, along with the statement that “any funds available for investment shall be invested by the state investment officer.”²⁴⁰

LB 790 was introduced by Senator Leudtke (28) to provide for a minimum rate of savings, to change the monthly formula annuity, change the employer contribution, and make adjustments to certain annuities.²⁴¹ The bill was voted upon after Final Reading, with forty-five affirmative, none negative, and four not voting.²⁴² The Governor signed the bill into law on August 27.²⁴³

²³⁶ *Srb, Legislative Journal, Eightieth Session, 1969, 4225.*

²³⁷ *Hugo Srb, Session Laws, 1969, (Lincoln, NE: 1969), 1801.*

²³⁸ *Srb, Session Laws, 1969, 2400; Srb, Session Laws, 1967, 1530.*

²³⁹ *Srb, Session Laws, 1969, 2401.*

²⁴⁰ *Srb, Session Laws, 1969, 2401.*

²⁴¹ *Srb, Legislative Journal, Eightieth Session, 1969, 350.*

²⁴² *Srb, Legislative Journal, Eightieth Session, 1969, 3912.*

²⁴³ *Srb, Legislative Journal, Eightieth Session, 1969, 4009.*

LB 790 revised §79-1522.01 to change the amount of the formula annuity, to be one percent of final average compensation,²⁴⁴ an increase from one half of one percent established by the original version of the formula annuity in 1967.²⁴⁵ §79-1542 was adjusted to allow that savings rate, per one thousand dollars, applied to the annuities could not be less than the corresponding rate in use by the carrier at any time after July 1, 1968.²⁴⁶

LB 793 was introduced by Senator Warner (25),²⁴⁷ and voted upon after Final Reading on September 22 with forty-two affirmative, no negative, and seven members not voting.²⁴⁸ The Governor signed the bill on September 30.²⁴⁹

LB 793 made amendments to multiple codified statutes that are part of the retirement system. These changes were made to harmonize provisions with previous legislation, to clarify provisions, to delete an obsolete matter, and to provide for funding of unfunded accrued liabilities of the school retirement system. Upon extensive review, the bill merely served to clean up the language of the law, removing unnecessary references, clarifying other references, or using proper wordage in places.²⁵⁰ However, in §79-1540, a new provision was added, that the amount of state deposit would be determined on the basis of an actuarial valuation to be sufficient to fully fund the service annuities earned in that fiscal year and to fund the unfunded accrued liabilities for all

²⁴⁴ *Srb, Session Laws, 1969, 2785.*

²⁴⁵ *Srb, Session Laws, 1967, 1805.*

²⁴⁶ *Srb, Session Laws, 1969, 2787.*

²⁴⁷ *Srb, Legislative Journal, Eightieth Session, 1969, 351.*

²⁴⁸ *Srb, Legislative Journal, Eightieth Session, 1969, 4259.*

²⁴⁹ *Srb, Legislative Journal, Eightieth Session, 1969, 4309.*

²⁵⁰ *Srb, Session Laws, 1969, 2773-2783.*

service annuities earned prior to that year by level payments up to January 1, 1994.²⁵¹

This legislated that the plan was to be fully funded by 1994.

An increase in the liabilities of the system, which nearly doubled, was the result of the addition of the formula annuity, and the provision that members who received the state and service annuity would be paid the excess of the formula annuity amount over their benefit. So liabilities were reported at over \$107 million, but were offset by the present value of future normal costs to arrive at the accrued liability, so essentially there was no significant change in the unfunded liability of the system, which was determined to be just over \$12 million.²⁵²

1971. During the first session of the Eighty-Second Legislature in 1971, two bills passed that impacted the public school employee's retirement system. Those bills were LB475 and LB 987.

LB 475 was introduced by Senator Holmquist (16) to prevent Class IV Schools, those with a population of one hundred thousand or more inhabitants, but not reaching the size of a metropolitan area according to §79-102,²⁵³ from creating a system of retirement benefits supplemental to the School Employees Retirement System.²⁵⁴ This bill passed with a vote of forty-two affirmative votes, no negative and seven members not

²⁵¹ Srb, *Session Laws, 1969*, 2782.

²⁵² F. R. Isaacson, *Nineteenth Actuarial Report of the Nebraska School Retirement System as of January 1, 1970*, (Omaha, NE: Milliman & Robertson Inc., 1970).

²⁵³ Neb. Rev. Stat, §79-102, accessed April 6, 2015,
<http://nebraskalegislature.gov/laws/statutes.php?statute=79-102>.

²⁵⁴ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Eighty-Second Legislature, First Session*, (Lincoln, NE: 1971), 243, accessed May 27, 2015,
<http://nebraskalegislature.gov/FloorDocs/82/PDF/Journal/rljournal.pdf>.

voting.²⁵⁵ It was approved by Governor Exon on May 7, and became law.²⁵⁶ The bill made no change of which there is reference to the School Employees Retirement Act.

LB 987 was also introduced by Senator Holmquist (16), to create the Public Employees Retirement Board (PERB).²⁵⁷ The final version of the bill came to a vote on May 25, and included provisions for appointing members to the board, terms of service, and powers and duties of the newly established board. The vote carried with forty-two affirmative, two negative, and five members not voting.²⁵⁸ The bill was signed by the Governor on May 25.²⁵⁹

Changes made by LB 987 to the statutes that constituted the School Employees Retirement System included renumeration of §79-1554 through §79-1557, which were added by sections of Legislative Bill 494 in 1967.²⁶⁰ Also, reference to the previous language of, “Board of Educational Lands and Funds,” was changed to “Public Employees Retirement Board” throughout, and some obsolete language was removed.²⁶¹

Isaacson reported the unfunded liability of the system in 1971 at \$15,933,568. The recommendation for state contribution was slightly less than \$3,000,000, and school district employers were to continue to contribute twenty percent of the employee contribution. The total assets and liabilities of the plan were calculated to be \$118,807,786. Investment returns were approximately seven and six-tenths percent.

²⁵⁵ Brown, *Legislative Journal, Eighty-Second Session, 1971*, 1571.

²⁵⁶ Brown, *Legislative Journal, Eighty-Second Session, 1971*, 1801.

²⁵⁷ Brown, *Legislative Journal, Eighty-Second Session, 1971*, 415.

²⁵⁸ Brown, *Legislative Journal, Eighty-Second Session, 1971*, 2115-2116.

²⁵⁹ Brown, *Legislative Journal, Eighty-Second Session, 1971*, 2147.

²⁶⁰ Srb, *Legislative Journal, Eightieth Session, 1969*, 1796-1809.

²⁶¹ Vincent D. Brown, *Session Laws, 1971, LB 987*, (Lincoln, NE: 1971), 15-22.

Projected retirement benefits for active members were between \$212 for women and \$355 for men.²⁶²

In 1972 the report of unfunded liability dropped to \$7,573,380, and the required state contribution was \$2,124,516. The employers were asked to continue contributing at the rate of twenty percent of the employee contribution. The assets and liabilities of the system were \$128,869,400. There were 18,404 verified active contributing members of the system. Part of the decrease in the unfunded liability was due to 799 members retired whose normal cost should not have been included in the previous amortization. Projected normal retirement benefits for active members were between \$358 per month for women, and \$504 per month for men.²⁶³

1973. During the Eighty-Third Legislature, First Session, the topic of unfunded liabilities of the state retirement systems was a matter of discussion. In total, there were five public employee retirement systems, and the School Employees Retirement System was by far the most indebted, although significant growth had been made. The projected unfunded liability of the system at December 31, 1970 had been \$15,933,568. The updated projection as of June 30, 1972 had upgraded the forecast to show unfunded liabilities of only \$7,573,380. This decrease in the debt was attributed to an error that was discovered while converting information from a manual system to a partially automated system, and also due to an improvement in the performance of investments. It was stated that the system was required by statute to be fully funded by January 1, 1994,

²⁶² F. R. Isaacson, *Twentieth Actuarial Report of the Nebraska School Retirement System as of January 1, 1971*, (Omaha, NE: Milliman & Robertson Inc., 1972).

²⁶³ F. R. Isaacson, *Twenty-First Actuarial Report of the Nebraska School Retirement system as of June 30, 1972*, (Omaha, NE: Milliman & Robertson Inc., 1972).

legislated in 1969. The recommendation for state contribution to the system for the coming fiscal year was reduced by \$855,423.00 from the prior year, to be set at \$2,124,516.²⁶⁴

Also, discussion surrounded the different provisions of each of the five retirement systems. There was a desire for there to be some uniformity between the systems, so Legislative Resolution Thirty-Five was introduced by Senator Whitney (44) to provide for an interim study by the Nebraska Retirement Systems Committee to review the principles of each particular plan.²⁶⁵

During the Eighty-Third Legislature, first session, one bill was passed that made changes to the state retirement system. LB 445 was introduced by Senator Lewis (45) to increase the state service annuity of each retired employee.²⁶⁶ The bill was voted upon at Final Reading, with thirty-two members voting affirmative, nine negative, and eight members not voting.²⁶⁷ The bill was approved by Governor Exon on May 23.²⁶⁸

Introduced by Senator Lewis (45), as a companion bill to LB 445, was LB 445A, which was a bill to increase the state commitment of funds to the school employees retirement system by \$1.6 million, to pay for LB 445.²⁶⁹ After a Final Reading, and vote

²⁶⁴ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Third Legislature, First Session*, (Lincoln, NE: 1973), 505-508, accessed on May 27, 2015, <http://www.nebraskalegislature.gov/FloorDocs/83/PDF/Journal/r1journal.pdf>.

²⁶⁵ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 1296.

²⁶⁶ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 304.

²⁶⁷ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 1664.

²⁶⁸ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 1817.

²⁶⁹ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 1491.

of thirty affirmative, fourteen negative, and five abstaining,²⁷⁰ the bill was approved by the Governor on the same day he signed LB 445.

LB 445 changed §79-1522 by raising the amount of the individual state service annuity for a full-time school employee (for members not subject to the formula annuity) from one and one half dollars per month for each year of service, to three dollars per month for each year of service for members retiring on or after July 1, 1973. Those who retired prior to this date and who were receiving the state service annuity would experience a cost of living adjustment based on the Consumer's Price Index for Urban Wage Earners and Clerical Workers from the time they first began receiving retirement benefits up to July 1, 1973, so long as the cost of living adjustment did not exceed three dollars per month per year of service.²⁷¹

In the 1973 actuarial report, the unfunded liabilities crept back up, reported at \$34,275,911. The state contribution recommended in the report was set at \$4,439,404, but the employer contribution rate remained at twenty percent of the employee contribution. The total assets and liabilities of the system were \$165,766,459. Some of the increase was attributed to the increase in service annuity to three dollars per month per year of service for every year of service consistently, due to the passage of LB 445, which increased total liabilities by more than \$26.5 million, all unfunded. Average

²⁷⁰ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 1663.

²⁷¹ Vincent D. Brown, *Session Laws, 1973, LB 445*, (Lincoln, NE: 1973), 1035.

salaries, as reported, were \$8,328, and projected normal retirement benefits were between \$376 and \$535 for women and men respectively.²⁷²

1974. Again in 1974, as in 1973, a Legislative Resolution was introduced to provide for an interim study of the retirement systems. The resolution was more specific than that of 1973. In recognizing that uniformity was desirable among the five systems under the authority of the Public Employees Retirement Board, and also in recognizing that contribution rates varied greatly, and benefits were unequal, a study was proposed to:

- Examine all five systems
- Examine all other public employee systems not under the authority of the Public Employees Retirement Board
- Develop more harmonious legislation
- Study ancillary subjects²⁷³

LB 905 was the lone bill in 1974 that was approved to make changes to the School Employees Retirement System. The bill was introduced by the Retirement Committee, of which Senators Whitney (44), Luedtke (28), Lewis (25), Hasebroock (18), and Goodrich (20) were members. The bill was to change computation of retirement accounts, and change the amount of refund if employment was terminated before retirement, or upon death.²⁷⁴ The bill was voted upon March 21 and received forty-one

²⁷² F. R. Isaacson, *Twenty-Second Actuarial Report of the Nebraska School Retirement System as of June 30, 1973*, (Omaha, NE: Milliman & Robertson Inc., 1973).

²⁷³ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Third Legislature, Second Session*, (Lincoln, NE: 1974), 1702.

²⁷⁴ Brown, *Legislative Journal, Eighty-Third Legislature, Second Session, 1974*, 278.

affirmative and no negative votes, with eight members not voting, so was declared passed.²⁷⁵ Governor Exon signed the bill on March 26.²⁷⁶

LB 905 made a change to §79-1532, stating that on June 30 of each year, member accounts would be credited with regular interest earned, commencing July 1, 1974. This was a change from the practice of interest being determined “as provided in §79-1501,” which was the previous language.²⁷⁷

In 1974 the unfunded liability of the system was reported as \$32,724,209, and the recommended state contribution remained at over \$4 million, as in 1973. Identified as a contributing factor to the highly unfunded liability was the inadequate state contribution between the years of 1945-1959, prior service credits granted for years before 1945, and the passage of LB 445 in 1973. The employer contribution rate remained at twenty percent of employer contribution, and total system assets and liabilities were over \$175 million. The average salary increased slightly to \$8,617, and the projected normal retirement benefit increased to \$402 dollars for women and \$561 dollars for men. About seventy-seven percent of available funds were invested in corporate bonds and common stocks.²⁷⁸

1975. The Legislative Session of 1975 brought a significant amount of bills, mostly introduced by the Nebraska Retirement Systems Committee, to make changes or amendments to the school employees retirement system. Of the thirteen bills specific to

²⁷⁵ Brown, *Legislative Journal, Eighty-Third Legislature, Second Session, 1974*, 1250.

²⁷⁶ Brown, *Legislative Journal, Eighty-Third Legislature, Second Session, 1974*, 1341.

²⁷⁷ Vincent D. Brown, *Session Laws, 1974, LB 905*, (Lincoln, NE: 1974), 853.

²⁷⁸ F. R. Isaacson and D. J. Sullivan, *Twenty-Third Actuarial Report of the Nebraska School Retirement System as of June 30, 1974*, (Omaha, NE: Milliman & Robertson, Inc., 1974).

school retirement that were introduced, four were eventually passed and approved by Governor Exon.

LB 44 was introduced by the Nebraska Retirement Systems Committee members, Hasebroock (18), Luedtke (28), F. Lewis (45), Marvel (3), Stull (49), and Goodrich (20) in an effort to provide for mandatory retirement, and provide exceptions.²⁷⁹ A vote was held upon Final Reading on February 11, with forty members voting affirmative, none negative, and nine members not voting.²⁸⁰ The Governor signed the bill on February 19.²⁸¹

LB 44 amended §79-1521 to ensure that members who reached the mandatory retirement age of sixty-five could continue to work with the approval of his employer year by year until the age of seventy-two; however, no further deposits could be made into the School Employees' Savings Fund after the age of sixty-five, and no further creditable years of service could accumulate after the age of sixty-five. The provision did not apply to elected officials.²⁸²

The Nebraska Retirement Systems Committee also introduced LB 50, which provided for disability retirement allowance, changes in school retirement allowances, changes in the monthly formula annuity determination, and an annuity to the surviving spouse.²⁸³ The bill was heard on Final Reading on May 7, and a vote of forty-two

²⁷⁹ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Fourth Legislature, First Session*, (Lincoln, NE: 1975), 103, accessed on May 29, 2015, <http://nebraskalegislature.gov/FloorDocs/84/PDF/Journal/r1journal.pdf>.

²⁸⁰ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 444.

²⁸¹ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 537.

²⁸² Vincent D. Brown, *Session Laws, 1975, LB 44*, (Lincoln, NE: 1975), 107.

²⁸³ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 105.

members affirmative, one member negative, and six members not voting was recorded.²⁸⁴

It met the approval of the Governor on May 9.²⁸⁵ Also accompanying this bill was LB 50A, which provided the funds necessary to carry out the provisions of LB 50. The Final Reading and vote of LB 50A also took place on May 7, with forty-three members voting affirmative, three members voting negative, and three members not voting.²⁸⁶

LB 50 made changes to §79-1501, with a minor change to the definition of disability retirement allowance.²⁸⁷ §79-1522.01 was amended to increase the formula annuity multiplier to one and one quarter percent of final average compensation, taken times the number of years of service after July 1, 1968. The calculation was changed for final average compensation, from ten highest years divided by one hundred twenty, to five highest years divided by sixty, after July 1, 1968. A member must have acquired the equivalent of one-half year of service or more following the effective date of the act to be eligible to use the increased percent for calculation of benefits.²⁸⁸

Also amended was §79-1523, removing the conditions attached to eligibility for retirement due to disability. No longer would an employee be required to have accumulated fifteen creditable years of service, two or more which were required to be immediately preceding retirement, or to have had one year of fulltime service and one year of college attendance just prior to the application for disability. Also, members

²⁸⁴ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 1665.

²⁸⁵ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 1725.

²⁸⁶ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session, 1975*, 1666.

²⁸⁷ Brown, *Session Laws, 1975, LB 50*, 118.

²⁸⁸ Brown, *Session Laws, 1975, LB 50*, 120-121.

would not have to prove that disability was not incurred in pursuit of another occupation.²⁸⁹

Changes were made to §79-1524 by means of a statement to reflect the changes made to §79-1522.01. Finally, §79-1528 sub-section two was added, the statute detailing a death benefit to surviving spouse or estate. The new section stated that if a member had thirty years of creditable service, regardless of age, or had twenty years of service and had reached the age of fifty-five, an annuity would be paid to the surviving spouse for life, the actuarial equivalent to the amount that would have been paid had the deceased member retired on the date of death and elected to have retirement paid as a joint and survivor annuity.²⁹⁰

LB 56, also introduced by the Retirement Committee, was developed to change annuity benefit provisions.²⁹¹ A vote upon Final Reading showed forty-four members affirmative, no members negative, and five members not voting.²⁹² The bill was approved by Governor Exon on February 7.²⁹³

LB 56 made changes to §79-1529, which addressed cessation of employment before reaching retirement age. The addition to the statute stated that members could request an actuarially reduced annuity at any time after the member attained the age of sixty and before his sixty-fifth birthday.²⁹⁴

²⁸⁹ Brown, *Session Laws, 1975, LB 50*, 122.

²⁹⁰ Brown, *Session Laws, 1975, LB 50*, 123.

²⁹¹ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 106.

²⁹² Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 349.

²⁹³ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 409.

²⁹⁴ Brown, *Session Laws, 1975, LB 56*, 130.

The final bill having an impact on the School Employees Retirement System was LB 236, again introduced by all members of the Nebraska Retirement Systems Committee. The bill was to provide for revising the requirement for prior service credit.²⁹⁵ The bill was heard on Final Reading on March 3, with a vote of forty-seven affirmative, none negative, and two members not voting.²⁹⁶ The governor signed the bill on March 10.²⁹⁷

LB 236 amended §79-1515 by adding that in order to qualify for prior service credit toward a state service annuity, a school employee must have been a member of the school retirement system of the State of Nebraska on or before September 30, 1951; or from July 1, 1945 to the date of becoming a member, have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system (Omaha Public School).²⁹⁸

Unfunded liabilities of the system showed a moderate decrease from the previous year, to \$27,694,102, and the recommendation was made that the state could contribute about \$300,000 less than the previous year in the 1975 Actuarial Report. The same contributing factors were mentioned as a large part of the problem that was outlined in 1974. An increase was made to the employer contribution to forty-four and four tenths percent of employee contribution rate. Plan assets and total liabilities were

²⁹⁵ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 181.

²⁹⁶ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 699.

²⁹⁷ Brown, *Legislative Journal, Eighty-Fourth Legislature, First Session*, 807.

²⁹⁸ Brown, *Session Laws, 1975, LB 236*, 460.

\$198,966,733. Nearly 19,000 members contributed to the system, and Omaha had approximately 4,900 members.²⁹⁹

1976. During the second session of the Eighty-Fourth Legislature, which met in 1976, several bills made changes to the retirement system for school employees. Those bills were LB30, LB 33, LB 645, and LB 673.

LB 30 was introduced by the members of the Nebraska Retirement Systems Committee, Hasebroock (18), Stull (49), Luedtke (28), F. Lewis (45), Marvel (33), and Goodrich (20) with the intent of changing provisions for membership and termination of membership.³⁰⁰ The bill advanced to Final Reading on February 3, along with its companion bill, LB 30A, to pay for the provisions in LB 30. The recorded vote was forty-two affirmative, no negative, and seven members not voting, and so it was declared passed.³⁰¹ Governor Exon signed both on February 11.³⁰²

Several sections of the School Employees Retirement System were amended by LB 30. The first was §79-1509, as the bill eliminated the process that a non-certificated employee could elect to not become a member by submitting their request in writing within sixty days of becoming employed.³⁰³

§79-1510 was also amended to remove the language referring to the election of junior school employees for non-membership, and by stating that any junior or senior

²⁹⁹ F. R. Isaacson and D. J. Sullivan, *Twenty-Fourth Actuarial Report of the Nebraska School Retirement System as of June 30, 1975*, (Omaha, NE: Milliman & Robertson Inc., 1975).

³⁰⁰ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Eighty-Fourth Legislature, Second Session*, (Lincoln, Nebraska: 1976), 9, accessed on June 1, 2015, <http://nebraskalegislature.gov/FloorDocs/84/PDF/Journal/r2journal.pdf>.

³⁰¹ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 514.

³⁰² Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 637.

³⁰³ Vincent D. Brown, *Session Laws, 1976, LB 30* (Lincoln, NE: 1976), 50.

employee who became a county official or state official would still be required to be members of the system. §79-1527, also addressing the issue of members becoming county or state school officials, was amended to reflect the provision that such employees could no longer elect to be non-members.³⁰⁴

Finally, §79-1537 was changed to require employers to pay the deposits made by every member, to the retirement board.³⁰⁵ LB 30A allocated \$128,000 to carry out the provisions of LB 30.³⁰⁶

LB 33 was also introduced by all members of the Nebraska Retirement Systems Committee, to change the manner in which the retirement allowance was determined.³⁰⁷ This bill was heard on Final Reading on March 25, and voted upon. Forty-two members voted affirmative, no members negative, and two members did not vote.³⁰⁸ The Governor approved the bill on March 29.³⁰⁹

LB 33 made changes to §79-1529, which was specific to members who terminated their employment prior to retirement age. The change allowed for a member to become eligible for a retirement allowance at age sixty-five, as provided for in §79-1522 and §79-1522.01, and that such retirement allowance would be based on member's

³⁰⁴ Brown, *Session Laws, 1976, LB 30*, 51.

³⁰⁵ Brown, *Session Laws, 1976, LB 30*, 51.

³⁰⁶ Brown, *Session Laws, 1976, LB 30*, 53.

³⁰⁷ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 33.

³⁰⁸ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1387-1388.

³⁰⁹ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1479.

salary at the time employment terminated, as if retirement occurred on the date employment ceased.³¹⁰

LB 645 was introduced by the Retirement Committee to change the time of forfeiture, and to change the provision for death benefits as provided for in the School Employees Retirement System.³¹¹ The Final Reading of the bill was held on March 29, with a vote of thirty-nine affirmative, no negative, and ten members not voting.³¹² Governor Exon signed the bill on March 30.

LB 645 made changes to §79-1528, previously amended in 1975, to state that if no beneficiary designated in writing, or if no legal representative applied for death benefits within five years following the sixty-fifth birthday of member, if death occurred before such age, or within five years if the death occurred after the age of sixty-five, then the member account would be forfeited to the retirement system. Also clarified by the bill, the spouse must be designated in writing, and the sole surviving primary beneficiary to receive a monthly annuity for life must also be designated in writing. If there was more than one beneficiary, the benefit was to go to all, and if none, the benefit was to go to the estate.³¹³

LB 673 began as a bill, introduced by Senator Fowler (27), to increase the annual salary for Reserve Teachers.³¹⁴ The bill was referred to the Education Committee, rather

³¹⁰ Brown, *Session Laws, 1976, LB 33*, 54.

³¹¹ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 103.

³¹² Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1462.

³¹³ Brown, *Session Laws, 1976, LB 645*, 330.

³¹⁴ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 113.

than the Nebraska Retirement Systems Committee.³¹⁵ On March 29, an amendment was made to the bill that provided for changes to the retirement system.³¹⁶ The bill was voted upon, along with LB 673A to pay for it, after Final Reading, with forty-five members affirmative, no members negative, and four members not casting votes.³¹⁷ The bill was approved by the Governor on April 14.³¹⁸

LB 673 made changes to §79-1509, changing some notations, and adding subsection two, so that an employee of age sixty, within five years of retirement, who just first became a senior employee, could elect to not become a member. However, they could become a member if they so chose.³¹⁹

In the twenty-fifth actuarial report, it was recommended that the state contribution be lowered from the previous year, to \$3,755,972, and the unfunded liability was reported as about \$25.5 million. The district percentage of contribution was increased to fifty-four and two-tenths percent. Total assets and liabilities were reported to be \$223,436,269. A change to the investment portfolio was that more than twenty percent of available funds were allocated to U.S. Government securities.³²⁰

1977. The Legislative Session in 1977 brought a set of comprehensive bills to be debated that were connected to the Criminal Codes, but made changes to many different

³¹⁵ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 122.

³¹⁶ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1457-1458.

³¹⁷ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1584.

³¹⁸ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1636.

³¹⁹ Brown, *Session Laws, 1976, LB 673*, 356-357.

³²⁰ F. R. Isaacson and D. J. Sullivan, *Twenty-fifth Actuarial Report of the Nebraska School Retirement System as of June 30, 1976*, (Omaha, NE: Milliman & Robertson Inc., 1977).

Nebraska Codified Statutes, including those composing the School Employees Retirement Act.

LB 39 was a bill that made changes to both systems. It was introduced by members of the Judiciary Committee, including Senators Luedtke (28), DeCamp (40), Chambers (11), Barnett (26), and Schmit (23). The intent of the bill was to harmonize provisions with the criminal code, related to crimes and punishment.³²¹ The bill was heard at Final Reading on May 17, with a vote of thirty-one affirmative, eleven negative, four abstaining, and three not present to vote.³²²

Governor Exon vetoed LB 39, returning it to the Legislature with the message that LB 38 should have been reviewed by members of the legal community for accuracy before it was passed by the legislature, not after as proposed, and therefore LB 39 and other bills, which made changes based on the passage of LB 38, could not be approved. He cited that we should rather be “cautious now rather than sorry later” when passing bills.³²³

The bill was returned to the Unicameral, where it again was voted upon to override the veto. The final vote was thirty-four affirmative, fourteen negative, and one member not voting. The bill was declared passed over the veto, with a three-fifths majority.³²⁴

³²¹ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Fifth Legislature, First Session* (Lincoln, NE: 1977), 103, Access on June 1, 2015 at <http://nebraskalegislature.gov/FloorDocs/85/PDF/Journal/r1journal.pdf>.

³²² Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2090.

³²³ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2175.

³²⁴ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2269.

LB 39 made changes to §79-1553, to reflect that anyone attempting to defraud the school retirement system shall be guilty of a Class II misdemeanor, and any school employee, board member, or agent of any employer who refused to provide requested information to the retirement board would be guilty of a Class V misdemeanor. LB 39 removed the dollar amount of fine that was originally legislated for both offenses.³²⁵

The members of the Nebraska Retirement Systems Committee, Senators Hasebroock (18), Fowler (27), Warner (25), Goodrich (20), and Mills (44) introduced LB 349 to provide for certain school employees to have the option to become members of the state retirement system for school employees.³²⁶ The bill was heard upon Final Reading, and the recorded vote was forty-two affirmative, and seven negative.³²⁷ The bill was approved by the Governor on May 10.³²⁸

LB 349 amended §79-1509 by providing that all senior employees of schools would become members of the retirement system upon reaching senior employee status. Also added by LB 349 were sub-sections two, three and four. Sub-section two provided that non-certificated employees who had previously elected to not become members would have the option to elect to be members, without credit for prior service, with a deadline of July 1, 1978 to decide. Sub-section three provided that non-certificated employees who became employed after January 1, 1978 could elect to not be members until June 30; all employees starting on or after July 1, 1978 would automatically be

³²⁵ Vincent D. Brown, *Session Laws, 1977, LB 39*, (Lincoln, NE: 1977), 332-333.

³²⁶ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 234.

³²⁷ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 1830.

³²⁸ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 1959.

members, with no opt-out. Finally, sub-section four added that any employee who was sixty-one on or before the July 1 last preceding the date of employment would not become a member.³²⁹

In 1977, the unfunded liability of the system was lowered to \$20,780,017, while the state required contribution was lowered a bit, to \$3,546,484. The school district contribution was raised to fifty-five percent of employee contributions. Total assets and liabilities of the system increased to \$240,793,743. 20,000 active members were making contributions to the retirement system, excluding Omaha employees, which number just under 5,000. All available funds were invested in U.S. Government securities, corporate bonds, or common stock.³³⁰

1978. The 1978 report, although no changes were made to the system legislatively, showed an increase in unfunded liabilities, to \$34,669,731, with a request for the state to increase their contribution to just over \$5 million. The additional liabilities were attributed to actuarial gains and losses related to state service annuities, and a correction of a procedure that had been in use by the actuaries since the formula annuity was introduced in 1968. The employer contribution was increased to fifty-eight percent of employee contributions. Total system assets and liabilities were stated to be \$278,924,520. There were 21,486 members actively contributing to the state system, and no change reported in Omaha members.³³¹

³²⁹ Brown, *Session Laws, 1977*. LB 349, 994.

³³⁰ F. R. Isaacson and D. J. Sullivan, *Twenty-Sixth Actuarial Report of the Nebraska School Retirement System as of June 30, 1977*, (Omaha, NE: Milliman & Robertson Inc., 1977).

³³¹ F. R. Isaacson and D. J. Sullivan, *Twenty-Sixth Actuarial Report of the Nebraska School Retirement System as of June 30, 1978*, (Omaha, NE: Milliman & Robertson Inc., 1978).

1979. The Eighty-Sixth Legislature, Session One, in 1979, brought one bill that changed both the School Employees Retirement System and the Class V School Employees Retirement System. LB 391 was introduced by Senator Duis (39) to change the mandatory age of retirement.³³² Upon Final Reading on May 21, an additional provision was indicated to extend certain benefits. The vote was forty-seven affirmative, no negative, and two members excused and not voting.³³³ Governor Thone approved the bill on May 23.³³⁴

LB 391 amended §79-1509 and §79-1521 of the State School system. In an effort to reflect the equality between men and women which was emphasized during the 1970's social era, all references in all four of these sections which previously referred to members as "he" or "his" were adjusted to "he or she" and "his or hers."³³⁵

§79-1509 was amended to completely strike sub-section two, most recently amended in 1977, which referred to members over the age of sixty who first became senior members being able to elect to not become a member. This was eliminated altogether from the state school employees retirement system. §79-1521 increased the mandatory retirement age from sixty-five to seventy, at which age a member could no longer make deposits, but may remain employed on a year-to-year basis until age seventy-two with written permission from the employer.³³⁶

³³² Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Sixth Legislature, First Session* (Lincoln, NE: 1979), 237, accessed on June 1, 2015, <http://nebraskalegislature.gov/FloorDocs/86/PDF/Journal/r1journal.pdf>.

³³³ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 2230.

³³⁴ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 2301.

³³⁵ Patrick J. O'Donnell, *Session Laws, 1979, LB 391* (Lincoln, NE: 1979), 1126-1128.

³³⁶ O'Donnell, *Session Laws, 1979, LB 391*, 1128.

In 1979 the employer rate of contribution was lowered to forty percent of employees by new actuaries representing the Tillinghast, Nelson, and Warren firm. The state deposit remained slightly higher than \$5 million. Total assets and liabilities were indicated to be \$318,344,986, and the unfunded liabilities were almost \$28 million. There were nearly 23,000 actively contributing members, and about 4,800 Omaha plan members.³³⁷

1980. The Legislative Session held in 1980 brought change by legislating supplemental benefits for retired members of the School Employees Retirement System, and changing some membership requirements.

LB 228 was introduced by Senator Fowler (27), who was also chair of the Nebraska Retirement Systems Committee. The legislative bill intended to provide supplemental benefits for retired teachers, determine the value of such benefits, and establish the Retired Teachers Supplemental Fund.³³⁸ The bill reached Final Reading on April 8, with a vote of forty-four affirmative, two negative, one member present and not voting, and two members excused from session.³³⁹ The bill was signed by Governor Thone on April 14, along with LB 228A to pay for the provisions in LB 228.³⁴⁰

LB 228 created a new fund. It specifically stated that beginning September 1, 1980, the Public Employees Retirement Board (PERB) would determine a supplemental

³³⁷ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Actuarial Valuation June 30, 1979*, (Unknown: Tillinghast, Nelson, & Warren, 1980).

³³⁸ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume II, Eighty-Sixth Legislature, Second Session* (Lincoln, NE: 1980), 14-15, Accessed on June 2, 2015, <http://nebraskalegislature.gov/FloorDocs/86/PDF/Journal/r2journal.pdf>.

³³⁹ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1700.

³⁴⁰ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1825.

benefit for each certificated member of either system with at least twenty-five years of creditable service as of July 1, 1980. This monthly benefit was to be computed as if the member had retired at sixty-five, or at the actual age of retirement, whichever was later. The PERB had the obligation of determining the value of the total monthly benefit by subtracting the member's total monthly benefit from one hundred fifty-five dollars, and the positive difference was to be the amount of the supplemental benefit paid to the retired certificated member, unless the difference was less than five dollars, at which time the minimum benefit paid would be five dollars per month. This amount would also be paid to a named beneficiary in the event the member was deceased. The fund established to pay this benefit was known as the Retired Teachers Supplementary Benefits Fund, and the monies used to sustain this fund were to be the express obligation of the state, to be budgeted for on an annual basis as determined by the PERB.³⁴¹

LB 818 was introduced by members of the Nebraska Retirement Systems Committee, Senators Fowler (27), Warner (25), Goodrich (20) and Schmit (23), on behalf of the employees of the Nebraska Department of Education. The bill proposed changes to retirement membership, and conditions thereof.³⁴² It reached Final Reading on April 15, and a vote of forty-one affirmative, two negative, five members present but not voting, and one excused, was recorded.³⁴³ The Governor signed the bill three days later.³⁴⁴

³⁴¹ Patrick J. O'Donnell, *Session Laws, 1980, LB 228*, (Lincoln, NE: 1980), 102-103.

³⁴² O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 316.

³⁴³ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1895.

³⁴⁴ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1952.

LB 818 amended §79-1510 by removing the requirement that state officials were to become members of the system. It further went on to add additional subsections that detail state official membership:

- State Officials were able to opt out of the school employees retirement system in writing within thirty days of the effective date of the act.
- State Officials electing to not be members of the School Employees Retirement system would become members of the State Employees Retirement System.
- State Officials employed by the Department of Education after the effective date of the act would automatically become members of the State Employees Retirement System.
- Employees who chose to opt out of the school system would be allowed to retain accumulated contributions in the system, and continue to become vested in the State Employees system under these conditions:
 - The years of service accumulated in both the school system and the state system would both be credited toward meeting the five-years requirement to become vested.
 - The combined years of participation would both be credited toward compliance in the State Employees Retirement System.³⁴⁵

1981. LB 369 was first presented to the legislature for consideration by Senator Burrows (30) on behalf of the NSEA, to allow creditable service for certain leaves of

³⁴⁵ O'Donnell, *Session Laws, 1980, LB 818, 781-782.*

absence.³⁴⁶ On May 14 the bill reached Final Reading, and was brought to a vote. Forty-four legislators voted affirmative, none negative, two did not vote, and three were excused.³⁴⁷ The bill was signed into law by the Governor on May 18.³⁴⁸

LB 369 brought the following changes: Amended was §79-1522 by adding a subsection to each that allowed members to receive creditable service for board approved leaves of absence, which might include sabbaticals, maternity leave, exchange teaching programs, leave to pursue study, or leave due to fulltime duties as an elected official of a professional association or collective bargaining unit. Members were required to regain employment in a school district in Nebraska within one year of the leave ending, or with a Class V school if applicable, and were required to pay the amount to the retirement system that would have been paid on the behalf by the school district based on compensation the year prior to the leave, within three years of the end of the leave of absence. Any leave of absence could not exceed four years.³⁴⁹

The 1980 actuarial analysis recommended a lower state contribution of \$3,738,090, and an employer contribution rate of forty-five percent of employee contributions. Assets and liabilities were enumerated at slighter more than \$352 million and the unfunded liability of the system was \$28,204,446. There were nearly 24,000

³⁴⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Seventh Legislature, First Session* (Lincoln, NE: 1981), 263, accessed on June 3, 2015, <http://nebraskalegislature.gov/FloorDocs/87/PDF/Journal/r1journal.pdf>.

³⁴⁷ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2045.

³⁴⁸ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2075.

³⁴⁹ O'Donnell, *Session Laws, 1981, LB 369* (Lincoln, NE 1981), 1271-1274.

contributing state plan members, and Omaha no longer reported members as part of the actuarial data.³⁵⁰

Senator Rumery (42) submitted LB 128, on behalf of the Nebraska State Education Association (NSEA) to change provisions relating to retirement system payments.³⁵¹ The bill reached Final Reading on March 12, with a vote of forty-seven affirmative, none negative, and two members not voting but excused.³⁵² The bill was approved by the Governor on March 17.³⁵³

LB 128 made changes to §79-1528, throughout, by adding the feminine counterpart to every masculine reference (“or she,” “or her,” etc.), and more notably adding that beneficiaries had the option to request payment in one lump sum within sixty days of the death of the member, rather than taking a lifetime monthly annuity.³⁵⁴

LB 141 was introduced by Senator Fowler (27) on behalf of retired teachers, to change provisions relating to supplemental benefits, and eliminate the exception for eligibility, with emergency.³⁵⁵ The bill was voted upon on February 4, with forty-four members affirmative, none negative, two present but not voting, and three excused from session and not voting.³⁵⁶ It was approved by the Governor on February 11.³⁵⁷

³⁵⁰ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Twenty-ninth Actuarial Valuation June 30, 1980*, (Unknown: Tillinghast, Nelson, & Warren, 1981).

³⁵¹ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 135.

³⁵² O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 877.

³⁵³ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 951.

³⁵⁴ O'Donnell, *Session Laws, 1981, LB 128*, 346-347.

³⁵⁵ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 145.

³⁵⁶ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 422.

³⁵⁷ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 491.

Changes made by the passage of LB 141 impacted §79-1558 by eliminating the provision that only certificated members would be eligible for supplemental benefits, and providing that those who became eligible as a result, would receive January and February 1981, payments, during the month of March, 1981.³⁵⁸

Also changed to remove the reference to “certificated” members was §79-1560. §79-1561 was adjusted to take out provisions regarding Reserve Teacher eligibility, and to simply state members who were entitled to an annuity less than that amount prescribed in §79-1522 and §79-1530 would not be eligible for the supplemental benefit. Finally, §79-1562 also had the term “certificated” struck, and the amended act became operative on March 1, 1981.³⁵⁹

LB 248 was introduced by Senator Wiitala (31) on behalf of all Nebraska teachers, to change the procedure for determining the final average compensation in the formula annuity calculation.³⁶⁰ Wiitala identified this as his priority bill for the session.³⁶¹ Final Reading was held on May 13, and added to the description of the bill, reflective of amendments made, was to increase the service annuity, provide for full funding of the Service Annuity Fund, and pass with emergency. Forty-one members voted affirmative, two voted negative, three chose to not vote, and three were excused.³⁶² Governor Thone signed the bill on May 18.³⁶³

³⁵⁸ O'Donnell, *Session Laws, 1981, LB 141*, 405.

³⁵⁹ O'Donnell, *Session Laws, 1981, LB 141*, 406.

³⁶⁰ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 205.

³⁶¹ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 875.

³⁶² O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 1993.

³⁶³ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 2077.

Amended by LB 248 were §79-1522, §79-1522.01, and §79-1540. Throughout, the changes again reflected the addition of feminine language to balance each masculine reference of “his” or “he.” For retirees, the amount to be used to calculate benefits was to increase from three dollars per month per year of service, to three dollars and fifty cents per month per year of service for members who retired on or before July 1, 1973. For those retiring after July 1, 1968, who elected to receive a formula annuity retirement allowance, the final average compensation in the formula was to be determined by dividing the member’s total compensation subject to required deposits for three years, decreased from five, in which compensation was the highest. Of utmost importance, the final change made was the provision that any increase in the unfunded liability that arose as a result of increasing the amount of the service annuity on or after the effective date of this act, would increase the state deposit by an amount sufficient to fund the increase in the unfunded accrued liability by level payments for the twenty-five year period following the date the increase becomes effective.³⁶⁴

The Nebraska Retirement Systems Committee, consisting of Senators Fowler (27), Rumery (42), Goodrich (20), Warner (25), and Schmit (23) in 1981, submitted LB 463. The intent of the bill was to change provisions relating to contributions to certain retirement systems.³⁶⁵ Later during the session, Senator Marvel (33) identified the bill as his priority bill.³⁶⁶ Final Reading occurred on May 13, with the vote recorded as forty-

³⁶⁴ O’Donnell, *Session Laws, 1981, LB 248*, 941-945.

³⁶⁵ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 290.

³⁶⁶ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 949.

two affirmative, one negative, and six members not voting.³⁶⁷ Governor Thone signed the bill on May 18.³⁶⁸

The significant change made by LB 463 was to allow members to receive creditable service and continue to make deposits into the School Employees Savings Fund after the age of seventy, which was established earlier as the mandatory retirement age, if granted district permission on a year-by-year basis to continue active employment until the age of seventy-two.³⁶⁹

In 1982, actuaries recommended the state increase its contribution to just over \$4.5 million, and the employer contribution rate was adjusted to fifty-three percent of employee contributions. Total assets and liabilities of the system were approximately \$401,500,000, and the unfunded liabilities were nearly \$33 million, some of which was attributed to the passage of LB 248. More than 25,000 state plan members were actively contributing.³⁷⁰

1982. During the Eighty-Seventh Legislature, Second Session, there were several bills that addressed the needs of an aging workforce. Included among the action taken was Legislative Resolution 231, an effort to recognize the value of older workers in Nebraska, and a reflection of the national effort to gain support for older workers. Since March 14-20 was deemed, “National Employ the Older Worker Week,” the Unicameral urged Nebraskans to observe “Employ the Older Worker Week,” not only for a specific

³⁶⁷ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 1992.

³⁶⁸ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2075.

³⁶⁹ O'Donnell, *Session Laws, 1981, LB 463*, 1523.

³⁷⁰ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Thirtieth Actuarial Valuation June 30, 1981*, (Unknown: Tillinghast, Nelson, & Warren, 1982).

week of March, but throughout the year.³⁷¹ Reflected in legislation connected to the school retirement systems were three bills, two of which addressed mandatory retirement age.

Introduced by Rumery (42), to eliminate the mandatory retirement age of teachers and to harmonize provisions with other legislation,³⁷² LB 287 intended to make a significant change for teachers. When the bill was heard upon Final Reading, it had been amended to change provisions relating to mandatory retirement, and to authorize employment beyond mandatory retirement age, with emergency. The final vote recorded was forty-five affirmative, no negative, and four members present but not voting.³⁷³ The bill was approved by Governor Thone on February 19.³⁷⁴

§79-1521 of the School Employees Retirement Act was amended by LB 287 to provide that employees of public schools may work beyond the mandatory retirement age of seventy, with approval given by employer on a year-by-year basis, indefinitely. Employees would be eligible to accrue creditable service years and make deposits into the School Employees' Savings Fund as long as they continued to be employed, a change from a prior law stating this arrangement could only be in place until employee reached the age of seventy-two. The provision for mandatory retirement would not apply to elected officials.³⁷⁵

³⁷¹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Seventh Legislature, Second Session* (Lincoln, NE: 1982) accessed on June 3, 2015, <http://nebraskalegislature.gov/FloorDocs/87/PDF/Journal/r2journal.pdf>.

³⁷² O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 16.

³⁷³ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 764.

³⁷⁴ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 792.

³⁷⁵ Patrick J. O'Donnell, *Session Laws, 1982, LB 287* (Lincoln, NE: 1982), 271.

Senator Marsh (29) introduced LB 609 on behalf of the teachers of Nebraska, to define a term and change the formula annuity.³⁷⁶ The final version of the bill was read on April 14, along with its LB 609A to fund the provisions. The vote was recorded as forty-seven members affirmative, no members negative, and two members present but not voting.³⁷⁷ The Governor approved the bill on April 16.³⁷⁸

§79-1522.01 was changed by LB 609, making an adjustment to the formula annuity option. The amendment added another level of calculation, for those with one half year of service or more in a public school, following the effective date of the act. Those employees would be eligible for computation of a formula annuity using one and one half percent of final average compensation multiplied by their years of service, an increase from one and one-quarter percent.³⁷⁹

In 1982, actuaries reported that the state would need to contribute \$4,255,400 to the system, and the employer contribution should be increased to ninety-nine percent of the employee contribution rate. Total present and projected assets and liabilities were just over \$497 million, with \$23,332,000 considered unfunded. 24,871 state members were actively contributing.³⁸⁰

1983. No legislative changes were made in 1983 to the School Employees Retirement System, and the actuary report for the year indicated the state should

³⁷⁶ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 86.

³⁷⁷ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 1925-1926.

³⁷⁸ Patrick J. O'Donnell, *Session Laws, 1982, LB 609*, 1977.

³⁷⁹ Patrick J. O'Donnell, *Session Laws, 1982, LB 609*, 562.

³⁸⁰ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-First Actuarial Valuation June 30, 1982*, (Unknown: Tillinghast, Nelson, & Warren, 1983).

contribute approximately \$3.75 million, while the employer contribution rate climbed to one hundred two percent of employee contributions. Total plan assets and liabilities were valued at \$563,601,000, of which \$21,374,000 were considered to be unfunded. There were nineteen fewer actively contributing members than the previous year in the state plan. The actuaries made the statement that they considered the plan to be in a strong financial position.³⁸¹

1984. During the Eighty-Eighth Legislature, Second Session, Legislative Resolution 426 was presented, to ask for an interim study on the cost and benefits of allowing public employees to retire at an earlier age with full benefits. The intent of the study was to determine financial and psychological considerations of early retirement, direct costs to the retirement system, impact on society of allowing earlier retirement in light of projections showing an increase in the ratio of retired persons to working persons, possible savings to the employer from pensioning higher-paid workers and replacing them with lower-paid younger workers, trends in private industry, and methods of providing equivalent benefits for defined-contribution and defined-benefit systems.³⁸²

Also introduced was LR 427, by the Nebraska Retirement Systems Committee, to conduct an interim study on the issues involved in providing cost-of-living adjustments in benefits to retired public employees. This more specifically proposed to study the monetary cost, erosion of pension income due to inflation, pockets of retirees who may

³⁸¹ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Second Actuarial Valuation June 30, 1983*, (Unknown: Tillinghast, Nelson, & Warren, 1984).

³⁸² Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Eighth Legislature, Second Session* (Lincoln, NE: 1984), 2103, accessed on June 4, 2015, <http://nebraskalegislature.gov/FloorDocs/88/PDF/Journal/r2journal.pdf>.

have retired under inadequate plans, and special cases not eligible for social security benefits.³⁸³

Additionally, LR 428 addressed issues concerning the multiple retirement systems of the State of Nebraska. As in 1974,³⁸⁴ the Nebraska Retirement Systems Committee again felt the need to conduct a comparison study of the various systems administered by the state as well as those authorized or required for subdivisions of government.³⁸⁵

Senator Wesely (26) introduced LB 457 during the Eighty-Eighth Legislature, Second Session. The intent of LB 457 was to change the annuity formula for the School Employees Retirement System.³⁸⁶ Upon Final Reading, the bill included an emergency clause. The bill was declared passed along with LB 457A, after a vote of forty-seven affirmative, no negative, and two not present to vote.³⁸⁷ Governor Kerrey signed the bill on April 18.³⁸⁸

LB 457 amended §79-1512 by adding a paragraph regarding the transfer of funds from any other regularly established retirement or pension system for public school employees into the School Employer's Deposit Fund, and how that amount would be determined.³⁸⁹ §79-1522.01 was modified by adding a third level by which to calculate the formula annuity. If members had creditable service of at least one half of a year after July 1, 1984, their retirement benefits average final compensation would be multiplied by

³⁸³ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2104.

³⁸⁴ Brown, *Legislative Journal, Eighty-Third Legislature, Second Session*, 1439.

³⁸⁵ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2104.

³⁸⁶ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 26-27.

³⁸⁷ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2392.

³⁸⁸ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2485.

³⁸⁹ Patrick J. O'Donnell, *Session Laws, 1984, LB 457* (Lincoln, NE: 1984), 227.

one and sixty-five hundredths percent, multiplied by number of years of creditable service. This was an increase from one and one-quarter percent, and one and one-half percent, which were formula components for earlier retirees. Effective dates were adjusted to reflect the changes. The statutory employer contribution rate of twenty percent was eliminated after the fiscal year beginning July 1, 1968, and left to be determined by the actuary.³⁹⁰

The employee contribution rate was increased from three and one half percent of compensation, to four and eight tenths percent. §79-1533 reflected the same increase, enabling employers to withhold the higher amount to deposit on behalf of employees. §79-1540 was added to, so that in addition to the state deposit into the Service Annuity Fund, the state would also be required to deposit an amount equal to seven-tenths percent of the compensation of all members each fiscal year.³⁹¹

Also during this session, Senator Wesely introduced LB 971, which simply redefined a term in the School Employees Retirement System.³⁹² The bill was voted on with forty-four affirmative votes, no negative votes, three members not voting, and two members excused.³⁹³

LB 971 redefined the term of “creditable service” to include working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employment agreement, but not to include lump sum

³⁹⁰ O'Donnell, *Session Laws, 1984, LB 457*, 227-228.

³⁹¹ O'Donnell, *Session Laws, 1984, LB 457*, 229-230.

³⁹² O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 372.

³⁹³ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2376.

payments to the employee upon termination or retirement in lieu of accrued benefits for such days.³⁹⁴

Actuaries in 1984 recommended a reduced state contribution of slightly less than \$3 million, but increased the employer contribution to one hundred eight percent of employee contributions. Plan assets and liabilities had grown to \$860 million, and \$19,346,000 of that amount was considered to be unfunded, as the plan was growing in strength. 25,427 members of the state plan were actively contributing.³⁹⁵

1985. The Eighty-Ninth Legislature, First Session, brought the introduction of some bills that reflected the findings of LR 426 interim study from 1984. LB 311 was introduced to provide for early retirement incentives, a preretirement planning program, retirement options, and allowing employees to choose early retirement.³⁹⁶ The bill died; however, it was an initial effort to provide for early retirement. Legislation leading up to this point provided for retirement only at designated retirement age.

Other noteworthy bills introduced were LB 402 and LB 403, which initiated the conversation of retirement eligibility based on factors other than simply the age of the member. LB 402 introduced the idea of a combination of age plus years of experience to determine eligibility for retirement benefits, proposing that a combination of ninety years might be considered, and LB 403 was submitted as an effort to provide that members

³⁹⁴ O'Donnell, *Session Laws, 1984, LB 971*, 1136.

³⁹⁵ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Third Actuarial Valuation June 30, 1984*, (Unknown: Tillinghast, Nelson, & Warren, 1985).

³⁹⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Ninth Legislature, First Session* (Lincoln, NE: 1985) 223, accessed on June 5, 2015, <http://nebraskalegislature.gov/FloorDocs/89/PDF/Journal/rljournal.pdf>.

could retire after thirty-five years of service, regardless of age.³⁹⁷ These bills did not pass during the 1985 session.

The School Employees Retirement System was modified by two bills in 1985. Those were LB 350 and LB 353.

LB 350 was introduced by members of the Nebraska Retirement Systems Committee, consisting of Harris (27), Abboud (12), Goodrich (20), Vickers (38), Warner (25), and Wesely (26). It intended to provide a manner for computing certain retirement benefits, to harmonize provisions, and to provide duties for the Reviser of Statutes.³⁹⁸ The bill was amended and the final version changed the intent slightly, to change provisions relating to certain retirement benefits, and with emergency clause attached. The Final Reading took place on March 26, with a vote of forty-six affirmative, no negative, and three members not voting.³⁹⁹ Governor Kerrey signed the bill on April 1.⁴⁰⁰

§79-1501 was amended by LB 350 to have sections two and three added. Section two was in reference to members who retired, and later returned to employment and re-retire with a new retirement benefit. After re-retirement occurred, the original benefit would be reinstated in the same amount and form as previously elected. The formula for the new benefit would be calculated as follows: The second benefit would be calculated based on the total service and compensation record and the statutes in effect at the time of re-retirement (section one). The original benefit shall be calculated under the life-only

³⁹⁷ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 265.

³⁹⁸ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 236.

³⁹⁹ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1187-1188.

⁴⁰⁰ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1299.

option without adjustments for early retirement or deferred retirement (section two). The new additional benefit paid would be the excess of the benefit in section one, divided by the benefit of the original retirement in section two, adjusted, if necessary, to reflect early retirement or the election of an optional form other than the life-only option.⁴⁰¹

The addition of section three to §79-1501 stated that members who retired and then returned to school employment must have notified the retirement board in advance, and if a member collected retirement benefits without filing such notice, there would be withholding of future benefits equal to twice the amount collected after being regularly employed. If the member then terminated employment, and had filed the proper forms, the original retirement allowance would be reinstated. For any service credit earned upon re-retirement, such member would be eligible for retirement allowance based on this act. The annuity payment could begin at age sixty, but before sixty-five, on a reduced basis if the members elected.⁴⁰²

LB 353, also introduced by the members of the Nebraska Retirement Systems Committee, was similar to the bill that allowed for employers to pick up contributions introduced for the Class V system in 1984.⁴⁰³ The bill was voted upon after Final Reading, with forty affirmative, seven negative, and two members not voting.⁴⁰⁴ The bill was approved on March 26.⁴⁰⁵

⁴⁰¹ O'Donnell, *Session Laws, 1985, LB 350*, 736.

⁴⁰² O'Donnell, *Session Laws, 1985, LB 350*, 736-737.

⁴⁰³ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 237.

⁴⁰⁴ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1095.

⁴⁰⁵ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1188.

LB 353 added subsection two to §79-1531, stating that the employer shall pick up the required contribution of the member to be paid on or after January 1, 1986, and the contributions would be treated as employer contributions, taxable by the federal tax treatment under the Internal Revenue Service code, and the employer would pick up the contributions through salary reduction, or offset against a future salary increase.⁴⁰⁶

The 1985 actuarial report indicated continued growth in strength of the system, with the state contribution rate requirement lowered to about \$1.9 million, and the employer contribution rate lowered to one hundred one percent of employee contributions. Plan assets and liabilities grew to approximately \$926,500,000, with only about \$16 million considered unfunded. 25,864 active members were contributing to the plan. The assumed rate of return on investment was seven and one half percent.⁴⁰⁷

1986. In 1986, three bills passed that made changes to the School Employee Retirement System. Two of the bills made some broad changes, and the shape of each bill changed significantly from introduction to passing.

LB 325 was introduced by Senator Goodrich (20) with the initial intent of providing an opportunity for members to change retirement systems, to change requirements for certain benefits, to change membership provisions, to change the early retirement age, to provide for a lump sum annuity, and to eliminate the restriction on certain employees.⁴⁰⁸

⁴⁰⁶ O'Donnell, *Session Laws, 1985, LB 353*, 740-741.

⁴⁰⁷ D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Fourth Actuarial Valuation June 30, 1985*, (Unknown: Tillinghast, Nelson, & Warren, 1986).

⁴⁰⁸ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Ninth Legislature, Second Session* (Lincoln, NE: 1986), 27-28, accessed on June 5, 2015, <http://nebraskalegislature.gov/FloorDocs/89/PDF/Journal/r2journal.pdf>.

The bill took on a much different shape upon Final Reading. No more would the bill provide an opportunity to change systems, change requirements for benefits, change membership provisions, change the early retirement age, or provide for a lump sum annuity. However, the bill would change provisions relating to the school retirement system, change provisions of the State Employees Retirement Act, and provide for the powers and duties of the Public Employees Retirement Board (PERB). The final vote on the bill, with emergency, was thirty-one affirmative, thirteen negative, and five members not casting votes.⁴⁰⁹ The Governor signed the bill on April 14.⁴¹⁰

LB 325 made many changes to sections of the School Employees Retirement Act. Definitions in §79-1501 were changed to include “sections three, four, and five of this act” in definitions two, fifteen, seventeen, and twenty-eight. §79-1514 was amended to apply certain conditions to reinstate membership to members who had withdrawn contributions, retired on a formula annuity or disability, or died. Members could be reinstated by repaying the amount withdrawn, within three years of rejoining the retirement system. If the member did not pay the amount to the retirement system, then he or she could enter the system as a new member with no prior rights.⁴¹¹

Sections three and four were added, as well. Section three added provisions for those who withdrew contributions from January 1, 1987 to June 30, 1988, who had, prior to the operative date of this act, become a school member again. Such employee could elect to repay the system for any number of years of service. The amount to be repaid

⁴⁰⁹ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2050.

⁴¹⁰ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2229.

⁴¹¹ Patrick J. O'Donnell, *Session Laws, 1986, LB 325* (Lincoln, NE: 1986), 511-515.

could not exceed the amount of the withdrawal for the years of service, plus the interest that would have accrued. Paying this amount restored such employee to prior status with the system.⁴¹²

Section four added that a person who was a member of the retirement system between January 1, 1987 and June 30, 1998, and who had previous service as a member of an educational service unit prior to July 10, 1976, would be eligible to buy credit for any number of years of service in an educational service unit. The amount to be paid could not exceed the amount that would have been contributed, plus interest on that amount that would have accrued while in the retirement system.⁴¹³

§79-1522 was amended to add that members rejoining the system were eligible for the same provisions as those joining for the first time when purchasing years of service that were for years in a public school of another state.⁴¹⁴ Section six was added to state that members who were employed between January 1, 1987 and June 30, 1988, and who were school employees in another state prior to the operative date of this act, could elect to pay the retirement system for up to ten years of service from another state. Also included was that the retirement board may adopt and promulgate rules and regulations to allow for lump sum or installment payments for those who took such an election. All installments were required to be paid in full prior to taking a retirement annuity.⁴¹⁵

⁴¹² O'Donnell, *Session Laws, 1986, LB 325*, 515.

⁴¹³ O'Donnell, *Session Laws, 1986, LB 325*, 515.

⁴¹⁴ O'Donnell, *Session Laws, 1986, LB 325*, 516.

⁴¹⁵ O'Donnell, *Session Laws, 1986, LB 325*, 518.

§79-1522.01, regarding a formula annuity retirement allowance, was changed to reflect that members could take an annuity between the age of sixty and sixty-five at a rate reduced by three percent for each year prior to the sixty-fifth birthday.⁴¹⁶ §79-1522.02 was amended to state that members would not be eligible for any increases resulting in these provisions unless that employee had accumulated at least one half year of service after July 1, 1986.⁴¹⁷

§79-1528 was changed to remove the requirement that deceased members must have reached the age of fifty-five, plus had twenty years of creditable service, to entitle beneficiaries to benefits, and simply entitled beneficiaries to death benefits if a member had accumulated at least twenty years of service.⁴¹⁸

§79-1529 was amended to state that members who ceased employment prior to retirement age, and left their contributions in the system to take an annuity at retirement, could take a reduced annuity between the ages of sixty and sixty-five as prescribed.⁴¹⁹

LB 325 changed §79-1531, increasing the employee rate of contribution, from four and eight-tenths percent, to five and fourth-tenths percent, and that same increase was noted in §79-1533 for the employer to deduct.⁴²⁰

LB 311, introduced by Senator Wesely (26), was initially described to establish early retirement benefits, allow for pre-retirement planning program, change provisions relating to retirement options, allow employees to choose early retirement and harmonize

⁴¹⁶ O'Donnell, *Session Laws, 1986, LB 325*, 519.

⁴¹⁷ O'Donnell, *Session Laws, 1986, LB 325*, 521.

⁴¹⁸ O'Donnell, *Session Laws, 1986, LB 325*, 521.

⁴¹⁹ O'Donnell, *Session Laws, 1986, LB 325*, 522.

⁴²⁰ O'Donnell, *Session Laws, 1986, LB 325*, 522-523.

provisions.⁴²¹ This bill also underwent much change as the session moved along, and the final version of the bill, as presented during the Final Reading, included an opportunity to change retirement systems, change requirements for certain benefits, and change membership provisions (earlier introduced as part of LB 325), and also to define and redefine terms, provide powers and limit duties of the PERB, provide for non-alienation of benefits, provide for when benefits began, and provide access to certain information. Not included was the option to allow employees to choose an early retirement, or to establish early retirement benefits. The vote was forty-six affirmative, no negative, and three members not voting.⁴²² The bill was signed by the Governor on April 24.⁴²³

§79-1501 was modified after the bill passed, to change the definition of “school employee” to mean regular teachers and administrators with contracts, regular employees without certificates employed hourly for not less than thirty hours per week, and part-time employees hired to work not less than fifteen hours per week. The definition of “school year” was changed to be one thousand thirty-two hours, rather than one hundred twenty teaching days. Definition twenty-six was struck, made obsolete by the changed definition of school employee. The definition of “actuarial equivalent” was added, to mean the equality in value of the aggregate amounts expected to be received under different forms of payment, based on the annuity purchase rates in effect on the date of

⁴²¹ O’Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 26.

⁴²² O’Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2416.

⁴²³ O’Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2475.

retirement, established by the insurance carrier for the purpose of converting the accumulated contributions to an annuity.⁴²⁴

Section fifteen of the act added that the annual benefit payable would not at any time exceed the lesser of (1) ninety-thousand dollars, adjusted for cost-of-living according to the Internal Revenue Service annually, reduced if distributions occur before the age of sixty-two or (2) one hundred percent of the member's average compensation for the highest three years of service during which the member was active in the system. If the annual benefit was payable in a form other than a straight life annuity, the maximum amount would be adjusted to the actuarial equivalent of a straight life annuity, and if the benefit was to a member with less than ten years of service, the maximum amount would be multiplied by a fraction, the numerator of which was the member's years of service, and the denominator of which was ten.⁴²⁵

§79-1521 had sub-section two added, to detail that payment of any benefit may not be delayed later than the sixtieth day after the end of the year in which the member had both attained at least age seventy and one half years, and terminated his or her employment with the school system.⁴²⁶

§79-1522 had changes made to sub-section two allowing members to purchase up to ten years for out-of-state service in another public school, including years in a Class V school. Sub-section three was amended to include years in a Class V school the same as out-of-state service, stating that members could not purchase more years than they had

⁴²⁴ O'Donnell, *Session Laws, 1986, LB 311*, 416-419.

⁴²⁵ O'Donnell, *Session Laws, 1986, LB 311*, 420.

⁴²⁶ O'Donnell, *Session Laws, 1986, LB 311*, 421.

actually worked in a state school. Sub-section four, pertaining to substitute teachers, stated that members receiving an annuity could not work more than seventy-five percent of the instructional hours, changed from ninety days, without experiencing a reduction in benefits.⁴²⁷

§79-1532 was amended to state that each account would be credited with interest monthly, quarterly, semiannually, or annually as the PERB may direct.⁴²⁸

§79-1552 was amended to state the retirement formula or disability annuity payments were subject to judgment or decree, including property settlement relating to child support, alimony, or marital property rights to a spouse, former spouse, child, or other dependent.⁴²⁹

§79-1556 was changed pertaining to the PERB and how they may contract with and pay for investment services.

§79-1565 was changed to allow state officials, as defined in §79-1501, as of July 19, 1980, to become members by electing to do so within sixty days of September 1, 1986.⁴³⁰

LB 546 was introduced by Senator Landis (46), to specify a method for crediting part-time service, and to change provisions relating to calculation of the monthly formula annuity.⁴³¹ This bill was heard upon Final Reading on February 7, with emergency, and

⁴²⁷ O'Donnell, *Session Laws, 1986, LB 311*, 422.

⁴²⁸ O'Donnell, *Session Laws, 1986, LB 311*, 424.

⁴²⁹ O'Donnell, *Session Laws, 1986, LB 311*, 424.

⁴³⁰ O'Donnell, *Session Laws, 1986, LB 311*, 425.

⁴³¹ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 48.

the vote was recorded as forty-two affirmative, none negative, and seven members not voting.⁴³² Governor Kerrey signed the bill on February 11.⁴³³

LB 546 changed §79-1516 and §79-1522.01. The part-time employment member would contribute an amount in proportion to the ratio the part-time service bears to the amount of time considered to be full-time, so long as the part-time is at least half-time. Part-time employees final average compensation would be determined by dividing total adjusted compensation, subject to required deposits for the three fiscal years in which such adjusted compensation was the highest, by thirty-six. Adjusted compensation for any year would be equal to actual pay, times the ratio for one to the actual credited service for such year.⁴³⁴

The required state contribution calculated by actuaries in 1986 was just over \$1.3 million. The total assets and liabilities were valued at \$1,071,500,000, marking the first time this figure climbed into the billions. The unfunded liabilities totaled \$14,783,000, and the school employers were required to contribute sixty-seven percent of the employee contribution. There were 26,140 contributing active members. The assumed rate of return on investments was seven and one half percent.⁴³⁵

1987. During the Ninetieth Legislature, First Session, the Nebraska Retirement Systems Committee proposed a Legislative Resolution to study the benefits of certain retired teachers. The purpose of LR 231 was to examine the system for the benefit of

⁴³² O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 695.

⁴³³ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 742.

⁴³⁴ O'Donnell, *Session Laws, 1986, LB 546*, 741-743.

⁴³⁵ D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Fifth Actuarial Valuation, June 10, 1986*, (unknown: Towers, Perrin, Forster, & Crosby, Inc., 1986).

more than 1,300 retired teachers across the state of Nebraska with twenty-five years of service or more, who had retired when both salaries and retirement benefits were low. Those teachers were receiving \$250 or less per month, and the cost-of-living had increased considerably over the years, making it difficult to maintain any standard of living. The study was to help determine if those benefits were adequate.⁴³⁶

LB 296 was introduced by Senator Abboud (12). The intent of the bill was to eliminate provisions relating to mandatory retirement for multiple public retirement systems.⁴³⁷ Through the session, the change was made to add a provision to change certain retirement provisions relating to mandatory retirement, as well as eliminate others.⁴³⁸ The Final Reading of the bill yielded a vote of forty-seven affirmative, no negative, and two members not voting.⁴³⁹ Governor Kay Orr approved the bill on February 23.⁴⁴⁰

LB 296 made changes to §79-1521 that removed all previously existing language requiring retirement at age seventy, with a provision for special permission to continue working until seventy-two. This essentially removed a mandatory retirement age.⁴⁴¹

LB 549 was introduced by Senator Haberman (44), with the purpose of changing provisions of the retirement system, to define/redefine terms, provide for credit for years

⁴³⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninetieth Legislature, First Session* (Lincoln, NE: 1987), 2282, accessed on June 5, 2015, <http://nebraskalegislature.gov/FloorDocs/90/PDF/Journal/r1journal.pdf>.

⁴³⁷ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 169-170.

⁴³⁸ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 516.

⁴³⁹ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 726.

⁴⁴⁰ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 753.

⁴⁴¹ Patrick J. O'Donnell, *Session Laws, 1987, LB 296* (Lincoln, NE: 1987), 700.

of service for certain employees, provide duties for the PERB, provide a deferred compensation program for county employees as prescribed, change provision relating to administrative service agreements, eliminate an age requirement, and provide a procedure for fund investment and transfer of assets.⁴⁴² In the process of revising the bill for Final Reading, the procedure for fund investment was eliminated from the bill. The vote was forty-six affirmative, no negative, and three members not voting.⁴⁴³ The Governor approved the bill on April 6.⁴⁴⁴

LB 549 made multiple changes to the School Employees Retirement Act. Definition twenty-nine in §79-1501, “actuarial equivalent,” was modified to state that the equivalent would be based on the 1971 Group Annuity Mortality Table based on a combination of twenty-five percent male and seventy-five percent female, with a seven percent annual increase in interest rate to make these determination. Definitions were added: “Retirement date” was to mean the first day of the month following the date upon which a member’s request for retirement was received by the retirement system, which cannot be received more than ninety days in advance to a member’s last date of employment; “Disability retirement date” was to be the first day of the month following the date a request for disability retirement was received by the retirement system; “Retirement application form” was to be an official form approved by the retirement system for either retirement or disability.⁴⁴⁵

⁴⁴² O’Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 271.

⁴⁴³ O’Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 1381-1382.

⁴⁴⁴ O’Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 1525.

⁴⁴⁵ O’Donnell, *Session Laws, 1987, LB 549*, 1379-1380.

§79-1509 was changed to designate that all school employees would be members of the system, not just senior employees, as originally established. §79-1512 was changed so that members of the school employees system would receive no benefits for years they were members of the Class V school employee system.⁴⁴⁶

An additional section was added to provide that current school employees who had initially elected out of the system between July 1 and October 1 of 1945, could “buy-in” to the system by paying in the amount for any number of years of service he or she would have contributed if they had not elected to not be members, not to exceed what the amount plus interest would have been. This would not apply to those who had already retired before January 1, 1987.⁴⁴⁷

§79-1520 was modified to state any member with thirty-five years of creditable service could retire at any age. §79-1521 was changed to remove a mandatory retirement age of seventy years, a reflection of the change made in LB 296 the same session.⁴⁴⁸ Other minor adjustments were made to §79-1522, §79-1522.01 that did not change the function of the system.⁴⁴⁹ Changes made to §79-1523 reiterated that application for retirement or disability must be made on the approved form.⁴⁵⁰

§79-1528 was amended to allow the beneficiary of a deceased member ninety days to make an election to receive an annuity for life based on the amount the member would have received if he or she had elected a joint and survivorship annuity to be paid

⁴⁴⁶ O'Donnell, *Session Laws, 1987, LB 549*, 1380-1381.

⁴⁴⁷ O'Donnell, *Session Laws, 1987, LB 549*, 1382.

⁴⁴⁸ O'Donnell, *Session Laws, 1987, LB 549*, 1382.

⁴⁴⁹ O'Donnell, *Session Laws, 1987, LB 549*, 1383-1386.

⁴⁵⁰ O'Donnell, *Session Laws, 1987, LB 549*, 1388.

until the member's spouse should survive, had the member retired on their date of death if at least sixty-five years of age, or retired at the age of sixty-five if member had not yet reached such age before death. If no beneficiary were named, then a lump sum would be paid to the estate equal to the contributions to the fund made by such members plus regular interest.⁴⁵¹

The actuaries recommended adopting an eight and one half percent assumption for rate of return on investments for the future, and financial information was projected at three levels: seven and one half, eight, and eight and one half percent. The plan was described as being in a strong financial position, as the service annuity funded percentage rose to ninety-three percent. The total state deposit required was \$2.4 million, in addition to the seven-tenths percent of all contributions required in statute, and the employers were asked to contribute eighty-three percent of the employee share. Plan assets and liabilities were \$1,263,696,931 at the seven and one half percent level, higher at the eight percent level of assumed return, and slightly higher at the eight and one half percent assumed return. The total unfunded liabilities were just over \$14.2 million. 27,354 were actively contributing to the system.⁴⁵²

1988. During her budget address to the Ninetieth Legislature, Second Session, Governor Kay Orr included a request of \$3.5 million to fund the Teacher's Retirement

⁴⁵¹ O'Donnell, *Session Laws, 1987, LB 549*, 1388.

⁴⁵² D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Sixth Actuarial Valuation June 30, 1987*, (unknown: Towers, Perrin, Forster, & Crosby, Inc., 1987).

System. Her purpose for the request, as recorded in the *Legislative Journal of the State of Nebraska*, was to “stand by the commitments made.”⁴⁵³

During this session, three bills were introduced that made changes to the teacher’s retirement system. Those bills were LB 160, LB 352, and LB 1170. Another bill of significance that was introduced, but not passed was LB 879.

LB 879 was introduced by Senator Wesely (26). The intent of the bill was to change benefits, to change contribution provisions, to provide powers and duties, and to change funding provisions.⁴⁵⁴ The Nebraska Retirement Systems Committee declared this bill to be their priority bill for the session,⁴⁵⁵ but the bill did not gain support of the legislature. However, other bills that did pass were amended through committee work to contain some of the same provisions as proposed in LB 879.

LB 160 was introduced by Senators Pappas (46), Hartnett (45), and Haberman (44), to change provisions relating to the formula annuity retirement allowance.⁴⁵⁶ The Final Reading of the bill, with emergency clause, was held on March 25 with a vote of forty affirmative, eight negative, and one not voting.⁴⁵⁷ The Governor signed the bill on March 31.⁴⁵⁸

⁴⁵³ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninetieth Legislature, Second Session* (Lincoln, NE: 1988), 239, accessed on June 6, 2015, <http://nebraskalegislature.gov/FloorDocs/90/PDF/Journal/r2journal.pdf>.

⁴⁵⁴ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 134.

⁴⁵⁵ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 769.

⁴⁵⁶ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 8.

⁴⁵⁷ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 1747.

⁴⁵⁸ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2009.

LB 160 made changes to §79-1522.01, regarding the formula annuity option for members. Added was the provision that if a member had reached thirty-five years of creditable service, and was at least sixty there would be no reduction in annuity, a change from the amount being reduced for members taking the annuity payments prior to the sixty-fifth birthday, but after turning sixty. If a member had more than five years, but less than thirty-five years of creditable service, the annuity amount would be reduced by three percent for each year less than thirty-five years of service, or three percent a year for each year the member was less than sixty-five years old, whichever provided the greater annuity payment.⁴⁵⁹

The same was also changed regarding transfer of retirement funds to the Annuity Fund to pay for the annuity. The amount transferred from the Service Annuity Fund (to the Annuity Reserve Fund, from which annuity payments are made) at any time after such member attained sixty years of age, prior to his or her sixty-fifth birthday or thirty-five years of creditable service, would be on an actuarial reduced basis. A section regarding the payment to be made by the district to the School Employer's Deposit Fund was stricken from the statute.⁴⁶⁰ These changes would not apply to members who had retired prior to the effective date of the act, and would only apply to members who had at least five hundred sixteen hours of creditable service during the 1987-1988 employment year.⁴⁶¹

⁴⁵⁹ Patrick J. O'Donnell, *Session Laws, 1988, LB 160* (Lincoln, NE: 1988), 86-87.

⁴⁶⁰ O'Donnell, *Session Laws, 1988, LB 160*, 88.

⁴⁶¹ O'Donnell, *Session Laws, 1988, LB 160*, 89.

§79-1531 had section one stricken, and new sections one and two added, renumbering the existing sections. The new sections detailed the process of making deposits by the employee and the employer, and how that percentage would be determined. The retirement board would determine the amount necessary, based on actuarial projections, and the employee contribution rate would be equal to forty-nine and seventy-five hundredths percent of the amount determined. The employer would be required to contribute one hundred one percent of the employee amount.⁴⁶²

LB 352 was introduced by Senators Abboud (12), Landis (46), and Ashford (6) to change procedures for appeals from agencies.⁴⁶³ The bill made it to Final Reading, with changes made to the title to suggest the bill was related to liquor licenses. With a vote of forty-one affirmative, one negative, and seven non-voting members, the bill was passed,⁴⁶⁴ and approved on April 7.⁴⁶⁵

LB 352 made changes to §79-1544, the section regarding filing grievance against the retirement board. After changes, would be entitled to have such grievance reviewed by the retirement board, and any final order could be appealed in accordance with the Administrative Procedures Act.⁴⁶⁶

LB 1170 was introduced by the members of the Nebraska Retirement Systems Committee, who were Haberman (44), Abboud (12), Goodrich (20), Marsh (29), Nelson (35), and Warner (25). The senators proposed a change in provisions relating to funds of

⁴⁶² O'Donnell, *Session Laws, 1988, LB 160*, 90.

⁴⁶³ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 18.

⁴⁶⁴ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2129-2130.

⁴⁶⁵ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2243.

⁴⁶⁶ O'Donnell, *Session Laws, 1988, LB 352*, 109.

school retirement system, to rename certain funds, and to create a new fund initially.⁴⁶⁷

Some modifications were made, and the Final Reading bill included to change benefits as prescribed, to change contribution provisions, and to provide powers and duties,⁴⁶⁸ three of the four provisions introduced in LB 879. The vote was forty-three affirmative, none negative, and six members did not vote.⁴⁶⁹ Governor Orr signed the bill on April 11.⁴⁷⁰

The bill changed reference to fund names throughout the act, renaming the “School Employees Savings Fund” as the “School Retirement Fund.” Other “funds” were renamed as “accounts” rather than funds.⁴⁷¹ Section §79-1522.01 reflected the changes made by LB 160, passed in the same session; likewise, §79-1531 reflected the changes made by LB 352. §79-1533 had a reference to a specific percentage, of five and four-tenths percent of compensation of each member, stricken. The new percentage withheld by the district and paid to the School Retirement Fund would be determined as laid out in §79-1531. Added to §79-1549 was that the Contingent Account would be used to fund the adjusted supplemental retirement benefit provided.⁴⁷²

§79-1556 had four sub-sections added, specifying that the PERB would be responsible for calculating the supplemental benefit for cost-of-living changes for both the School Retirement System and the Retirement System for Class V Districts. Upon calculating the benefit, the board would subtract the amount from two hundred fifty

⁴⁶⁷ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 396.

⁴⁶⁸ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2212-2213.

⁴⁶⁹ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2212-2213.

⁴⁷⁰ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2286.

⁴⁷¹ O'Donnell, *Session Laws, 1988, LB 1170*, 1567-1583.

⁴⁷² O'Donnell, *Session Laws, 1988, LB 1170*, 1572-1581.

dollars, and that amount would be the benefit to be paid if positive, to be no less than five dollars, for life. New sub-section three detailed that the board could buy a paid-up annuity for a retired person that guaranteed the adjusted supplemental benefits, and four added that the amount would be paid out of the Contingent Account.⁴⁷³

Making a minor change was LB 551. LB 551 was introduced by Senator Goodrich (20) to provide credit for prior service for certain members.⁴⁷⁴ The bill was voted upon with an additional provision to redefine terms, with Final Reading held on March 31. The recorded vote was forty-three affirmative, no negative, and six members not voting.⁴⁷⁵ Governor Orr signed the bill into law on April 6.⁴⁷⁶

The change made by LB 551 was that “school employee” would mean a member with five hundred sixteen hours or more of service, and that would entitle a member to one-half of a year of creditable service.⁴⁷⁷ This change also applied to the Class V Schools Retirement System.

The 1988 actuary valuation of the plan was based on the rate of eight and one half percent return on investments, as was recommended the previous year. Changes in the reduction rate of benefits and a supplemental benefit being added impacted the valuation, as did the statute that required school districts to contribute one hundred one percent of the employee contribution and the impact of purchase of previous service years. The state was required to contribute \$5,574,900, and total assets and liabilities were valued at

⁴⁷³ O'Donnell, *Session Laws, 1988, LB 1170*, 1582-1583.

⁴⁷⁴ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 30-31.

⁴⁷⁵ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 1949.

⁴⁷⁶ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2173.

⁴⁷⁷ O'Donnell, *Session Laws, 1988, LB 551*, 497.

just over \$1.4 billion. There \$39 million of unfunded liabilities. The amount of actively contributing plan members rose to nearly 28,000.⁴⁷⁸

1989. One bill made changes to the School Employees Retirement System in 1989 during the First Session of the Ninety-First Legislature. LB 506 was introduced by Senator Haberman (44) to change provisions relating to annuities and benefits as prescribed, to define and redefine terms, to provide duties, to change provisions relating to former members of retirement systems, to delete obsolete language, and to change funding provisions.⁴⁷⁹ At Final Reading, added to the bill was a provision to authorize certain individuals to elect retirement system membership. The final vote, passed with emergency, was forty-four affirmative, none negative, and five legislators not voting.⁴⁸⁰ Governor Orr signed the bill on April 20.⁴⁸¹

LB 506 redefined how interest was to be compounded on contributions as either monthly, quarterly, semiannually, or annually. It also amended definition twenty-two, of “school retirement allowance,” removing language entitling members to a pro-rated amount that might accumulate between the effective date of the annuity and the end of the calendar month in which the annuity began.⁴⁸²

§79-1520 was amended to state that any member with thirty-five years of service could retire at any time, as well as any member who has at least five years of service and

⁴⁷⁸ D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Seventh Actuarial Valuation June 30, 1988*, (unknown: TPF&C, A Towers Perrin Co., 1988).

⁴⁷⁹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-First Legislature, First Session* (Lincoln, NE: 1989), 260, accessed on June 8, 2015, <http://nebraskalegislature.gov/FloorDocs/91/PDF/Journal/r1journal.pdf>.

⁴⁸⁰ O'Donnell, *Legislative Journal, Ninety-First Legislature, First Session*, 1716.

⁴⁸¹ O'Donnell, *Legislative Journal, Ninety-First Legislature, First Session*, 1809.

⁴⁸² O'Donnell, *Session Laws, 1989, LB 506* (Lincoln, NE: 1989), 1630-1632.

was at least sixty years old. §79-1552 had language changed connected to judgments or decrees against retirement annuity, simplifying it to read that annuity payments were only tax-free or not subject to garnishment, attachment, bankruptcy or insolvency laws, except to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order as defined to section 414(p) of the Internal Revenue Code.⁴⁸³

§79-1565 was amended with a new sub-section to allow employees, or those who were employed in public schools in another state, a Class V school, or by the Department of Education, and then became employees of the Department of Education, the option to choose to become or remain members of the School Retirement System, or within thirty days of employment, to elect to become part of the State Employees Retirement System. State school officials employed after July 1, 1989 also were given this choice.⁴⁸⁴

In 1989, total assets exceeded the value of the benefits, so the plan was again considered to be in a strong financial position. The state was required to deposit an additional \$6 million, and proposed assumptions valued the assets and liabilities of the plan at just over \$1.9 billion, of which \$35,168,000 was considered unfunded. 28,629 members were actively contributing.⁴⁸⁵

1990. Senator Haberman (44) asked for a Legislative Resolution, LR 287, to conduct an interim study. The purpose of the study was extensive. The resolution referred to a need to examine defined-benefit versus defined-contribution plans, funding, disability and survivor benefits, unfunded liability, cost of improved benefits, cost-of-

⁴⁸³ O'Donnell, *Session Laws, 1989, LB 506*, 1634.

⁴⁸⁴ O'Donnell, *Session Laws, 1989, LB 506*, 1635.

⁴⁸⁵ D. B. Ackerman, *School Retirement system of the State of Nebraska System Actuary's Report Thirty-Eighth Actuarial Valuation June 30, 1989*, (unknown: TPF&C, A Towers Perrin Co., 1989).

living adjustment, prefunding benefits, lump-sum withdrawal of employee accounts, early retirement, social security income, and the advantages and disadvantages of changing retirement laws of the state.⁴⁸⁶

Two bills were passed during the second session of the Ninety-First legislature. Those bills were LB 819 and LB 903, and they made very minor adjustments.

LB 819 was introduced by Senator Labeledz (5), acting as the Chairperson of the Executive Board, to repeal a provision authorizing certain actions.⁴⁸⁷ The Final Reading of the bill was held on January 26, and a vote of forty-five affirmative, none negative, and four members not voting was recorded in the *Legislative Journal*.⁴⁸⁸ Governor Orr signed the bill into law on February 1.⁴⁸⁹

LB 819 amended §79-1514.05, regarding payment in lump sum or installments for purchasing prior service credits by members. It removed reference to the provisions in §79-1514.03 and §79-1514.04.⁴⁹⁰ These provisions had been added added by LB 325 in 1986, and were specific to conditions existing for certain employees between January 1, 1987 and June 30, 1988.⁴⁹¹

⁴⁸⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-First Legislature, Second Session* (Lincoln, NE: 1990), 1358-1359, accessed on June 8, 2015, <http://nebraskalegislature.gov/FloorDocs/91/PDF/Journal/r2journal.pdf>.

⁴⁸⁷ O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 97-98.

⁴⁸⁸ O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 529-530.

⁴⁸⁹ O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 625.

⁴⁹⁰ Patrick J. O'Donnell, *Session Laws, 1990, LB 819* (Lincoln, NE: 1990). 368.

⁴⁹¹ O'Donnell, *Session Laws, 1986, LB 325*, 515.

LB 903 was introduced by Senator Hall (7) to change provisions relating to treatment of benefits when a member died before retirement.⁴⁹² The bill was voted upon, with thirty-seven members affirmative, none negative, and twelve members not voting.⁴⁹³ The Governor signed the bill on March 13.⁴⁹⁴

LB 903 amended §79-1528 to read that when a member died after his or her sixty-fifth birthday, the spouse or beneficiary of the member may request to receive an annuity for life, as prescribed, within ninety days of the passing of the member. If the requirement of the section were not met, the estate would receive a lump sum of the contributions, with interest, of the member.⁴⁹⁵

Based on the actuarial report the state was required to deposit less than the prior year in 1990, with the actuarial valuation showing a requirement of just under \$4.5 million necessary. Plan assets and liabilities increased to over \$2 billion for the first time, and the unfunded liabilities totaled \$32,800,000. There were 29,352 members actively contributing, which was also an all-time high. The assumed rate of return continued to be eight and one half percent.⁴⁹⁶

1991. The Legislature that met in 1991 introduced several bills to amend the retirement system, and one became law. During the session there was, once again, a Legislative Resolution regarding the School Employees Retirement System, this time to

⁴⁹² O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 119.

⁴⁹³ O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 1255.

⁴⁹⁴ O'Donnell, *Legislative Journal, Ninety-First Legislature, Second Session*, 1344.

⁴⁹⁵ O'Donnell, *Session Laws, 1990, LB 903*, 503.

⁴⁹⁶ D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Thirty-Ninth Actuarial Valuation June 30, 1990*, (unknown: TPF&C, A Towers Perrin Co., 1990).

ask for an interim study, conducted by the Nebraska Retirement Systems Committee, to examine the concept and feasibility of a cost-of-living adjustment annually for school employee members, and how such a component would be funded.⁴⁹⁷

The bill that emerged from the session as law was LB 549. Introduced by the Nebraska Retirement Systems Committee, consisting of Senators Nelson (35), Crosby (29), Elmer (38), Moore (24), and Schellpeper (18), the bill had many purposes:

- Provide Powers and duties for PERB
- Change provisions relating to:
 - Service credit for certain school employees
 - A formula annuity retirement allowance
 - Certain application for disability retirement
 - Interest rate on certain delinquent contributions
 - A filing deadline and certain monthly annuity income
- Change terminology
- To authorize the Department of Revenue to disclose certain information to the board
- To name an act
- To rename a system and a fund
- To provide for and change certain late fees
- To require certain records

⁴⁹⁷ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Second Legislature, First Session* (Lincoln, NE: 1991), 2181-2182, accessed on June 9, 2015, <http://nebraskalegislature.gov/FloorDocs/92/PDF/Journal/r1journal.pdf>.

- To provide for applicability of a provision on vesting
- To eliminate the Legislators' Retirement Act
- To eliminate a provision on fixing compensation of school employees⁴⁹⁸

The bill was identified as a priority bill for the Nebraska Retirement Systems Committee.⁴⁹⁹ Through amendment AM0599, the bill was merged with portions of LB 756, specifically to restrict personal liability, and to change provisions relating to the investment of funds of certain retirement systems.⁵⁰⁰ The bill was voted upon, with emergency, at Final Reading, with 39 affirmative, none negative, and ten members not voting.⁵⁰¹ The Governor signed the bill on May 31.⁵⁰²

LB 549 renamed the school employees retirement system as, "School Employees Retirement Act," consisting of §79-1501 through §79-1566, and section twenty-eight of the act. References to these codified statutes, throughout the bill, were changed to be "the act," and references to salary throughout the bill were changed to "compensation."⁵⁰³

§79-1503 was changed to state that the retirement board would carry out the provisions in the act, defining what constituted compensation, to include base salary or wages, including overtime, and any other amounts determined by the board. §79-1503.01

⁴⁹⁸ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 302-303.

⁴⁹⁹ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 1071.

⁵⁰⁰ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 363; 2498-2499.

⁵⁰¹ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 2499.

⁵⁰² O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 2722.

⁵⁰³ Patrick J. O'Donnell, *Session Laws, 1991, LB 549* (Lincoln, NE: 1991), 1529-1547.

had sub-section three added, to prescribe forms to report contributions, hours worked, payroll and other necessary information.⁵⁰⁴

Section twenty-eight of the bill added that the director in charge of the system would keep a complete record of all members' facts necessary to administrate the act. The director would have access to various employer and state departments and agencies to keep accurate records, and birth certificates would verify the age of retirement system members.⁵⁰⁵

§79-1533 was amended to state that rather than a six percent fee for late payments, a flat fee of no more than fifty dollars could be charged for any report not received by the due date, and fourteen percent interest, not to exceed fifty dollars, would be charged for late payments.⁵⁰⁶

Lastly, §79-1556 was changed to state that funds available for investment would be invested by the Nebraska Investment Council, pursuant to §72-1237 to §72-1276.⁵⁰⁷

The formula annuity gained in strength, according to actuaries who evaluated the plan. The employer contribution rate was set at one hundred one percent, and total additional state deposit was set at \$2,749,833. The total assets and liabilities were valued at \$2,436,387,222, and \$30,441,609 were considered unfunded. Nearly 30,000 employees were actively contributing to the plan.⁵⁰⁸

⁵⁰⁴ O'Donnell, *Session Laws, 1991, LB 549*, 1533.

⁵⁰⁵ O'Donnell, *Session Laws, 1991, LB 549*, 1533-1534.

⁵⁰⁶ O'Donnell, *Session Laws, 1991, LB 549*, 1544.

⁵⁰⁷ O'Donnell, *Session Laws, 1991, LB 549*, 1547.

⁵⁰⁸ D. B. Ackerman, *School Retirement System of the State of Nebraska System Actuary's Report Fortieth Actuarial Valuation June 30, 1991*, (unknown: TPF&C, A Towers Perrin Co., 1991).

1992. During the Ninety-Second Legislature in 1992, a Legislative Resolution was proposed by Senator Coordsen (32) to request for the Nebraska Retirement Systems Committee to conduct an interim study on the feasibility of allowing public school teachers who had years of service in non-public schools to purchase creditable years of service for their non-public teaching years.⁵⁰⁹

Making its way to law was one bill that affected both retirement systems. LB 1001 was introduced by Senators Horgan (4), Lynch (13), Nelson (35), and Will (8) with the intent of transferring certain powers from the board of education to the trustees, to change provisions relating to annuities, and to authorize the acceptance of cash rollover contributions, with emergency clause attached.⁵¹⁰ Through the session, portions of several other bills merged with LB 1001 through amendment. AM5290 included parts of LB 41, LB1071, LB 1072, LB 1125, and LB 1153.⁵¹¹ The Final Reading of the bill was much different, consequently, than the first reading. Items added that were still pertaining specifically to the retirement systems were:

- Change provisions related to reporting duties
- Provide additional provisions for uses of proceeds of bond issues under Nebraska Investment Finance Authority Act
- Provide for expenses for governing board members

⁵⁰⁹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Second Legislature, Second Session* (Lincoln, NE: 1992), 1363-1364, accessed on June 9, 2015, <http://nebraskalegislature.gov/FloorDocs/92/PDF/Journal/r2journal.pdf>.

⁵¹⁰ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 202-203.

⁵¹¹ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2239.

- Cost-of-living adjustments, buy-backs, formula annuities, survivorship annuities, and the acceptance of cash rollover contributions
- Credit for military service under the School Employees Retirement System⁵¹²

The recorded vote was forty-four members affirmative, none negative, and five members not voting.⁵¹³ The bill was approved by Governor Nelson on April 17.⁵¹⁴

The School Employees Retirement System was amended by LB 1001 in §79-1501 by slightly changing the definition of “public school” to include other entities established, controlled, and maintained by school boards.⁵¹⁵

§79-1515 was amended to state that any person who had signed a contract to serve as a school employee, and who then entered into and served in the Armed Forces, or was drafted under a federal mandatory draft law into the Armed Forces during a time of peace, could buy up to four years of creditable service after honorable discharge when returning to school employment, or five years if the fifth year of deployment was at the request of and for the convenience of the federal government. This did not apply to those retired before the effective date of the act.⁵¹⁶

The reporting of financials changed in this actuarial year, with no separate funded status reported for the service annuity and the formula annuity plan. Instead, the funded percentage of the plan was simply reported at eighty-six and one half percent as of June 1991, and ninety-one and one half percent as of June 1992. This better illustrated the

⁵¹² O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2255-2256.

⁵¹³ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2256.

⁵¹⁴ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2293.

⁵¹⁵ O'Donnell, *Session Laws, 1992, LB 1001*, 979.

⁵¹⁶ O'Donnell, *Session Laws, 1992, LB 1001*, 982.

strength of the plan. In addition to the seven-tenths percent statutory contribution, just under \$2 million deposit was also required of the state. The assumed rate of return continued to be eight and one half percent, but the actual return was over ten percent, and total present and projected assets and liabilities were valued at slightly more than \$2.6 billion. The amount of active contributing members increased to 36,694.⁵¹⁷

1993. One bill, which generated much discussion, was passed to amend the School Employees Retirement System in 1993. LB 292 was introduced by Senators Crosby (29) and Fisher (35) to change the retirement date and benefit provisions, to create and provide uses for a fund, and to assign powers to the PERB, with emergency.⁵¹⁸ Discussion of the bill led to questions for, and documented opinions from, Attorney General Don Stenberg. The first opinion he presented was regarding the constitutionality of cost-of-living adjustments (COLA), and allowing the PERB the authority to direct funds to cover such increases. His opinion stated that Nebraska Supreme Court decisions supported COLA, and that it was a normal and commonly accepted practice in retirement plans.⁵¹⁹ His second opinion regarding whether or not the increased general fund expenditures due to LB 292 would be exempt from budget growth limitations of Tax

⁵¹⁷ D. B. Ackerman and M. A. Wilborn, *School Retirement System of the State of Nebraska, Forty-First Actuarial Report for the State Fiscal Year Ending June 30, 1994 and System Plan Year Beginning July 1, 1992*, (unknown: Towers Perrin, 1992).

⁵¹⁸ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Third Legislature, First Session* (Lincoln, NE: 1993). Accessed on June 10, 2015 at <http://nebraskalegislature.gov/FloorDocs/93/PDF/Journal/r1journal.pdf>. 158.

⁵¹⁹ O'Donnell, *Legislative Journal, Ninety-Third Legislature, First Session*, 1197-1199.

Equity and Educational Opportunity Act (TEEOSA) indicated such budget increases for school districts would not be exempt from growth limitations.⁵²⁰

The opinion resulted in a slight modification of the original bill, when heard at Final Reading. Added to the original provisions of the bill was to provide that certain expenditures would be subject to budget limitations. With a vote of forty-three affirmative, four negative, and two members not casting votes, the bill passed.⁵²¹ It was signed by Governor Nelson on June 4.⁵²²

LB 292 made changes to §79-1522.01 regarding the formula annuity retirement allowance. Added was an additional percentage on which the final average compensation portion of the formula would be calculated; for those still actively employed as of June 1, 1993, the amount would be based on one and seventy-three hundredths percent of average final compensation. The bill was also amended to state that if a member retired after age sixty, but before sixty-five, and had at least five but fewer than thirty years of creditable service, the annuity amount would be reduced by three percent for each year by which the members age was less than the age at which the member's age plus years of service would have totaled ninety years, or three percent for each year after the member's sixtieth birthday but prior to his or her sixty-fifth birthday, whichever provided the greater annuity. Stricken was the provision that detailed how members age, versus years of service, would result in a reduction of benefits if younger than sixty-five.⁵²³

⁵²⁰ O'Donnell, *Legislative Journal, Ninety-Third Legislature, First Session*, 1623.

⁵²¹ O'Donnell, *Legislative Journal, Ninety-Third Legislature, First Session*, 2749-2750.

⁵²² O'Donnell, *Legislative Journal, Ninety-Third Legislature, First Session*, 2777.

⁵²³ Patrick J. O'Donnell, *Session Laws, 1993, LB 292* (Lincoln, NE: 1993), 1294-1295.

The requirement that a member must have at least one half year of service after August 24, 1975 to be eligible to use the five fiscal years calculation to determine final average compensation was stricken. Added was that a retired member could be employed with any postsecondary institution falling under the direction of the Board of Trustees of the Nebraska State Colleges, Board of Regents, or Community College Board of Governors without loss of retirement benefits, and without having to notify the retirement board.⁵²⁴

Added by the act was the creation of a School Employees Retirement System Reserve Fund to provide for regular cost-of-living adjustments (COLA) for retired members. As of July 1, 1993 all members would be required to contribute a non-refundable three-tenths percent of their compensation, to be matched by the employer, to this fund. When enough monies were built up to provide a COLA for all qualifying members, the retirement board would determine the amount required based on cost-of-living and wage increases. This intent of the fund was to provide on-going increases, paid to retiree or beneficiary, for life.⁵²⁵

A section was also added to §79-1549 to detail that increases in school budgets because of the passage of the bill would not be exempt from the growth limitations placed on schools by TEEOSA.⁵²⁶

The plan added nearly 1,000 contributing members, reaching 31,622, and salaries grew by over four point nine percent. Once again, the plan returned over ten percent on

⁵²⁴ O'Donnell, *Session Laws, 1993, LB 292*, 1296.

⁵²⁵ O'Donnell, *Session Laws, 1993, LB 292*, 1296-1297.

⁵²⁶ O'Donnell, *Session Laws, 1993, LB 292*, 1298.

investments, and its funded status grew to ninety-two and one half percent. The additional state contribution was lowered to \$1.7 million, and the actuarial present and projected liabilities were nearly \$2.8 billion.⁵²⁷

1994. In 1994, three bills passed that made changes to the retirement system for teachers: LB 833, LB 1066, and LB 1306.

LB 833 was introduced by members of the Nebraska Retirement Systems Committee, Horgan (4), Crosby (29), Day (19), Fisher (35), Moore (24), and Robak (22). The intent of the bill was to change provisions relating to state and local retirement systems, and to repeal §79-1522.03.⁵²⁸ Upon Final Reading, the bill was passed with emergency clause with a vote of forty-four affirmative, none negative, and five members not voting; also passed with LB 833A to pay for the provisions in LB 833.⁵²⁹ Governor Nelson signed the bill on April 19, with a statement that he had returned the bill signed, but with a line item veto on LB 833A related to personal service authorization.⁵³⁰

The enactment of LB 833 added to §79-1501.01. A great deal of information was added pertaining to calculation of benefits, how compensation was defined according to Internal Revenue Code of 1986, section 415, what constituted a limitation year, and maximum benefits payable in any limitation year. The benefit received was required to be the lesser of ninety thousand dollars, as adjusted, or one hundred percent of a

⁵²⁷ D. B. Ackerman and M. A. Wilborn, *School Retirement System of the State of Nebraska, Forty-second Actuarial Report for State Fiscal Year Ending June 30, 1995 and System Plan Year Beginning July 1, 1993*, (unknown: Towers Perrin, 1993).

⁵²⁸ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Third Legislature, Second Session* (Lincoln, NE: 1994), 57, accessed on June 10, 2015, <http://nebraskalegislature.gov/FloorDocs/93/PDF/Journal/r2journal.pdf>.

⁵²⁹ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 2107.

⁵³⁰ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 2159.

member's compensation averaged over the three consecutive highest years, payable as a straight life annuity, or adjustments would be made for other forms of annuity.

Adjustments would not be made for joint or survivor annuities.⁵³¹

If a member retired before sixty-two, the amount would be reduced, but not lower than seventy-five thousand (based on the max ninety-thousand calculation) if the benefit began after age fifty-five. If a benefit began after the age of sixty-five, the amount would be adjusted to the actuarial equivalent of the ninety thousand dollar limit. Those limits would be adjusted annually according to Internal Revenue Code adjustments. Also included were many scenarios possible, and what numbers and percentages would be used to calculate benefits based on any combination of scenarios.⁵³²

§79-1528 was also added to, with a sub-section three that detailed how surviving spouse, beneficiaries, or the estate of a member would be entitled to all these provisions, which would commence immediately upon the death of a member.⁵³³

LB 1066 was introduced by Senator Chambers (11), relating to the investment of public funds⁵³⁴ and he identified the bill as his priority for the session.⁵³⁵ Upon Final Reading, the bill included a provision for duties for the State Investment Officer with respect to corporations doing business in Northern Ireland. The bill passed with

⁵³¹ Patrick J. O'Donnell, *Session Laws, 1994, LB 833* (Lincoln, NE: 1994), 464.

⁵³² O'Donnell, *Session Laws 1994, LB 833*, 465-467.

⁵³³ O'Donnell, *Session Laws 1994, LB 833*, 467.

⁵³⁴ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 296-297.

⁵³⁵ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 785.

emergency with a vote of thirty-four affirmative, five negative, and ten members not voting.⁵³⁶ It was signed on April 19.⁵³⁷

LB 1066 simply changed language, specifying the name of the acts, Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, rather than the codified statute, in §79-1556.⁵³⁸ The bill also repealed §79-1051.06 of the Class V School Retirement System.

LB 1306 was introduced by members of the Nebraska Retirement Systems Committee, as well. The intent of the bill was to change provisions relating to deferred annuity, death benefits, late fees, contributions, eligibility requirements, retirement age, and compensation, and to eliminate provisions relating to the purchase of service credit by school employees.⁵³⁹ The Committee identified LB 1306 as their priority bill during the session.⁵⁴⁰ The bill was amended slightly upon final reading, with an additional reference to change provisions relating to transfer of monies to state funds, with emergency clause attached, and the recorded vote was forty-four affirmative, no negative, and five not voting.⁵⁴¹ The bill was approved on April 7 by Governor Nelson.⁵⁴²

The School Employees Retirement System was amended by 1306 in §79-1533, by stating that if reports or payments were late, the retirement board would charge the school district the amount which the interest which would have accrued if the delinquent report

⁵³⁶ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 2067.

⁵³⁷ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 2160.

⁵³⁸ O'Donnell, *Session Laws, 1994, LB 1066*, 911.

⁵³⁹ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 416.

⁵⁴⁰ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 750.

⁵⁴¹ O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 1741.

⁵⁴² O'Donnell, *Legislative Journal, Ninety-Third Legislature, Second Session*, 1813.

caused the employee to lose interest on his or her account. §79-1551 was changed, regarding the Reserve Fund, to provide for cost-of-living adjustments, to state that members who received a refund of account after July 1, 1993 would also receive a refund of deposits into the Reserve Fund, in excess of two dollars, a change from deposits being non-refundable. Sections §79-1514.07 and §79-1514.09 were repealed.⁵⁴³

Actuaries reported the funded status of the plan dropped slightly in 1994 to ninety-one percent, as the rate of return on annual investments dipped down to three and sixty-six one-hundredths percent. The amount of active participants grew to 32,363, and payroll increased more than six percent from the previous year. The state was asked to contribute \$4.4 million in addition to the seven-tenths of all contributions.⁵⁴⁴

1995. During the first session of the Ninety-Fourth Legislature, the address delivered by Governor Ben Nelson included a request for the Unicameral to merge the administrative functions of Public Employees Retirement Systems and the Investment Council, into one Department of Administrative Services.⁵⁴⁵ This was an effort to streamline government functions and duties.

During the session, Senator Wickersham proposed Legislative Resolution 165 to conduct an interim study to review the conclusions of the study from LR 382 in 1992, review and evaluate Nebraska policies on the purchase of prior service credit, or “buy

⁵⁴³ O'Donnell, *Session Laws, 1994, LB 1306*, page unknown.

⁵⁴⁴ D. B. Ackerman and M.A. Wilborn, *School Retirement System of the State of Nebraska, Forty-Third Actuarial Report for State Fiscal Year Ending June 30, 1996 and System Plan Year Beginning July 1, 1994*, (unknown: Towers Perrin, 1994).

⁵⁴⁵ O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fourth Legislature, First Session* (Lincoln, NE: 1995), 262, accessed on June 11, 2015, <http://nebraskalegislature.gov/FloorDocs/94/PDF/Journal/rljournal.pdf>.

back” for retirement systems under the authority of the PERB. Also requested was to conduct a comparison of the “buy-back” provisions in the three different defined benefit plans for public employees, to identify additional periods of time that could be purchased, to review methods for allocating costs, to review the need to track the actuarial cost, and to identify subsidies.⁵⁴⁶

Wickersham also introduced LR 167, with a request to conduct a study on the “retire/rehire” policies of retirement systems.⁵⁴⁷

LB 501, LB 502, and LB 574 were passed by the Unicameral in 1995, making modifications to the School Employees Retirement Act.

LB 501 was introduced by the Nebraska Retirement Systems Committee, Senators Wickersham (49), Crosby (29), Lynch (13), Robak (22), and Wehrbein (2). The intent of the bill was to change provisions regarding the vesting credit and eligibility of members.⁵⁴⁸ The bill passed on Final Reading, with a vote of thirty-five affirmative, no negative, and fourteen members not voting.⁵⁴⁹ The bill was approved by Governor Nelson on March 21.⁵⁵⁰

LB 501 added sections to §79-1501.01 to clarify employees could, within thirty days of commencing employment in a public school, apply for vesting credit for years participating in another government plan. These years would not be used as years of service to calculate benefit, but only to earn credit toward vestment in the school plan.

⁵⁴⁶ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2244.

⁵⁴⁷ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2245.

⁵⁴⁸ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 322.

⁵⁴⁹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 1138.

⁵⁵⁰ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 1217.

From the date of the enactment of this bill, then current employees who were eligible to take advantage of this provision could request to do so.⁵⁵¹

LB 502 was introduced by the committee to provide for bidding of actuarial services. It passed with a vote of thirty-five affirmative, none negative, and fourteen members not voting. The Governor signed the bill on March 21.⁵⁵²

The passage of this bill made very minor adjustments to §79-1503.01, by stating that actuarial services would be attained pursuant to the amended §84-1503.02(g).⁵⁵³

LB 574 passed, and was a bill that made very minor changes to the School Employees Retirement Act. Its passage amended many codified statutes to simply change the way to which the Internal Revenue Code was referred.⁵⁵⁴

A major status upgrade in the funded level of the plan occurred in 1995, with an increase to ninety-nine and five tenths percent. The plan experienced a rate of return on investments of more than fifteen percent, and active participants grew to more than 33,000, with a payroll increase of more than five and one half percent. The state was only asked to contribute just over \$800,000, the lowest amount in many years.⁵⁵⁵

1996. The Ninety-Fourth Legislature in 1996 passed several bills that made revisions to the retirement system; LB 700, LB 847, LB 900, LB 1050, LB 1076, and LB 1273.

⁵⁵¹ Patrick J. O'Donnell, *Session Laws, 1995, LB 501* (Lincoln, NE: 1995), 970.

⁵⁵² O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 322; 1138; 1217.

⁵⁵³ O'Donnell, *Session Laws, 1995, LB 502*, 973.

⁵⁵⁴ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2655, 2744; O'Donnell, *Session Laws, 1995, LB 574*, 1111-1114.

⁵⁵⁵ D. B. Ackerman, *School Retirement System of the State of Nebraska, Final Report, Forty-Fourth Actuarial Report for State Fiscal Year Ending June 30, 1997 and System Plan Year Beginning July 1, 1995*, (unknown: Towers Perrin, 1996).

Senator Wickersham (49) introduced LB 700 to the Unicameral to define terms, maintain purchasing power of retirement benefits, create funds and provide uses, and to require the transfer of funds.⁵⁵⁶ After a Final Reading with emergency, the bill passed with a vote of forty-two affirmative, one negative, and six members not voting.⁵⁵⁷ The Governor approved the bill on April 9, along with LB 700A to fund the provisions.⁵⁵⁸

LB 700 made many minor changes to definitions in §79-1501, and added two additional definitions; that of “current benefit,” meaning the initial amount before increased by adjustments and made pursuant to section eight of the act, and that of “initial benefit,” meaning the benefit calculated at the time of retirement.⁵⁵⁹

Two sections were added, creating and providing uses for the School Employees Purchasing Power Stabilization Fund. The special fund was created to reflect changes in cost of living and wage levels after the date of retirement, which would have reduced the purchasing power of retirement benefits. The state would be required to contribute a set dollar amount annually, certified by the board, to the fund. From the enactment of the bill in 1996-1997 until the 2010-2011 fiscal year, the set amount was to be 81.7873% of \$6,895,000. Any money available to invest was to be invested by the state investment officer. From the first payment of the sixth year of receiving initial benefits, the benefit

⁵⁵⁶ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fourth Legislature, Second Session* (Lincoln, NE: 1996), 45, accessed on June 11, 2015, <http://nebraskalegislature.gov/FloorDocs/94/PDF/Journal/r2journal.pdf>.

⁵⁵⁷ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 1831.

⁵⁵⁸ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 1920.

⁵⁵⁹ Patrick J. O’Donnell, *Session Laws, 1996, LB 700* (Lincoln, NE: 1996), 262.

amount of a member would be increased by thirty-hundredths of one percent, paid from this fund.⁵⁶⁰

Additional changes made by LB 700 were in §79-1522.01, regarding the formula annuity. The formula annuity would be calculated by multiplying years of creditable service by the following:

- One and one-quarter percent for a member with one-half year or more of creditable service after August 24, 1975
- One and one-half percent for a member with one-half year or more of creditable service following July 17, 1982
- One and sixty-five hundredths percent for a member with one-half year or more of creditable service after July 1, 1984
- One and seventy-three hundredths percent for a member actively employed with a contract after June 5, 1993
- One and eight-tenths percent for a member with one-half year of creditable service or more after July 1, 1995, and was under contract or employed as of the effective date of the act.⁵⁶¹

Obsolete calculation formulas were stricken from the act.⁵⁶²

§79-1531 was added to, regarding deposits into the School Employee Savings Fund for formula annuities, to state for the fiscal year beginning July 1, 1996 the employee percentage of contribution would be seven and twenty-five hundredths percent

⁵⁶⁰ O'Donnell, *Session Laws, 1996, LB 700*, 262.

⁵⁶¹ O'Donnell, *Session Laws, 1996, LB 700*, 262.

⁵⁶² O'Donnell, *Session Laws, 1996, LB 700*, 263.

of compensation, of which three-tenths of one percent shall be transferred into the School Employees Retirement System Reserve Fund. Further detailed in the section was the formula the actuary would use to determine the rate of contribution from that point forward. Obsolete calculation formulas were stricken from the section.⁵⁶³

§79-1551 was amended, in sub-sections two, three, four, and six, by adding that member and employer contributions to the Reserve Fund would cease on the first month following the month when funds were sufficient to provide a one-time cost-of-living benefit adjustment. When levels reached this amount, the board would administer the one-time three percent benefit. When all members entitled to such benefit had received it, the remaining funds would be transferred to the School Employees Purchasing Power Stabilization Fund.⁵⁶⁴

LB 847 was introduced by Senator Wickersham, at the request of Governor Nelson, and as notated in the State of the State address in 1995, to create an investment and retirement division of the Nebraska Department of Administrative Services, that a director would be appointed by the Governor for Nebraska Public Employees Retirement System (NPERS), the provisions relating to membership of Nebraska Investment Council and NPERS would change, and to transfer and divide powers.⁵⁶⁵ Some provisions of LB 562, LB 368, LB 528, LB 562, LB 986, and LB 1075 were amended into LB 847 through AM2684. The Final Reading included provisions for military service credit and rollover contributions and distributions, changes of provisions relating to the legal advisor of the

⁵⁶³ O'Donnell, *Session Laws, 1996, LB 700*, 264.

⁵⁶⁴ O'Donnell, *Session Laws, 1996, LB 700*, 264-265.

⁵⁶⁵ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 55.

retirement system and the PERB, and to change investment provisions for retirement funds and deferred compensation. With a vote of forty-two affirmative, none negative, and seven not voting, the bill passed.⁵⁶⁶ The Governor signed the bill on April 3.⁵⁶⁷

LB 847 change amended the definition of “actuarial equivalent” in §79-1501, by adding that when a lump sum settlement was made, the interest rate would be determined by the Moody’s Triple A Bond Index as of the prior June 30, rounded up to the next lower quarter percent. The definition of “compensation” was modified to mean gross wages, not including compensation for unused sick leave, vacation leave, insurance premiums, reimbursement for expenses, fringe benefits, or bonuses for early retirement, inducements, cash awards, and severance pay. It did include overtime, retirement contributions, and amounts contributed by the member to plans allowable under Internal Revenue Codes.⁵⁶⁸

Obsolete language was stricken, regarding duties of the board, due to the reorganization efforts of LB 847, from §79-1503.

In §79-1515 regarding military deployment, sub-section three was added, detailing that re-employment after military deployment after December 12, 1994, would be treated as if there were no break in service, and the school would be liable for funding obligations of the plan.⁵⁶⁹

⁵⁶⁶ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 1680.

⁵⁶⁷ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 1914.

⁵⁶⁸ O’Donnell, *Session Laws, 1996, LB 847*, 298.

⁵⁶⁹ O’Donnell, *Session Laws, 1996, LB 847*, 299.

Section thirty-one of the bill added information regarding rollover distributions into eligible retirement plans according to Internal Revenue Code, and that cash rollovers would be accepted, but not in excess of the amount of the cost of years of creditable service the employee was buying.⁵⁷⁰

LB 900 was introduced by Senator Bohlke (33) to transfer, combine, and eliminate sections, and eliminate provisions that were obsolete or expired, from a multitude of codified statutes.⁵⁷¹ The bill passed with a vote of thirty-nine affirmative, none negative, ten members not voting, and the Governor approved it.⁵⁷²

While a comprehensive bill, LB 900 did very little but make sure that all funds, systems, and sections were properly termed throughout the School Employees Retirement Act, and no change was made to any provisions of the act.⁵⁷³

LB 1050 was introduced by the Education Committee with regards to the Tax Equity and Educational Opportunity Act (TEEOSA).⁵⁷⁴ The bill passed, and made a minor change to the School Employees Retirement Act, in §79-1522.01, adding the statement that payments pursuant to section thirty-four and thirty-five of the act would not be included in the determination of final average compensation.⁵⁷⁵

Members of the Nebraska Retirement Systems Committee, Wickersham (49), Crosby (29), Robak (22), Wehrbein (2), Witek (31), and Lynch (13), introduced LB 1076

⁵⁷⁰ O'Donnell, *Session Laws, 1996, LB 847*, 200.

⁵⁷¹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 179-181.

⁵⁷² O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 936; 999.

⁵⁷³ O'Donnell, *Session Laws, 1996, LB 900*, 458-479.

⁵⁷⁴ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 239.

⁵⁷⁵ O'Donnell, *Session Laws, 1996, LB 1050*, 1120.

for the purpose of changing and eliminating provisions relating to eligibility and vesting credit, adjustments of contributions and benefits, termination benefits, limitation of actions, certain post-retirement employment, disability, system membership, buy-backs, and contracts for actuarial services, and to define terms.⁵⁷⁶ The Committee designated this as their priority bill during the session⁵⁷⁷ and through amendment, AM3799 merged provisions of LB 361 with the act, and AM 3750 merged provisions of LB 1119 with the act.⁵⁷⁸ The Final Reading of the bill included provisions for purchase of service credit, correction of a reference to a federal act, and to provide powers and duties. The vote was thirty-four affirmative, seven negative, and eight members not voting.⁵⁷⁹ The bill was signed on April 16.⁵⁸⁰

LB 1076 amended §79-1513 to state the employees of the Board of Trustees of the State Colleges or a community college board of governors shall not come under the provisions of the School Employee Retirement Act. §79-1514.01 sub-section two had language removed which had allowed retired members who were re-employed and subsequently re-retired to commence annuity payment any time after the age of sixty and before the age of sixty-five.⁵⁸¹ Added were two sub-sections, the first stating that retired members could return to work in several types of post-secondary institutions without waiving retirement payments, and the second stating that retired members working more

⁵⁷⁶ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 262.

⁵⁷⁷ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 540.

⁵⁷⁸ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 2232.

⁵⁷⁹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 2044.

⁵⁸⁰ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 2090.

⁵⁸¹ O'Donnell, *Session Laws, 1996, LB 1076*, 1185.

than seventy-five percent of the instructional hours in any school year would have retirement benefits reduced by fifty percent, or that retired members could waive payments and return to work full-time by submitting a request on the prescribed forms.⁵⁸²

§79-1522 had a statement regarding the requirement of eligibility and vesting credit for a member who had at least five years of creditable service, and was at least sixty years of age, to be able to retire, added.⁵⁸³ If a member chose a retirement allowance, and the annuity commenced with retirement on or after May 19, 1981, but prior to the member's sixty-fifth birthday, it was to be paid on an actuarially reduced basis, as added to §79-1522. Stricken from the act, in the same section, were sub-sections two through six, regarding purchase of service credit for years teaching out of state, for substitute teaching, for out-of-state teaching after retirement, or for approved leaves of absence.⁵⁸⁴

Changes indicated in §79-1522.01 regarding the formula annuity were those same changes made by LB 700, detailed earlier. Sub-section three of this statute stated that a member at the age of sixty-five would not have a reduced annuity. If retirement began earlier than age sixty, with thirty-five years of creditable service, the annuity would be reduced to the actuarial equivalent of what it would be at sixty-five years of age. Sub-section two was divided into two and three, and the same provision regarding eligibility and vesting credit being required for members older than sixty, with at least five years of creditable service, that was added to §79-1522, was repeated here as well. Since

⁵⁸² O'Donnell, *Session Laws, 1996, LB 1076*, 1186.

⁵⁸³ O'Donnell, *Session Laws, 1996, LB 1076*, 1186.

⁵⁸⁴ O'Donnell, *Session Laws, 1996, LB 1076*, 1187.

language regarding the levels of final average compensation calculation for the formula annuity was added to sub-section two, it was stricken from sub-section three. The original sub-section three was renumbered to be sub-section four, and the original sub-section four was stricken, as was six.⁵⁸⁵

Section twenty-two of the bill detailed that members could decide within three years of employment or re-employment if they wished to purchase up to ten years of service from out-of-state teaching, or from another Nebraska school district subject to another retirement system. Once elected, the member would be given five years from the date of reinstatement to complete the purchase. Purchased time could not exceed years of teaching in an in-state school, and if it did, a refund will be made to the member, and the member will not receive credit for those years.⁵⁸⁶ Section twenty-three of the bill detailed that reinstated teachers could purchase creditable service for a leave of absence, under the same conditions, at the rate of salary immediately received upon reinstatement. Payments would need to include the district share, and interest that would have accrued, and must have been paid in full within five years of reinstatement.⁵⁸⁷

Section twenty-four of the bill stated that members hired or rehired after the enactment of the bill could purchase up to ten years of creditable service from another state, or another school in this state covered by a different retirement plan, the election would need to be made within three years of rehire, and paid to the system within five years. The service credit purchased would not be included in determining final average

⁵⁸⁵ O'Donnell, *Session Laws, 1996, LB 1076*, 1188-1189.

⁵⁸⁶ O'Donnell, *Session Laws, 1996, LB 1076*, 1189.

⁵⁸⁷ O'Donnell, *Session Laws, 1996, LB 1076*, 1189.

compensation. Section twenty-five stated the same for members hired or rehired who wish to purchase service for time a member was on a leave of absence.⁵⁸⁸

§79-1523 had the statement added that disability benefits would begin on the disability retirement date with approval of the board. §79-1533 was amended with the addition that if the board determined the system received contributions or distributions for any reason not in accordance with the provisions in this Act, the board would refund the contributions, or request additional contributions. The board would make rules regarding refunding contributions, the dispute process, and provide notice to all affected persons, sent prior to an adjustment, describing the process for disputing and adjustment of contributions or benefits.

LB 1273 was introduced by the Nebraska Retirement Systems Committee, as well, to adopt the Spousal Pension Rights Act.⁵⁸⁹ At Final Reading the bill received forty-four affirmative votes, no negative, and five members did not vote.⁵⁹⁰ The Governor signed the bill on April 12.⁵⁹¹

§79-1501 was amended by adding the definition of “surviving spouse” as the spouse or former spouse married to the member if survivorship rights were provided in a domestic relations order filed with the board in accordance with the Spousal Pension Rights Act, and that person may supersede the current spouse of the member at the time of death if provided on such order. If the benefits so entitled were less than the value of

⁵⁸⁸ O'Donnell, *Session Laws, 1996, LB 1076*, 1190.

⁵⁸⁹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 451-452.

⁵⁹⁰ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 1969.

⁵⁹¹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*, 2083.

those entitled to the surviving spouse, the spouse married to the member at time of death would be the surviving spouse for the balance of the benefits.⁵⁹² §79-1528 and §79-1552 reflected similar changes due to the act, as well.⁵⁹³

In 1996, the retirement plan was considered more than fully funded, at one hundred two and one-tenths percent. Active participants grew slightly, and payroll increased by just over four percent. The state was required to deposit nothing in addition to the statutory seven-tenths percent, as again the plan experienced a rate of return over fifteen percent.⁵⁹⁴

1997. In 1997, all reference numbers of the codified statutes of the School Employees Retirement Act and the Class V School Employees Retirement Act were adjusted to current statute numbers, due to the reorganization efforts of LB 900 in 1996. The new Act numbers became §79-901 through §79-977 for the School Employees Retirement Act, and §79-978 through §79-9,118 for the Class V School Employees Retirement Act.

Three Legislative Resolutions were introduced to conduct interim studies regarding the retirement systems. Those were LR 146, LR 148, and LR 190.

LR 146 and LR 148 were both introduced by the Nebraska Retirement Systems Committee to conduct studies regarding the process by which information was collected and reported to the PERB, including the adequacy of the statutory processes and

⁵⁹² O'Donnell, *Session Laws, 1996, LB 1273*, 1515.

⁵⁹³ O'Donnell, *Session Laws, 1996, LB 1273*, 1517.

⁵⁹⁴ D. B. Ackerman and D. J. Hansen, *School Retirement System of the State of Nebraska, 1996, Forty-Fifth Actuarial Report for State Fiscal Year Ending June 30, 1997 and System Plan Year Beginning July 1, 1996*, (unknown: Towers Perrin, 1996).

limitations of procedures by which information was conveyed, and to develop a uniform set of criteria to be used in the determination of adequacy for all of the systems under the administration of PERB.⁵⁹⁵

LR 190 was requested by Senator Robinson (16) to study the consequences of adopting into the School Employees Retirement System, a “Rule of Eighty-Five” with a minimum retirement age of fifty-five years.⁵⁹⁶

LB 724 was introduced by Senator Wickersham (49) to authorize agreements for purchase of service credits.⁵⁹⁷ The bill title was unchanged at Final Reading, and a vote of forty-five affirmative, none negative, and four members not voting was recorded.⁵⁹⁸ Governor Nelson signed the bill on June 9.⁵⁹⁹

LB 724 amended the School Employees Retirement System by adding a provision and conditions by which an employee, who, being within twelve months of retirement, could purchase up to an additional five years of service credit. Paying for such credit could be worked out between the school district and the employer, and the amount paid would not be used to calculate the final average compensation. If the employee did not retire within twelve months as agreed, the amount would be refunded to the employee,

⁵⁹⁵ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fifth Legislature, First Session* (Lincoln, NE: 1997). Accessed on June 15, 2015, <http://nebraskalegislature.gov/FloorDocs/95/PDF/Journal/r1journal.pdf>. 2086-2088.

⁵⁹⁶ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2211.

⁵⁹⁷ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 369.

⁵⁹⁸ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2578.

⁵⁹⁹ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2701.

without interest, and all payments toward the extra years had to be made before retirement began.⁶⁰⁰

LB 347 was introduced by Senators Bohlke (3), and McKenzie (34) to change provisions relating to schools, education, penalties, and districts.⁶⁰¹ This bill was considered further by the Education Committee⁶⁰² and when presented at Final Reading, the vote was forty-four affirmative, none negative, and four members did not vote.⁶⁰³ Governor Nelson signed the bill on March 10.⁶⁰⁴

Amendments made by LB 347 included changes to §79-902, by eliminating the definition of “Senior School Employee,” renumbering the remaining definitions, and modifying the definition of “Public School” as that of offering instruction in elementary or high school grades as defined in §79-101.⁶⁰⁵

LB 623 was introduced by the Nebraska Retirement Systems Committee members, Senators Wickersham (49), Crosby (29), Lynch (13), C. Peterson (35), Stuhr (24), and Wehrbein (2). The bill intended to provide for benefit limitations, custodial funds, deferred compensation, purchase of service credit, domestic relations orders, custodian of school funds, and mandatory retirement.⁶⁰⁶ The Final Reading of the bill included an emergency clause, and all provisions relating to school retirement remained,

⁶⁰⁰ Patrick J. O’Donnell, *Session Laws, 1997, LB 724* (Lincoln, NE: 1997), 1346.

⁶⁰¹ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 252.

⁶⁰² O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 296.

⁶⁰³ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 868.

⁶⁰⁴ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 989.

⁶⁰⁵ O’Donnell, *Session Laws, 1997, LB 347*, 751-752.

⁶⁰⁶ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 340.

as introduced. The vote was thirty-nine affirmative, none negative, and ten members did not vote.⁶⁰⁷ The bill was approved on March 26.⁶⁰⁸

Changes made by LB 623 to the School Employees Retirement System included describing and providing for duties of the State Treasurer, as custodian of funds, providing that retirement funds from a Class V school district could be rolled over directly into a retirement account legislated by §79-901 through §79-977, providing that purchasing certain service years could be accomplished through direct payment, installment payments, or irrevocable payroll deduction, and defining the limitation year as January 1 through December 31. Removed were §79-936 sub-section one, and §79-937 sub-section two (b), both regarding 415 Compensations as defined by Internal Revenue Code. The maximum benefit payable in a limitation year was increased from ninety thousand dollars to one hundred twenty-five thousand dollars. Added to §79-958 was that employers were to pick up member contributions through irrevocable payroll deduction.⁶⁰⁹

LB 624 was also introduced by the senators of the Retirement Committee, detailed to change provisions relating to membership, service, retirement age, termination of employment, re-employment, repayment of benefits, cash rollover contributions, interest, prior service credit, investments, deferred annuities, and breaks in service.⁶¹⁰ Included upon Final Reading, due to amendment AM0759, incorporating sections of LB

⁶⁰⁷ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 1164-1165.

⁶⁰⁸ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 1248.

⁶⁰⁹ O'Donnell, *Session Laws, 1997, LB 623*, 1182-1193.

⁶¹⁰ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 341.

96 and LB 330⁶¹¹ were provisions relating to death benefits and deferred compensation as well, and the vote was forty-two members affirmative, no members negative, and seven members not voting.⁶¹² The bill was signed on June 4.⁶¹³

Of the School Employees Retirement System, §79-902 was changed in the definition of “regular interest” to mean fixed at a rate equal to the bond equivalent yield, as published by the Secretary of the Treasury of the United States. The definition of “service” was changed as well, to mean employment as a school employee without certain interruptions, and a definition of “termination” was added as a subsection of definition number thirty-nine, stating that the employer would determine when termination occurred. §79-910 had sub-section two added, to explain that membership in this system did not disqualify a member for membership in another public retirement system, nor did membership in another public system disqualify one from membership in the School Employees Retirement Act. Section nineteen of the bill made changes to §79-922, striking the provision that if a member were to return to employment in a school, except under certain conditions, retirement payments would cease. Under the new provision, a retired member returning to work would continue to receive payments, and a new account would be created and new contributions would be made to the new account.⁶¹⁴

⁶¹¹ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2951.

⁶¹² O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2450-2451.

⁶¹³ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2663.

⁶¹⁴ O'Donnell, *Session Laws 1997, LB 624*, 1217-1221.

The funded status steadily grew, topping out at one hundred nine percent in 1997, while the rate of return on investments saw an all-time high of nearly eighteen and one half percent. The amount of contributing members remained steady, and payroll increased by just over four percent, and once again, the state made no additional deposit.⁶¹⁵

1998. In 1998, during the second session of the Ninety-Fifth Legislature, several bills were passed that made changes to the School Employees Retirement System.

LB 532 was introduced by Senators Robak (22) and Crosby (29) to provide for a supplemental retirement benefit for certain employees, and to change provisions relating to funding.⁶¹⁶ The Nebraska Retirement Systems Committee designated this as one of their priority bills during the session.⁶¹⁷ Upon Final Reading with emergency, the title no longer provided for change relating to funding, and the vote recorded was forty-five affirmative, one negative, and three members did not vote. The bill was signed on April 14.⁶¹⁸

LB 532 added two sections to the School Employees Retirement Act, providing for an annual adjustment to be made for each eligible beneficiary with at least five years having received an annuity, with twenty-five years of creditable service, five years of receiving a disability retirement allowance, or five years of receiving a death benefit,

⁶¹⁵ D. B. Ackerman and D. J. Hansen, *School Retirement System of the State of Nebraska, 1997, Forty-Sixth Actuarial Report for State Fiscal Year Ending June 30, 1998 and System Plan Year Beginning July 1, 1997*, (unknown: Towers Perrin, 1997).

⁶¹⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fifth Legislature, Second Session* (Lincoln, NE: 1998), 31, accessed on June 15, 2015, <http://nebraskalegislature.gov/FloorDocs/95/PDF/Journal/r2journal.pdf>.

⁶¹⁷ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 720.

⁶¹⁸ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 1943-1944; 1985.

whose monthly accrual rate was less than or equal to the minimum rate of eighteen dollars initially. The monthly accrual rate was determined by dividing the member's monthly benefit by the amount of years of service. Members who qualified would receive a benefit of their monthly payment multiplied by the lesser of either three percent, or the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, published by the Bureau of Labor Statistics, with certain conditions according to the year in which the amount would be calculated. The amount of monthly benefit would never be less than this adjusted amount, and when again the member become eligible for the adjustment, it would be granted.⁶¹⁹

LB 822 was introduced by Senators Robinson (16), Brown (6), Crosby (29), Janssen (15), Lynch (13), and Stuhr (24). The intent of the bill was to introduce a change to retirement annuity and age provisions, and to exempt certain expenditures from levy limits.⁶²⁰ The bill advanced to Final Reading, where it received a nod from the legislature with a vote of thirty-four affirmative, three negative, and twelve members not casting votes.⁶²¹ Governor Nelson signed the bill on March 3.⁶²²

The bill added provisions to §79-931 known as the "Rule of Eighty-Five." Members could retire at the age of fifty-five, if the sum of years of creditable service and age totaled eighty-five, without receiving a reduction in benefits due to age at retirement.

⁶¹⁹ Patrick J. O'Donnell, *Session Laws, 1998, LB 532* (Lincoln, NE: 1998). 133.

⁶²⁰ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 52.

⁶²¹ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 809-810.

⁶²² O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 891.

To be eligible, a member must have had at least one-half year of creditable service following July 1, 1997.⁶²³

LB 497 was introduced by Senators Will (8), Brown (6), Hartnett (45), Hilgert (7), Kiel (9), Dw. Pedersen (39), Preister (5), Suttle (10), and Withem (14) to change provisions relating to Class V school districts, to name and act, to change the monthly formula retirement annuity, and to provide a cost-of-living adjustment, and was presented with an emergency.⁶²⁴ The bill was voted upon at Final Reading with forty-five members affirmative, none negative, and four members not voting.⁶²⁵ The Governor approved the bill on March 3.⁶²⁶

The bill changed reference from a notation of “§79-978 to §79-9,116” to “Class V School Employees Retirement Act” throughout sections of the School Employees Retirement Act and the Class V School Employees Retirement Act.

LB 1191 was introduced by members of the Nebraska Retirement Systems Committee, Senators Janssen (15), Crosby (29), Lynch (13), C. Peterson (35), Stuhr (24), and Wehrbein (2). The purpose of the bill was to change provisions relating to eligibility and vesting credit, military service credit, purchase of service credit, deferred compensation, contributions, and liability, and to eliminate provisions relating to additions to members’ account.⁶²⁷ The committee designated this as one of their priority

⁶²³ O’Donnell, *Session Laws, 1998, LB 822*, 156-157.

⁶²⁴ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 28.

⁶²⁵ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 758.

⁶²⁶ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 891.

⁶²⁷ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 331.

bills for the session⁶²⁸ and through amendments AM3754, AM3832 and AM2832 incorporated portions of LB 337, LB 1076, and LB 1192, respectively.⁶²⁹ The title at the Final Reading eliminated originally introduced provisions relating to eligibility and vesting credit and military service credit, and added a provision to require actuarial and financial analyses and reports, and to change provisions regarding retirement funds, benefits, service credits, contributions liabilities, records, investments, claims, and penalties. The vote was forty-three members affirmative, none negative, and six not voting.⁶³⁰

In §79-902, the definition of creditable service was modified to include that creditable service would not include wages paid less than the minimum wage as determined by the board, with the intent to defraud the system into crediting extra undeserved years. The definition of “primary carrier” was removed, and subsequent definitions renumbered.⁶³¹

The bill added a sub-section to §79-905 stating that every two years, the board would be required to send a statement of creditable years of service to each member by certified mail with return receipt. If the member wished to dispute anything in the report, it must have been done in writing within ninety days, and included verification of the accurate information. Upon passage of this bill, the board would send such a report of all years of creditable service to that point, with priority going to those who had the most

⁶²⁸ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 720.

⁶²⁹ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 2146.

⁶³⁰ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 1888-1889.

⁶³¹ O'Donnell, *Session Laws, 1998, LB 1191*, 678-680.

years.⁶³² §79-922 had sub-section three stricken, pertaining to substitute teachers, who, under certain requirements, were required to waive their annuity payments.⁶³³

§79-933.03 was added to with a sub-section detailing when members purchased the allowable amount of creditable years of service for years accumulated out-of-state or in a Class V school district, they must provide proof that they had forfeited the benefit for those years from the other district.⁶³⁴ Also added to §79-949 was that the board would deny benefits determined to be fraudulent.⁶³⁵

The Class V School Employees Retirement System was amended by LB 1191 by providing that the administrator of the system would provide to the PERB annually, an audit consisting of the number of persons participating, contribution rates, assets and liabilities, name and positions of persons administering and investing the plan, the form and nature of investments, and reports of defined benefit and defined contribution plans. Every four years, Class V plans would be required to file a full actuarial analysis of defined benefit plans, and a full financial audit and analysis of investments for defined contribution plans, prepared by organizations or entities with demonstrated expertise.⁶³⁶

Growth of the school employees plan continued in 1998, with the funded status growing yet again to one hundred twenty-three percent, due to a rate of return on the market value of nineteen percent, and on the actuarial value of fourteen percent. The

⁶³² O'Donnell, *Session Laws, 1998, LB 1191*, 681-682.

⁶³³ O'Donnell, *Session Laws, 1998, LB 1191*, 682.

⁶³⁴ O'Donnell, *Session Laws, 1998, LB 1191*, 684.

⁶³⁵ O'Donnell, *Session Laws, 1998, LB 1191*, 684.

⁶³⁶ O'Donnell, *Session Laws, 1998, LB 1191*, 686-687.

total of actively contributing members 33,546, whose average compensation was almost \$28,000.⁶³⁷

1999. Governor Mike Johanns took office in January of 1999. In his “State of the State and Budget” address, the governor addressed the School Employees Retirement Act, making the statement that his budget included eliminating a seven-tenths percent of all compensation contribution to the School Retirement System, which had been paid in since 1984. His intent in requesting to eliminate the state contribution was that he believed the responsibility for the system should be placed directly on those who benefit from it.⁶³⁸

The first legislative bill to pass that made changes to the School Employees Retirement System in 1999 was not passed to address the retirement system, but schools. A group of Senators introduced LB 272 to eliminate the office of the county superintendent and provide for county school administrators.⁶³⁹ The bill passed⁶⁴⁰ and made two minor changes to the definitions in §79-902 and §79-960.⁶⁴¹

LB 538 was introduced by members of the Nebraska Retirement Systems Committee, Stuhr (24), Bourne (8), Bruning (3), Crosby (29), and C. Peterson (35). The intent of the bill was to change provisions relating to final average compensation,

⁶³⁷ D. H. Slishinsky and W. B. Fornia, *Nebraska Public Employees Retirement Systems School Retirement System 1998, Forty-Sixth Actuarial Report for State Fiscal Year ending June 30, 2000 and System Plan Year Beginning July 1, 1998*, (Denver, CO: Buck Consultants, 1998).

⁶³⁸ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Sixth Legislature, First Session* (Lincoln, NE: 1999), 362, accessed on June 16, 2015, <http://nebraskalegislature.gov/FloorDocs/96/PDF/Journal/r1journal.pdf>.

⁶³⁹ O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 125.

⁶⁴⁰ O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 2313.

⁶⁴¹ Patrick J. O’Donnell, *Session Laws, 1999, LB 272* (Lincoln, NE: 1999). 33, 36.

disability, and substitute teachers.⁶⁴² The Final Reading title included change provisions for contributing members as well, and the vote was forty-eight affirmative, none negative, and one member not voting.⁶⁴³ The Governor signed the bill on May 25.⁶⁴⁴

Changes made by LB 538 were mainly in §79-902, pertaining to definitions. “Substitute teacher” was clarified to define substitute teachers additionally, as school employees having retired and subsequently provided compensated service on a regular basis in any capacity. These are not to be considered school employees. The definition of “State School Official” was modified to remove reference to the Assistant Commissioner of Education. In the definition of “Final Average Compensation,” added was the provision that, when determining final average compensation, any year during which a salary was increased ten percent or more of what it was the previous year would be excluded from the calculation, unless the member experienced a substantial change in employment position. The definition of “Disability” was modified to mean the inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment, expected to result in death or be of a long an indefinite duration, and the definition of “Substitute” was added to mean employed on an intermittent basis to assume the duties of regular employees.⁶⁴⁵

Introduced by Senator Wickersham (49) was LB 647, with the intent of changing provisions related to the monthly formula annuity, the supplemental benefit for cost of

⁶⁴² O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 222.

⁶⁴³ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 2321-2322.

⁶⁴⁴ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 2405.

⁶⁴⁵ O'Donnell, *Session Laws, 1999, Legislative Bill 538*, page unknown.

living, and to eliminate a fund and transfer the funds.⁶⁴⁶ Through amendments AM852 and AM733, portions of LB 673 and LB 675 were incorporated,⁶⁴⁷ and the bill was passed with emergency. With a provision for eliminating an obsolete reference added to the title, the vote was forty-two affirmative, none negative, and seven members did not vote.⁶⁴⁸ Governor Johanns signed the bill on April 28.⁶⁴⁹

Added to §79-934, because of LB 647, was sub-section two (f) pertaining to the formula annuity calculation used to determine final average compensation for a member. For any member who accumulated at least one-half year of service beyond July 1, 1998 and was employed on or after the operative date of the section, the multiplier used would be one and nine-tenths percent times the years of creditable service.⁶⁵⁰

§79-947.01, pertaining to the supplemental cost-of-living benefit, was modified to detail particular adjustments that would be made to the benefit amount, based on either an increase in the change in the Consumer Price Index, or two percent, whichever is less. Also, the Stabilization Fund used to pay the benefits would be eliminated on July 1, 2000, and all monies transferred to the Annuity Reserve Fund.⁶⁵¹

The Nebraska Retirement Systems Committee introduced LB 703 to change provisions relating to: repayment of contributions, military service credits, deferred compensation, annual benefits and adjustments, investment result liability, disability

⁶⁴⁶ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 254.

⁶⁴⁷ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 2646.

⁶⁴⁸ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 1651-1652.

⁶⁴⁹ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 1752.

⁶⁵⁰ O'Donnell, *Session Laws, 1999, LB 647*, 1-7.

⁶⁵¹ O'Donnell, *Session Laws, 1999, LB 647*, 8.

membership, and administrative expenses.⁶⁵² Amendment AM401 brought in pieces of LB 497 as well, and the final version included a provision relating to consumer price indices.⁶⁵³ The vote after Final Reading was forty-four affirmative, none negative, and five not voting.⁶⁵⁴ The bill was approved on March 24.⁶⁵⁵

LB 703 made changes that impacted the retirement system concerning purchase of creditable service years as prescribed. Throughout §79-921 and §79-933.03-.08, references to “retirement” was modified to mean “termination of employment” when referring to the amount of time that would be allowed for members to complete their purchase of service years.⁶⁵⁶

In 1999 the funded status took a bit of a drop to one hundred five percent, due to retirements and subsequent new hires a lower salaries, meaning a lower amount contributed to the system. The market returned ten percent on investments, with a rate of return of fourteen percent on the actuarial value of the plan. There was a net decrease in the plan reserves due to the passage of LB 674, but still no additional deposit was required of the state.⁶⁵⁷

2000. During 2000, the second session of the Ninety-Sixth Legislature, very few bills were introduced to impact either school retirement system, and only two passed.

⁶⁵² O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 259.

⁶⁵³ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 2652.

⁶⁵⁴ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 1095.

⁶⁵⁵ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 1186.

⁶⁵⁶ O'Donnell, *Session Laws, 1999, LB 703*.

⁶⁵⁷ D. H. Slishinsky and W. B. Fornia, *Nebraska Public Employees Retirement Systems School Retirement System 1999: Forty-seventh Actuarial Report for State Fiscal Year Ending June 30, 2001 and System Plan Year Beginning July 1, 1999*, (Denver, CO: Buck Consultants, 1999).

Two Legislative Resolutions were introduced to provide for interim studies to be conducted to benefit the systems. Those were LR 336, which asked to study sound retirement planning principles, and LR 337, which asked for an interim study to review the processes and criteria used when appointing members to the PERB.

Senators comprising the Nebraska Retirement Systems Committee, Stuhr (24), Bourne (8), Bruning (3), Wehrbein (2), and Wickersham (49), introduced LB 1192. The intent of the bill was to change provisions relating to: membership, reporting and filing of information, liability for certain actions, and bidding processes. Also to redefine terms, provide duties, and eliminate an audit.⁶⁵⁸ The committee designated this bill as their priority during the session,⁶⁵⁹ and through amendment, AM2262 added provisions of LB 676 to the bill.⁶⁶⁰ The Final Reading, with emergency, indicated much of the original intent had been eliminated (membership, liability, bidding), and the vote was forty-three affirmative, none negative, and six members did not vote.⁶⁶¹ Governor Johanns approved the bill on March 21.⁶⁶²

LB 1192 modified §79-902 by modifying the definition of “County School Official” only slightly, indicating a change of terminology would occur after July 1, 2000. The definition of “determination of final average salary” was added to, further clarify the changes made in 1999, stating that if a salary increase of more than ten percent

⁶⁵⁸ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Sixth Legislature, Second Session* (Lincoln, NE: 2000), 241, accessed on June 16, 2015 at <http://nebraskalegislature.gov/FloorDocs/96/PDF/Journal/r2journal.pdf>.

⁶⁵⁹ O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 564.

⁶⁶⁰ O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 560.

⁶⁶¹ O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 1115-1116.

⁶⁶² O’Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 1173.

occurred between years as the results of collective bargaining, the increase would be included in calculation of highest years of service. “Employee” was to mean all certificated or non-certificated employees, and “collective bargaining unit” was a group of employees similarly situated, recognized by the school board to negotiate. The definition of “termination of employment” was amended to detail that retired members must not return to work on a regular basis within the same plan year, or within one hundred eighty calendar days, whichever period was longer.⁶⁶³

§79-906 was added to, detailing that records would be provided on a form by the employer, and the director of the retirement system may from time to time request a sample of records to verify accuracy. Sub-section two was added as well, to provide that the director must develop a program to educate employers. The retirement board would also be required to send a statement every other year to members detailing their account information relevant to determining retirement benefits.⁶⁶⁴

Section fifteen of the bill amended §79-951 regarding disability, to detail that if a disability was school-related, the member would have five years to apply for benefits, but if not, the member only had one year upon termination of employment to apply for benefits.⁶⁶⁵ Other changes made to the School Employees Retirement Act by LB 1192 were mainly clerical in nature.

2001. During the 2001 Legislative Session, the Unicameral passed LB 408, which made changes to the School Employees Retirement System. Introduced by

⁶⁶³ Patrick J. O’Donnell, *Session Laws, 2000, LB 1192* (Lincoln, NE: 2000), 7-10.

⁶⁶⁴ O’Donnell, *Session Laws, 2000, LB 1192*, 11.

⁶⁶⁵ O’Donnell, *Session Laws, 2000, LB 1192*, 12.

members of the Nebraska Retirement Systems Committee, Bruning (3), Bourne (8), Erdman (47), Stuhr (24), Wehrbein (2), and Wickersham (49), the intent of the bill was to change provisions relating to expense funds, purchase of service credit, investment allocations, disability, termination of employment, and employee contributions.⁶⁶⁶ The Committee designated LB 408 as a priority bill for them during the session⁶⁶⁷ and through amendment AM1221, portions of LB 618 relating to investments were merged.⁶⁶⁸ At Final Reading the bill passed with a vote of forty-six affirmative, none negative, and three members not voting.⁶⁶⁹ Governor Johanns approved the bill.⁶⁷⁰

LB 408 made modifications to the definition of regular interest, to mean a fixed rate equal to the daily treasury yield curve for one-year treasury securities on July 1 of each year.⁶⁷¹

More significantly, §79-921 was changed, adding subsections two (b)(i), (ii), and three. These subsections detail under what conditions a member, after withdrawing funds and ceasing to be a member of the system, could purchase refunded years. If an employee would decide after three years of employment, but before terminating employment again, that he or she would like to purchase all or part of the withdrawal that was made to regain service credit years, he or she may do so as long as full payment was

⁶⁶⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Seventh Legislature, First Session* (Lincoln, NE: 2001), 197, accessed on June 16, 2015, <http://nebraskalegislature.gov/FloorDocs/97/PDF/Journal/r1journal.pdf>.

⁶⁶⁷ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 942.

⁶⁶⁸ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 291, 1292.

⁶⁶⁹ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1485-1486.

⁶⁷⁰ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1502.

⁶⁷¹ Patrick J. O'Donnell, *Session Laws, 2001, LB 408* (Lincoln, NE: 2001), 9.

made within five years of such election, or before termination or retirement occurred, by repaying the entire amount plus the annual return that was earned on assets of the system from the time the withdrawal took place until the election was made. If this process was complete, a member's prior creditable service would be fully restored.⁶⁷²

Also passed during the first session of the Ninety-Seventh Legislature was LB 711, which amended both the School Employee's Retirement Act, and the Class V School Employees Retirement Act. LB 711 was introduced by Senator Wickersham (49) initially to change provisions relating to death benefits, the monthly formula annuity, and make benefit adjustments for the School Employee's Retirement Act alone.⁶⁷³

Amendments AM870 and AM913 added provisions from LB 363 relating to judges, LB 596 relating to state patrol, and LB 526 relating to the Class V School Employee's Retirement System to LB 711.⁶⁷⁴ The Final Reading with emergency clause included provisions relating to creditable service, retirement annuities, cost-of-living and medical cost-of-living adjustments, purchase of service credits for maternity leaves of absence, eliminated a tax relating to prior service annuities, and investment reports. It was passed with a vote of thirty-nine affirmative, no negative, and ten members did not vote.⁶⁷⁵ The Governor signed the bill on May 1.⁶⁷⁶

§79-934 of the School Employees Retirement Act had sub-section two (g) added, regarding the formula annuity allowance. Sub-section (g) detailed that the multiplier for

⁶⁷² O'Donnell, *Session Laws, 2001, LB 408*, 12-13.

⁶⁷³ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 311.

⁶⁷⁴ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 593; 1010.

⁶⁷⁵ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1763-1764.

⁶⁷⁶ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1774.

calculating the final average compensation for members under the retirement system after July 1, 2000 would be two percent, which would not apply to those members retired at the time of the enactment of this bill.⁶⁷⁷ §79-947.01 sub-section two had (b) added, stating that beginning July 1, 2001, the current benefit to a member would be increased annually by the lesser of the change in the Consumer Price Index, or two and one-half percent.⁶⁷⁸ §79-956 had section three added that detailed if a member died with more than five, but less than twenty, years of creditable service, the beneficiary could request, within ninety days, a refund of the contributions made by the member, plus an additional one hundred one percent of the member's contribution account balance with interest, or an annuity payable for life equal to the benefit amount that had accrued at the date of the member's death, with certain conditions, adjusted to the form of a one hundred percent joint and survivor annuity.⁶⁷⁹

In 2001, it was reported by actuaries Slishinsky and Fornia of Buck Consultants that no additional state contribution would be required to maintain solvency of the system. While the rate of return on Market Value was minus four and three tenths percent, the rate of return on the Actuarial Value was nine and seven tenths, more than the eight percent projection. LB 711, detailed earlier, increased the formula annuity multiplier, a cost-of-living adjustment was increased to two and one half percent, and survivor death benefits increased. Even with all this taken into consideration, the plan

⁶⁷⁷ O'Donnell, *Session Laws, 2001, LB 711*, 2.

⁶⁷⁸ O'Donnell, *Session Laws, 2001, LB 711*, 3.

⁶⁷⁹ O'Donnell, *Session Laws, 2001, LB 711*, 4.

was considered funded at one hundred seven and one tenth percent, down from the previous year, but still more than solvent.⁶⁸⁰

2002. Members of the second session of the Ninety-Seventh Legislature considered several bills to make changes to the School Employees Retirement Act, and the Class V School Employees Retirement Act. The bills, through amendment, became one: LB 407.

Originally introduced by Senators Bruning (3), Bourne (8), Erdman (47), Stuhr (24), Wehrbein (2), and Wickersham, who made up the Nebraska Retirement Systems Committee, LB 407 intended to provide changes relating to membership, participation, and service for sections of the School Employees Retirement Act.⁶⁸¹ The bill was amended through legislative action to incorporate parts of LB 686, LB 1019, LB 1027, LB 1111, all pertaining to the same act, and LB 1144 pertaining to the Class V School system, through AM2886.⁶⁸² The final version of the bill contained provisions from each of these, including changes relating to: actuarial valuation, contributions, the Nebraska Investment Council, termination of employment, administrative fees, reemployment, compliance audits, rollover distributions and transfer of funds, creating a fund, eliminating and combining certain funds, and changing and eliminating duties and powers of the state investment officer. It was passed with emergency clause, by a vote of

⁶⁸⁰ D. H. Slishinsky and W.B. Fonia, *Nebraska Public Employees Retirement Systems School Retirement System 2000: Forty-Ninth Actuarial Report for State Fiscal Year Ending June 30, 2003 and System Plan Year Beginning July 1, 2001* (Denver, CO: Buck Consultants, 2001). Summary, 4.

⁶⁸¹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Ninety-Seventh Legislature, Second Session* (Lincoln, NE: 2002). Accessed June 16, 2015 at <http://nebraskalegislature.gov/FloorDocs/97/PDF/Journal/r2journal.pdf>. 31.

⁶⁸² O'Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 774.

forty-four affirmative, none negative, and five members not voting.⁶⁸³ Governor Johanns approved the bill on April 17.⁶⁸⁴

Changes made to the definitions in the School Employees Retirement Act were:⁶⁸⁵

- Definition of Junior Employee and Senior Employee both removed.
- “School employee” was clarified to be any contributing member who earned service credit.
- Sub-sections (b) and (c) of the definition of “final average compensation,” regarding the limitation of wage increase annually that could be credited, were removed and interjected into the definition of compensation.
- “Termination” was redefined as a bona fide separation from service of employment with the member’s current employer.
- “Substitute” was redefined to not include regular employees whose role is to assume the duties of others, but only those hired intermittently.
- “Participation” was added as a definition to mean qualifying for the retirement system, and making deposits.
- “Regular employee” was added as a definition, meaning full-time or part-time employees who worked at least fifteen hours per week
- “Temporary employees” definition was added, to mean employees hired by a public school who were not regular employees.

⁶⁸³ O’Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 1634-1635.

⁶⁸⁴ O’Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 1739.

⁶⁸⁵ Patrick J. O’Donnell, *Session Laws, 2002, LB 407* (Lincoln, NE: 2002). 12-15.

§79-910 was amended by adding details to membership qualifications, to include all persons who had an account in the School Retirement Fund, all school employees who must participate, and emeritus members, but not members who were specifically excluded.⁶⁸⁶

§79-916 was amended to detail how, beginning July 1, 2002, rather than the public employees retirement board paying the state share of the Class V School Employee annuity to each member, the retirement board would receive certification of the qualified participants from the Class V system, determine the amount necessary to pay the state share of the annuities to such participants, and transfer the actuarial equivalent of that amount to the Class V system.⁶⁸⁷

A change made to §79-917 added that all employees, except for substitute teachers, would participate in the retirement system, and school districts would ensure that all such employees would begin participation on July 1, or later if hire date dictated, and that all required deposits would be made by districts on behalf of such employees.⁶⁸⁸

Regarding creditable service in §79-927, the bill established guidelines. For hourly wage earners, the amount of hours worked to be credited with one year of service is one thousand; for those working fewer than one thousand hours, the amount of credit to be given would equal one one-thousandth of a year for each hour worked. For non-hourly wage earners, fulltime shall equal one creditable year of service, and for less than full

⁶⁸⁶ O'Donnell, *Session Laws, 2002, LB 407*, 15-16.

⁶⁸⁷ O'Donnell, *Session Laws, 2002, LB 407*, 16.

⁶⁸⁸ O'Donnell, *Session Laws, 2002, LB 407*, 17.

time, workers would be given a fractional credit based on the portion of the year such member was employed.⁶⁸⁹

§79-933.02, providing for cash rollover contributions, had an additional sub-section added to detail that rollovers could be accepted from annuity contracts as described in 403 (b) of the Internal Revenue Code, or a plan described in 457 (b), of the code under certain conditions, or an IRA or annuity as described in 408 (a) or (b) of the code. §79-933.06 indicates those transactions may be a direct trustee-to-trustee rollover.⁶⁹⁰

Sub-section six of §79-934 was mostly stricken, leaving only that going forward, all annuities would be paid from the School Retirement Fund, eliminating many transactions and transfers from different accounts to pay annuities.⁶⁹¹

Much obsolete language was removed from §79-958, and the rate at which members would contribute to the School Retirement Fund beginning July 1, 2002 was set at seven and twenty-five hundredths percent of their total compensation. Likewise, obsolete language was removed from sub-section two of this section of the act.⁶⁹²

Added to §79-960 was a provision to decrease the possible late fee for schools who did not provide requested information or funds to the board, from fifty dollars to twenty-five dollars. However, an additional fee of thirty-eight thousandths of one percent of the amount required could be assessed for each day the request was late and used to

⁶⁸⁹ O'Donnell, *Session Laws, 2002, LB 407*, 17.

⁶⁹⁰ O'Donnell, *Session Laws, 2002, LB 407*, 18-19.

⁶⁹¹ O'Donnell, *Session Laws, 2002, LB 407*, 20.

⁶⁹² O'Donnell, *Session Laws, 2002, LB 407*, 21.

make member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions.⁶⁹³

Section thirty-eight of the bill added governance of the School Retirement Fund, providing for an annual actuarial valuation to be performed, using the entry age actuarial cost method. If the valuation annually determined unfunded liabilities, the amount would be amortized over a twenty-five year period. If the liability based on the formula was zero or less, the liabilities would be considered fully funded. If the required contribution rate exceeded the rate of all contributions, the actuary would determine the added contribution required to be paid by the State of Nebraska that constituted the difference between the actuarially-required contribution rate and the rate of all other required contributions.

§79-966 had obsolete language stricken, and simply stated the state contribution would be determined by the actuary, and detailed in section thirty-eight of the bill.⁶⁹⁴ Also added was sub-section three which legislated the state obligation, in addition to all other payments required, to be deposited on or after July 1, 2011, and each year after, an amount equal to the normal cost of the service annuity benefit established by §79-933 which had accrued during the prior fiscal year for members of both systems. The retirement board would then transfer the amount deposited on behalf of Class V employees to administrators of that system.⁶⁹⁵

⁶⁹³ O'Donnell, *Session Laws, 2002, LB 407, 22.*

⁶⁹⁴ O'Donnell, *Session Laws, 2002, LB 407, 22.*

⁶⁹⁵ O'Donnell, *Session Laws, 2002, LB 407, 23.*

Section forty-two of LB 407 created the School Retirement Fund, and all deposits from all entities required would go in, and all annuities would be paid out, of this Fund. All other accounts previously existing for these purposes transferred funds into the School Retirement Fund as of June 30, 2002.⁶⁹⁶ Multiple references to this new account were made as changes throughout the retirement act.

Buck Consultant Auditors Slishinsky and Holden reported in December 2002 that, although still solvent, the annual rate of return on the Market Value was minus six and one tenth percent, and the rate of return on the Actuarial Value of the system was four and six tenths percent, short of the projected eight percent. There was also decremental loss due to increased salaries greater than expected, which increased the unfunded liability by more than \$48 million. With all this being reported, the plan was still considered funded at one hundred two and seven tenths percent.⁶⁹⁷

2003. Senator Stuhr (24) presented two Legislative Resolutions requesting interim studies in 2003.⁶⁹⁸ LR 128 was regarding a study to examine transfers from the School Employees Retirement System to the Class V School Employees Retirement System. Results would determine the manner in which the transfers were calculated, how the transfers should be made, and what changes to statutes might be necessary.

⁶⁹⁶ O'Donnell, *Session Laws, 2002, LB 407*, 23.

⁶⁹⁷ D. H. Slishinsky and K. L. Holden, *Nebraska Public Employees Retirement Systems School Retirement System 2002: Fiftieth Actuarial Report for State Fiscal Year Ending June 30, 2004 and System Plan Year Beginning July 1, 2002* (Denver, CO: Buck Consultants), Summary, 4.

⁶⁹⁸ Patrick J. O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, First Session* (Lincoln, NE: 2003), 1783, accessed on June 17, 2015, <http://nebraskalegislature.gov/FloorDocs/98/PDF/Journal/r1journal.pdf>.

LR 129 was regarding supplemental benefits for certain retired employees, specifically the medical cost-of-living adjustment, purchasing power percentage adjustments, minimum monthly benefit, or such other benefits as adequate and appropriate to meet the needs of members.

One bill was introduced in 2003 during the first session of the Ninety-Eighth Legislature that passed to make changes to the School Employees Retirement Act.

LB 451 was introduced by the Nebraska Retirement Systems Committee, consisting of Senators Stuhr (24), Erdman (47), Price (26), Synowiecki (7), and Wehrbein (2). The purpose of this bill was to change provisions relating to contributions, expenses, benefit payments and contributions, forfeitures, retirement value, death benefits, fund transfers, and qualified domestic relations orders.⁶⁹⁹ Upon Final Reading with emergency, the additional provisions of changes relating to Public Employees Retirement Board powers and duties were added, and the bill passed with a vote of thirty-eight affirmative, none negative, and eleven members not voting.⁷⁰⁰ Governor Johanns signed the bill on April 16.⁷⁰¹

LB 451 modified the definition of “retirement date,” to be the first day of the month following the termination request, when received by the state on the prescribed form, or if the member had filed an application but had not yet terminated employment, the first day of the month following the date on which the member terminated

⁶⁹⁹ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, First Session*, 188-189.

⁷⁰⁰ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, First Session*, 1250-1251.

⁷⁰¹ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, First Session*, 1299.

employment. A member could file no more than ninety days prior to the effective date of initial benefits.⁷⁰²

§79-932 was modified, regarding the period of time a member had to defer benefits under the retirement system, to include that if a member or beneficiary could not be located given efforts taken by the retirement board, the benefit would be distributed pursuant to the Uniform Disposition of Unclaimed Property Act, and no amounts would be applied to increase the benefits any member would otherwise receive.⁷⁰³

The change made to §79-956 allowed additional time for a beneficiary to elect to receive an annuity as prescribed, from ninety days to one hundred twenty days, in sections one, two, and three.⁷⁰⁴

The actuarial report prepared by Mellon Consultants indicated that no additional state contribution would be necessary for the coming year, yet. However, with additional salary increases greater than expected, lower than projected Market Value and Actuarial Value returns, and withdrawals from the system, the plan solvency dropped from being funded at more than one hundred two percent the previous report, to only ninety-seven and two tenths percent.⁷⁰⁵

2004. During the second session of the Ninety-Eighth Legislature, Senator Stuhr presented a Legislative Resolution, LR 255, with a request to conduct an interim study on a medical cost-of-living adjustment for the School Retirement System. The research was

⁷⁰² Patrick J. O'Donnell, *Session Laws, 2003, LB 451* (Lincoln, NE: 2003), 14-15.

⁷⁰³ O'Donnell, *Session Laws, 2003, LB 451*, 16.

⁷⁰⁴ O'Donnell, *Session Laws, 2003, LB 451*, 16-17.

⁷⁰⁵ D. H. Slishinsky and K. L. Holden, *Nebraska Public Employees Retirement Systems School Retirement System 2000: Fifty-First Actuarial Report for State Fiscal Year Ending June 30, 2005 and System Plan Year Beginning July 1, 2003* (New York, NY: Mellon Consultants, 2003), Summary, 4.

to determine if the benefits were adequate, and what the effect would be of adopting such a cost-of-living adjustment.⁷⁰⁶ The Class V Retirement System already had the benefit of a medical COLA since 2001.

Senator Stuhr also read Legislative Resolution 321, with a request to conduct a study to examine the definition of compensation in §79-902, and to determine whether the provisions were appropriate, in order to ensure the amount of compensation used to calculate benefits would not be increased substantially prior to retirement for the purpose of spiking the amount of benefit received by a member.⁷⁰⁷

LB 961 was introduced by the Nebraska Retirement Systems Committee, members of which were Senators Stuhr (24), Bourne (8), Erdman (47), Price (26), Synowiecki (7), and Wehrbein (2). The bill intended simply to change a mailing requirement, and when passed with a vote of forty-two affirmative, none negative, and seven members not voting, that is exactly what it did.⁷⁰⁸

LB 961 made an adjustment to §79-907, striking all of section one (a), stating that every two years, members would receive a statement of creditable service, reported salary, and other information, by first-class mail, rather than certified, as initially legislated. All of the original section two was stricken as well.⁷⁰⁹

LB 1097, introduced by the Retirement Committee also, was purposed to provide for changes to the School Employees Retirement Act relating to cost-of-living

⁷⁰⁶ Patrick J. O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session* (Lincoln, NE: 2004), 1037, accessed <http://nebraskalegislature.gov/FloorDocs/98/PDF/Journal/r2journal.pdf>.

⁷⁰⁷ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 1326.

⁷⁰⁸ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 169; 1008.

⁷⁰⁹ Patrick J. O'Donnell, *Session Laws, 2004, LB 961* (Lincoln, NE: 2004).

adjustments, supplementary, death, and termination benefits, and medical examinations.⁷¹⁰ Two amendments, AM 2868 and AM 3473, incorporated parts of many other bills. Of those bills, only LB 1132 pertained to the School Employees Retirement system.⁷¹¹ LB 1132 incorporated changing funding provisions relating to the service annuity benefit, and to create a fund.⁷¹² The bill, LB 1097, was designated by the Nebraska Retirement Systems Committee as their priority bill,⁷¹³ and was passed with a vote of forty-five affirmative, none negative, and four members not voting.⁷¹⁴ Governor Johanns signed the bill into law on April 15.⁷¹⁵

LB 1097 made modifications to multiple sections of the School Employee's Retirement Act. Added to §79-916, regarding the transfer of funds from the retirement system to the Class V retirement system were sub-sections two (b), (c), and (d), providing, in detail, a transfer from the School Retirement Fund to the Service Annuity Fund of an amount, based on actuarial accrued liability formula as prescribed, for the employees who are members of the Class V system, to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity, as determined by §79-966.01. At the time a member of the Class V system retired, the prescribed amount

⁷¹⁰ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 294.

⁷¹¹ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 1818; 321.

⁷¹² O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 321.

⁷¹³ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 400.

⁷¹⁴ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 1684.

⁷¹⁵ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 1692.

would be transferred from the Service Annuity Fund to the Class V Retirement system, in lieu of the payment of the service annuity. The Service Annuity Fund was created.⁷¹⁶

§79-921 had sub-section two (b)(ii) stricken, and (b) was reworded so that the amount to be paid, upon purchasing creditable service, would total the amount that would have been paid had the employee remained working, plus an amount equal to the actuarial assumed rate of return for the period.⁷¹⁷

Regarding the supplemental benefit payment in §79-942, the funds used to pay the benefit would come from the School Retirement Fund, and language regarding the comingling of funds was stricken from the section. Sub-section two of §79-946 was written to terminate the existence of the Retired Teachers Supplementary Benefits Fund as of June 30, 2004.⁷¹⁸

An adjustment was made to the formula for calculating current benefits, so purchasing power would be not less than seventy-five percent of the initial benefit. The calculation could not result in reduction of benefits. Reference to the Purchasing Power Stabilization Fund was stricken from the section.⁷¹⁹

Regarding disability, language was added to §79-951 to state the retirement board could waive the medical examination of a member if they determined that extraordinary circumstances existed, such as hospice care or similar confinement for a terminal illness or injury.⁷²⁰

⁷¹⁶ O'Donnell, *Session Laws, 2004, LB 1097*, 13-14.

⁷¹⁷ O'Donnell, *Session Laws, 2004, LB 1097*, 14.

⁷¹⁸ O'Donnell, *Session Laws, 2004, LB 1097*, 15.

⁷¹⁹ O'Donnell, *Session Laws, 2004, LB 1097*, 15.

⁷²⁰ O'Donnell, *Session Laws, 2004, LB 1097*, 16.

§79-966 had existing sub-section three stricken, and re-written to detail how the state must deposit the certified amount, as prescribed, into the Service Annuity Fund, necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit for members of the Class V School Employees Retirement System through the end of the previous fiscal year.⁷²¹

The actuarial report completed in 2004, reported in December indicated a need for the state to contribute \$15,415,949 for the coming year, while the total rate of contribution had been increased legislatively by one and seventy-one hundredths percent. Loss was experienced on the Actuarial Assets during the 2003/2004 Plan Year, while the rate of return on the Market Value remained strong. However, continued losses due to more retirements and withdrawals was noted, and the funded soundness of the plan decreased even more, from ninety-seven and two tenths percent in 2003, to ninety-three and two tenths percent.⁷²²

2005. During the first session of the Ninety-Ninth Legislature, two Legislative Resolutions were proposed to conduct interim studies to inform future legislation. LR 178, and LR 189.

LR 178 was proposed to once again look at the definition of compensation, as in 2004, but this time with the purpose of making certain it was appropriate to ensure uniformity among school districts and school boards. It was also proposed to look at

⁷²¹ O'Donnell, *Session Laws, 2004, LB 1097*, 16-17.

⁷²² D. H. Slishinsky and R. C. Ridge, *Nebraska Public Employees Retirement Systems School Retirement System 2004: Fifty-Second Actuarial Report for State Fiscal Year Ending June 30, 2006 and System Plan Year Beginning July 1, 2004* (New York, NY: Mellon Consultants, 2004), Summary, 4.

technical corrections, to clarify statutory language, and determine whether modifications to the systems benefits or contribution processes may be considered.⁷²³

LR 189 was proposed to review the Class V School Employees Retirement system. In an effort to draft legislation to move the system under the direction of the Public Employees Retirement Board, they hoped to study the transfer of new members from the Class V Employees system to the School Employees plan, and to compare benefits of each system.⁷²⁴

LB 144 introduced by Senator Price (26) intended to change provisions regarding the statements of information for School Employee Retirement members.⁷²⁵ Testimony on the bill was heard on February 10, during a Nebraska Retirement Systems Committee Hearing. Testifying were Virgil Horne of Lincoln Public Schools, Mike Dulaney of Nebraska Council of School Administrators, and John Bonaiuto, Executive Director of Nebraska Association of School Boards, in support of LB 144, with Anna Sullivan, director of the Nebraska Public Employees Retirement Systems taking a neutral position. Through conversation, the intent of the bill was clarified to define a fiduciary responsibility between the Nebraska Public Employees Retirement Systems (NPERS) and plan members to get information correct, and the limit of ninety days to do so was

⁷²³ Patrick J. O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session* (Lincoln, NE: 2005), 1596, accessed on June 17, 2015, <http://nebraskalegislature.gov/FloorDocs/99/PDF/Journal/r1journal.pdf>.

⁷²⁴ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1601.

⁷²⁵ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 103.

neither in the best fiduciary interest of the member, nor an adequate time for the NPERs to accomplish corrections for all 36,000 plan members each month.⁷²⁶

The Final Reading of the bill resulted in a vote of forty-two affirmative, and seven members not voting.⁷²⁷ The bill was approved by Governor Heineman.⁷²⁸

LB 144 removed the requirement that a member had only ninety days to report a mistake in their biannual statement of creditable service, salary, and other information. In addition, the bill emphasized the ongoing fiduciary responsibility of the board to report accurate information, and provided that the board must make any corrections within sixty days of such discovery being brought to the board.⁷²⁹

LB 329 was introduced by Senator Stuhr (24) for the purpose of amending and authorizing certain contributions related to school plans.⁷³⁰ In committee hearing, Senator Stuhr clarified the purpose of LB 329 was to resolve ambiguity in state law regarding early retirement incentive plans that school boards offered to employees, and whether those payments were permitted, under Internal Revenue Code, to not be considered as “compensation.” The language in LB 329 proposed that early retirement incentives would not count as compensation in the calculation of retirement benefits. Mike Pallesen spoke, representing Mid-America Management and National Insurance Services, to clarify the types of payments that were separate from employee compensation (wages) by their

⁷²⁶ Patrick J. O’Donnell, *Transcript, Committee on Nebraska Retirement Systems, February 10, 2015, LB 144, 493, 691* (Lincoln, NE: 2005).

⁷²⁷ O’Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1062.

⁷²⁸ O’Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1136.

⁷²⁹ Patrick J. O’Donnell, *Session Laws, 2005, LB 144* (Lincoln, NE: 2005).

⁷³⁰ O’Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 185.

nature of being employer contributions, which are exempt. Several other leaders of organizations, including Mike Dulaney (NCSA), Anna Sullivan (NPERS), John Bonaiuto (NASB) and Allen Inzerello (Westside Community Schools) voiced support of the bill.⁷³¹

The bill passed upon Final Reading with a vote of thirty-three affirmative, one negative, and fifteen members not voting.⁷³² Governor Heineman signed the bill on March 9.⁷³³

LB 329 added details to §79-902 by adding to the definition of compensation, to exclude employer contributions made for the purpose of separation payments made at retirement and early retirement inducements as provided for in §79-514.⁷³⁴

LB 503 was introduced by Nebraska Retirement Systems Committee members, Senators Stuhr (24), Erdman (47), D. Pederson (42), Price (26), and Synowiecki (7) to change provisions relating to membership, per diems, and powers and duties of the Nebraska Investment Council, to change provisions relating to the PERB and director of the retirement systems, with emergency.⁷³⁵ The bill was designated as a priority of the Nebraska Retirement Systems Committee⁷³⁶ and through amendment, AM380, brought in parts of LB 368, LB 411, LB 412, and LB 494.⁷³⁷

⁷³¹ Patrick J. O'Donnell, *Transcript, Committee on Nebraska Retirement Systems, January 20, 2005, LB 329, 368* (Lincoln, NE: 2005).

⁷³² O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 725-726*.

⁷³³ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 787*.

⁷³⁴ O'Donnell, *Session Laws, 2005, LB 329, 4*.

⁷³⁵ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 246-247*.

⁷³⁶ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 422*.

⁷³⁷ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 2050*.

The retirement committee met to conduct a hearing on LB 503 on February 3. Present was Jason Hayes, counsel to the committee, to present the bill and explain the purpose and provisions. It proposed that the per diem for each meeting of the Investment Counsel be increased from fifty dollars to seventy-five dollars, and that the members of the PERB begin to receive a per diem of fifty dollars. Anna Sullivan, director of NPERS, contradicted the need for per diem pay for PERB members, as most would reject such pay regardless, since they were already being compensated by their employers for the time spent in meetings for PERB. Supported by Carol Kontor of the Nebraska Investment Council, was the need to increase the experience requirement for members appointed to the council, as there were many plans of which the council oversaw investments for. Having both financial and investing experience was desirable, and the more the better.⁷³⁸

The bill was passed with a vote of forty-three affirmative and six members not voting. The governor approved the bill on April 27.⁷³⁹

LB 503 amended the definition of compensation further in §79-902, providing explicit detail as to what would and would not be included in compensation. It also added that after June 30, 2005, the amount of increase that a member could not exceed between one year to the next would be seven percent, unless the result of a substantial change in employment position, or as the result of a collective bargaining agreement, or

⁷³⁸ Patrick J. O'Donnell, *Transcript, Committee on Nebraska Retirement Systems, February 3, 2005, LB 494, 503* (Lincoln, NE: 2005).

⁷³⁹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session, 1270-21; 1328.*

the result of a district-wide permanent benefit change for a category of employees (i.e. certificated staff, non-certificated staff).⁷⁴⁰

Another change made by LB 503 occurred in §79-906, by stating that the director in charge of the retirement system would carry out testing procedures from time to time, and the holder of records would comply with requests from the director in a timely manner. If the director noticed a seven percent increase or more for any member, the employer must provide information verifying this change in base compensation within thirty days.⁷⁴¹

The rate of contribution was increased to seven and ninety-eight hundredths for the September 1, 2005-August 31, 2006 year, and was lowered to seven and eighty-three hundredths percent for the September 1, 2006 to August 31, 2007 year.⁷⁴²

LB 364 was introduced by the Nebraska Retirement System Committee members, Senators Stuhr (24), Erdman (47), D. Pederson (42), Price (26), and Synowiecki (7), to change calculations as prescribed, change provisions relating to prior service credit, and to harmonize provisions and redefine terms, with emergency clause attached.⁷⁴³ The retirement committee designated this as one of their priority bills, as well.⁷⁴⁴

During a committee hearing on February 22, Jason Hayes explained LB 364 to the committee, with details regarding the reasons that the Class V School Employees Retirement plan needed the changes. As he explained, the bill as proposed would require

⁷⁴⁰ O'Donnell, *Session Laws, 2005, LB 503*, 7-8.

⁷⁴¹ O'Donnell, *Session Laws, 2005, LB 503*, 8.

⁷⁴² O'Donnell, *Session Laws, 2005, LB 503*, 9.

⁷⁴³ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 190.

⁷⁴⁴ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 823.

employees to work one thousand hours to be considered fulltime, and employees working less than one thousand hours would have creditable service years reported in tenths, or one hundred hour increments. Next, the bill provided to include qualified transportation expenses as compensation. The bill also included a limit on the amount of creditable service years that could be purchased, from ten, to an amount no greater than the number of years employees worked for the Class V district. Also, the bill asked to increase the acceptable age difference between a member and non-spouse beneficiary. Michael Smith, the director of Omaha School Employees Retirement System (OSERS) spoke in favor of the bill, and explained the reasoning behind each of the provisions. He was particularly vocal about the purchase of service years, as some employees were purchasing years from other states they were already drawing a retirement benefit from, in essence, getting credit for the same years in both states.⁷⁴⁵

Through amendment, other provisions were added. AM1210 drew in portions of LB 365, LB 367, and LB 691, to change provisions relating to all of the retirement systems the NPERS administered, and the Class V School Employees Retirement, and to create and eliminate funds.⁷⁴⁶ The bill passed with much support, forty-eight members affirmative, and one not voting.⁷⁴⁷

In the School Employees Retirement Act, LB 364 modified the definition of compensation to reflect that the school board of a district must verify that collective bargaining resulted in an increase of a member's base salary greater than seven percent of

⁷⁴⁵ Patrick J. O'Donnell, *Transcript, Committee on Nebraska Retirement Systems, February 22, 2005, LB 364* (Lincoln, NE: 2005).

⁷⁴⁶ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1207; 1278; 1378.

⁷⁴⁷ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1796.

what it was the previous year, and that member's base would be increased by the lesser of seven percent, or the actual compensation increase during the preceding year each plan year. If the compensation increased an amount greater than seven percent, then within ninety days of the end of the plan year, the employer must report such change to the director.⁷⁴⁸

David Slishinsky and Michelle DeLange reported that the contributions legislated were not adequate to meet the plan's funding policy on an actuarial basis, and indicated that an additional \$12,847,537 contribution would need to be made by the state, as required in statute. Some strength was indicated in seeing a decremental gain, as fewer members retired and salary growth was less than expected, however the system value experienced a decrease due to a decline on the rate of return of the Market and Actuarial Value of the plan, even though employer and employee contribution rate had been increased. The funded percentage of the plan value dropped to ninety-one and four tenths percent.⁷⁴⁹

2006. The Ninety-Ninth Legislature passed two bills during the second session that made changes to the retirement systems. LB 1019 made slight modifications to each, and LB 1082 to the Class V System.

The theme behind LR 178 from 2005 emerged again in LR 341 in 2006, with a request to conduct an interim study to further examine the treatment of compensation for the purpose of calculating retirement benefits for both systems, and whether it was an

⁷⁴⁸ O'Donnell, *Session Laws, 2005, LB 364*, 8-9.

⁷⁴⁹ D. H. Slishinsky and M. DeLange, *Nebraska Public Employees Retirement Systems School Retirement System 2005: Fifty-Third Actuarial Report for State Fiscal Year Ending June 30, 2007 and System Plan Year Beginning July 1, 2005* (Denver, CO: Buck Consultants, 2005), 4-6.

appropriate definition to ensure uniformity. Also introduced was LR 342, to study the minimum benefit for purchasing power of the original benefit received upon retirement for the School Employees Retirement Act, and LR 343, to study whether or not there was a need for the state to make an additional contribution to the School Employees Retirement System, transferred to the Class V School Employees Retirement System, as legislated in §79-966.⁷⁵⁰

Also requested, as proposed in LR 365, was an interim study to examine the feasibility of making participation in the School Employees Retirement Act voluntary.⁷⁵¹

Legislative Bill 1019 was introduced by the Nebraska Retirement Systems Committee, Senators Stuhr (24), Erdman (47), D. Pederson (42), Price (26), and Synowiecki (7) to change provisions relating to vesting, annuities, contribution amounts, refunds of contributions, and the PERB, and to change terms of the members of the Nebraska Investment Council, to provide a duty for the School Employees Retirement System, and to eliminate obsolete language.⁷⁵² The bill was designated as the priority bill of the committee.⁷⁵³

Jason Hayes further explained the legislation in a committee hearing detailing provisions pertaining to the school plans. He shared considerations in changing the employer matching rate of contribution from one hundred one percent of the employee rate, to a specific percentage, which would make the law more clear to school districts,

⁷⁵⁰ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1176-1177.

⁷⁵¹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1206.

⁷⁵² O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 274.

⁷⁵³ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 429.

but Herb Simek disagreed, as a representative of the Nebraska State Education Association (NSEA); he stated anyone with a twenty-five cent calculator could easily determine the rate of contribution for districts based on the formula, and they wished to keep it, and merely clarify how many decimal points that schools should round to.⁷⁵⁴

Mr. Hayes also spoke of the Class V School concern, brought forward by Omaha Schools, that they could no longer issue a refund of contributions if a non-vested member left the system and made no election for the system to refund contributions. The Internal Revenue Code indicated such funds needed to be moved into an IRA by the system on behalf of the member. Michael Smith, director of the Omaha Schools Employees Retirement System, expressed the need for this change to be reflected in the act.⁷⁵⁵

Through amendment, AM2207, provisions from LB 1020, requesting to amortize over thirty years rather than twenty-five, LB 1023, regarding health departments, and LB 1140, regarding county and state employees systems, were incorporated into LB 1019.⁷⁵⁶ The bill was voted upon with forty-six affirmative and three members not voting, and passed with emergency.⁷⁵⁷ Governor Heineman approved the bill on March 22.⁷⁵⁸

LB 1019 made changes yet again to the definition of compensation in the School Employees Retirement Act. As clarified, categories of school employees included all administrators or certificated teachers, or those who were not administrators or

⁷⁵⁴ Patrick J. O'Donnell, *Transcript, Committee On Nebraska Retirement Systems, January 31, 2006* (Lincoln, NE: 2006).

⁷⁵⁵ O'Donnell, *Retirement Committee Transcript, Jan 31, 2006*.

⁷⁵⁶ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*. 611.

⁷⁵⁷ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1082.

⁷⁵⁸ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1095.

certificated teachers, or both.⁷⁵⁹ §79-966 was amended to state after July 1, 2006, unfunded liabilities would be amortized over a thirty -year period.⁷⁶⁰

LB 1024 was submitted by Senator Raikes (25) regarding the formation of the Learning Community.⁷⁶¹ Discussion around the bill in committee mainly focused on its creation, and not on the impact to the retirement system.⁷⁶² It passed with a vote of thirty-one affirmative, sixteen negative, and two members not voting.⁷⁶³ The Learning Community came into existence on April 13, with the approval of the Governor.⁷⁶⁴

Reported in December 2006, after the end of the legislative session, the actuarial value of the plan increased slightly, and the percentage of the liabilities considered funded was ninety-three and four tenths percent, up two percent from the previous report. The actuarial valuation system was changed, which offered new strength to the program, by amortizing the liabilities over thirty years rather than twenty-five. The rate of return on the Actuarial Value of the plan was very near the projection of eight percent, and so, even though decremental loss was experienced due to more retirements than expected, it was determined that no additional state contribution would be required.⁷⁶⁵

⁷⁵⁹ Patrick J. O'Donnell, *Session Laws, 2006, LB 1019* (Lincoln, NE: 2006), 13.

⁷⁶⁰ O'Donnell, *Session Laws, 2006, LB 1019*, 14.

⁷⁶¹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 275.

⁷⁶² Patrick J. O'Donnell, *Transcript, Committee on Education, January 30, 2006* (Lincoln, NE: 2006).

⁷⁶³ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1665.

⁷⁶⁴ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1679.

⁷⁶⁵ D. H. Slishinsky and M. R. DeLange, *Nebraska Public Employees Retirement Systems School Retirement System 2006: Fifty-Fourth Actuarial Report for State Fiscal Year Ending June 30, 2008 and System Plan Year Beginning July 1, 2006* (Denver, CO: Buck Consultants, 2006), 4.

2007. During the One Hundredth Legislature, First Session, in 2007, Phyllis Chambers was appointed by the Governor to be the new director of the Public Employees Retirement Board.⁷⁶⁶

One bill passed that impacted the School Employees Retirement System. That bill was LB 508.

LB 508 was introduced by Senator Pahls (31) to change and eliminate provisions relating to the payment of disability and death benefits for the Judges and School Employees Retirement Acts.⁷⁶⁷ In committee hearing, Senator Pahls explained the driving factor behind the bill to be the adequacy of the time frame for individuals who must make decisions regarding benefits for surviving spouses or members who had become disabled. The timeline would be adjusted from one hundred twenty days to twelve months, with amendment to request that the provisions be retroactive for twelve months. Adding testimony was Greg Fox, who poignantly shared the story of his wife's passing, and the series of events that lead to him missing the one hundred twenty day deadline. He had declined at the time to take either the lump sum amount or the annuity payment until the Legislature took action regarding this bill.⁷⁶⁸

LB 508 was passed with emergency, by a vote of forty-seven affirmative, and two members not voting.⁷⁶⁹ Governor Heineman approved the bill, and it was enacted on May 16.⁷⁷⁰

⁷⁶⁶ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 234.

⁷⁶⁷ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 267.

⁷⁶⁸ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 20, 2007, LB 499, LB 508, LB 596* (Lincoln, NE: 2007). 9-14.

⁷⁶⁹ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1520.

LB 508 amended §79-756 to allow the beneficiary to elect, within twelve months, rather than one hundred twenty days, to decide how to receive the benefit entitled to them as a surviving spouse, and the effect of the bill was retroactive to January 1, 2006, as requested.⁷⁷¹

LB 596 was introduced by Senator Kopplin (3) to change provision relating to annuity payment for school employees, with emergency.⁷⁷²

Testimony regarding the introduction of, and support for, LB 596 was lengthy. Senator Kopplin explained that there was a provision in statute to allow for an adjustment to benefits so that annuity amounts would retain at least seventy-five percent of the purchasing power they had upon initial retirement for members. However, the adequacy of adjustment being in question, the bill sought to make a one-time adjustment to ninety percent of the purchasing power of the initial benefit. In favor of the bill, speaking during the committee, were Robert Bussmann, Bill Pfeiff, Janet Hibbs, Bob Kuhn and Roger Rea. These individuals painted an alarming picture of the inadequacy of the benefits received by some of the earliest retirees under the systems, citing annuity checks in the amount of \$186-560 per month for teachers who had dedicated from twenty-seven to forty years of their lives educating students in public schools. Adequacy studies placing Nebraska benefits in an array with neighboring Midwestern states also exposed

⁷⁷⁰ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1626.

⁷⁷¹ Patrick J. O'Donnell, *Session Laws, 2007, LB 508* (Lincoln, NE: 2007), 1-2.

⁷⁷² O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 281.

the benefit to those in the oldest groups, ages eighty-five to ninety, and ninety plus years, to be among the lowest by almost \$7,000 per year.⁷⁷³

The bill was passed with emergency, and the recorded vote indicated forty-eight affirmative, and one member not voting.⁷⁷⁴ Governor Heineman approved the bill.⁷⁷⁵

LB 596 made changes to §79-947.01 by adding sub-section five, which, in addition to the provisions in sub-section one regarding the seventy-five percent of purchasing power adjustment, for those who received their first benefit on or before June 30, 2007, annuities would be adjusted to either the greater of the impact in subsections one, two, or four as prescribed, or eighty-five percent of the annuity which results when the original annuity that was paid to the member or beneficiary was adjusted by the increase in the Consumer Price Index for the period between the commencement date of the annuity and June 30, 2007.⁷⁷⁶ This was not the ninety percent initially requested, but a notable increase for older retirees.

§79-958 was amended to lower the contribution rate for employees, beginning on September 1, 2007, to be seven and eighty-three hundredths percent of compensation.⁷⁷⁷

Actuaries from Buck Consultants reported that the funded percentage of the plan increased to ninety-seven and two tenths percent, significantly climbing almost four points. Market and Actuarial Values both experienced high rates of return, resulting in an

⁷⁷³ O'Donnell, *Transcript, February 20, 2007*, 14-23.

⁷⁷⁴ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1526.

⁷⁷⁵ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1626.

⁷⁷⁶ O'Donnell, *Session Laws, 2007, LB 596*, 1.

⁷⁷⁷ O'Donnell, *Session Laws, 2007, LB 596*, 2.

actuarial value increase of more than \$208 million. No additional state contribution was recommended, and contribution rates by employer and employee were lowered.⁷⁷⁸

2008. In 2008, one Legislative Resolution was proposed, by Senator Pahls, LR 304, to direct the Education Committee to conduct an interim study regarding public school teachers and the issues relating to early retirement, specifically those issues associated with healthcare and insurance.⁷⁷⁹

One bill was enacted during the second session of the One Hundredth Legislature to amend the School Employees Retirement Act. LB 1147 was introduced by the Nebraska Retirement Systems Committee, consisting of Senators Synowiecki (7), Erdman (47), Karpisek (32), and White (8), to change benefit adjustment provisions for Judges, School Employees, and the State Patrol.⁷⁸⁰

Jeremy Nordquist, research analyst for the Nebraska Retirement Systems Committee, spoke about the bill during a hearing held on February 6. He stated the bill was introduced on behalf of the PERB in response to a concern from the Auditor of Public Accounts regarding the language in statute regarding the cost-of-living adjustment (COLA). Joe Schaefer, counsel to PERB, further explained that each of the three plans mentioned in the title of the bill have language specific to COLA that prevents each pension payment from dropping below a percentage of the original purchasing power the

⁷⁷⁸ D. H. Slishinsky, *Nebraska Public Employees Retirement Systems, School Retirement System 2007: Fifty-Fifth Actuarial Report for State Fiscal Year Ending June 30, 2009 and System Plan Year Beginning July 1, 2007* (Denver, CO: Buck Consultants 2007), summary, 4-5.

⁷⁷⁹ Patrick J. O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session* (Lincoln, NE: 2008), 1123, accessed on June 20, 2015, <http://www.nebraskalegislature.gov/FloorDocs/100/PDF/Journal/r2journal.pdf>.

⁷⁸⁰ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*. 334.

payment had at the time payments were initiated by the member. For the teacher plan, that percentage was seventy-five percent. Working together with the Auditors Office, they worked to clarify the language specific to the process. Lance Lambdin from the Auditor of Public Account's office testified in concurrence with the testimony of Joe Schaefer.⁷⁸¹

The bill experienced some changes through amendment. AM1999 incorporated provisions of LB 937 and LB 938, unrelated to the School Employees Retirement Act,⁷⁸² AM2600 brought in LB 365, also unrelated,⁷⁸³ and AM2391 brought in provisions from LB 1143, related to the Nebraska Investment Council.⁷⁸⁴ Related to the School Employees Retirement Act, AM2574 incorporated provisions from LB 968 into the bill, regarding service annuities.⁷⁸⁵ The Final Reading of the bill yielded a vote of forty-five affirmative votes, and four members not voting.⁷⁸⁶ Governor Heineman approved the bill, but vetoed a line item from LB 1147A, for funding provisions of the bill, relating to an allocation of \$100,000 for the Nebraska Investment Council to conduct a study, stating that such a study had been conducted as recently as 2006, and it didn't seem prudent in an unstable investment climate to spend investment funds to discover ways to increase efficiency.⁷⁸⁷

⁷⁸¹ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 6, 2008, LB 968, LB 1146, LB 1147* (Lincoln, NE: 2008), 1-4.

⁷⁸² O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 675.

⁷⁸³ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 1189.

⁷⁸⁴ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 1067.

⁷⁸⁵ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 233; 1209.

⁷⁸⁶ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 1566-1567.

⁷⁸⁷ O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session*, 1582.

LB 1147 made modifications to §79-933, regarding the retirement allowance provided for in §79-931, to define dates and conditions related to fulltime members, and provisions related to age upon retirement and years of service. §79-947.01 was amended to clarify the process of determining the purchasing power of the original annuity received by a member upon retirement, and how COLA would be applied through this process. §79-947.04 reflected minor language changes to coincide with the explanation of this process.⁷⁸⁸

The actuarial report issued in December of 2008 indicated that the state would not need to contribute anything additional for the coming year for the School Employees Retirement System, but there was a need for the state to contribute an additional \$772,674 to the Class V School system for Omaha employees. The funded percentage of the system increased by half of a percentage point from the previous report, while the employer and employee contribution rate dropped slightly from the previous year. Market gains were stronger than projected.⁷⁸⁹

2009. Introduced, with the intent of conducting an interim study was LR 120. Senator Avery asked that the committee conduct this study on the equity of compensation for teachers of similar years of experience and education, as well as those working in different districts. It also asked to examine merit pay or bonus pay, fringe benefits such as cell phone or mileage reimbursement, and computer use, and reimbursement of contributions to employees. This study was requested in response to LB 612, introduced

⁷⁸⁸ Patrick J. O'Donnell, *Session Laws, 2008, LB 1147*. 5-7.

⁷⁸⁹ D. H. Slishinsky, *Nebraska Public Employees Retirement Systems, School Retirement System 2008: Fifty-Sixth Actuarial Report for State Fiscal Year Ending June 30, 2010 and System Plan Year Beginning July 1, 2008* (Denver, CO: Buck Consultants, 2008). 4-5.

by Avery and McGill, to prohibit schools from reimbursing or paying the employee for contributions to the system. The bill was not enacted, but required more research.⁷⁹⁰

One bill specific to the School Employees Retirement Act passed during the first session of the One Hundred First Legislature. LB 449 was presented by Senators Campbell (25) and Louden (49) to change provisions relating to the cessation of a disability retirement allowance.⁷⁹¹

In a hearing held on March 4, Senator Campbell spoke more of her bill, explaining that members of the system who take a disability retirement allowance are not allowed to work in schools at all without suspension of their disability allowance. However, these members feel as if they could contribute as substitute teachers, but hesitate to do so because their allowance would cease. Since Social Security allows persons on disability to earn no more than \$1,640 per month without ceasing payments, the members represented in this population were asking for the same. Pearl VanZandt, representing the Nebraska Commission for the Blind and Visually Impaired and Carlos Servan, representing the same organization, as well as the Nebraska National Federation for the Blind, spoke in favor of the bill. Karen Lemon, a teacher whose plight prompted the bill, was present, and described her situation as well. Senator Louden prompted discussion surrounding the amount of hours the bill requested to allow members on disability to work without penalty, and equated the scenario to “double-dipping” or members who retire/rehire. Joe Schaefer spoke on behalf of the PERB against the bill, and also explained the difference between a retirement annuity, and a disability

⁷⁹⁰ O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 245.

⁷⁹¹ O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 207.

retirement allowance. Members with a disability allowance who cared to substitute teach would not contribute to the system, but only draw their allowance from it, while “double-dippers” contribute to a new account in the system while drawing an annuity at the same time.⁷⁹²

The bill was passed unanimously⁷⁹³ and Governor Heineman signed the bill on May 22.⁷⁹⁴

LB 449 accomplished precisely what it intended to do, as added to §79-954 was sub-section two, stating that members receiving a disability retirement allowance under the age of sixty-five, verified with a permanent disability by a physician, could work up to fifteen hours per week and still retain their benefit.⁷⁹⁵

LB 187 was introduced by the Nebraska Retirement Systems Committee members, Senators Pankonin (2), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Nordquist (7), to adjust the contribution rate of employees of both the School Employees Retirement System and the Class V School Employees Retirement System.⁷⁹⁶ Very little discussion was held regarding LB 187 in the hearing of the Retirement Committee, and it was referred to by Kate Allen, legal counsel to the committee, as a

⁷⁹² Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, March 4, 2009, LB 140, LB 187, LB 449* (Lincoln, NE: 2009), 1-12.

⁷⁹³ O’Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 1110.

⁷⁹⁴ O’Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 1702.

⁷⁹⁵ Patrick J. O’Donnell, *Session Laws, 2009, LB 449* (Lincoln, NE: 2009), 1.

⁷⁹⁶ O’Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 104.

place-holder until the amount of increase of the rate of contribution could be determined.⁷⁹⁷

LB 187 was passed unanimously and Governor Heineman approved the bill.⁷⁹⁸

LB 187 raised the employee rate of contribution, as of September 1, 2009 and continuing through August 31, 2014, to eight and twenty-eight hundredths percent of compensation for the School Employees members. The state contribution was increased to one percent of the total compensation for all members from July 1, 2009 until July 1, 2014. All three rates were legislated to return to previous rates after said time periods had expired.⁷⁹⁹

Buck Consultants issued the actuarial report which noted that, while no additional contribution would need to be made by the state for the coming year for the School Employees system, an additional state contribution would need to be made in the amount of \$884,106 for the Omaha system. The annual rate of return on the Market Value of the system lost over nineteen percent, while the Actuarial Value rate of return was a six and one tenth percent gain, short of the eight percent projection. This resulted in the funded percentage of the system dropping from ninety-seven and seven tenths percent to ninety-three and four tenths percent. Salary increases were less than assumed and there was no increase in the Consumer Price Index, resulting in no cost-of-living increases being

⁷⁹⁷ O'Donnell, *Transcript, LB 187*, March 4, 2009, 1.

⁷⁹⁸ O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 1516; 1702.

⁷⁹⁹ O'Donnell, *Session Laws, 2009, LB 187*, 1-2.

granted. Employee/employer rates of contribution increased collectively by one and seventy-eight hundredths of a percent.⁸⁰⁰

2010. The second session of the One Hundred First Legislature met during 2010, with one request for a Legislative Resolution calling for a study, LR 477, to study the sustainability of the public retirement plans.⁸⁰¹

LB 950 was introduced by the Nebraska Retirement Systems Committee, Senators Pankonin (2), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Nordquist (7), with a number of provisions for several of the plans under the direction of Nebraska Public Employees Retirement Systems (NPERS), and the Class V School Employees Retirement System. They asked for changes to provisions relating to participation eligibility, use of funds, disability eligibility, and retirement system options, with emergency clause.⁸⁰²

Discussion in the Retirement Committee hearing characterized many of the changes as technical and clarifying, according to Kate Allen, legal counsel to the Retirement Committee. The bill was presented, at the request of the NPERS, to specify that a disability must have occurred after a member became part of whichever system they were a part of to qualify for disability retirement allowance. They also hoped to clarify the definition of termination, and who qualified as a temporary, part-time, regular,

⁸⁰⁰ D. H. Slishinsky, *Nebraska Public Employees Retirement Systems, School Retirement System 2009: Fifty-Sixth Actuarial Report for State Fiscal Year Ending June 30, 2011 and System Plan Year Beginning July 1, 2009* (Denver, CO: Buck Consultants 2009), 4-5.

⁸⁰¹ Patrick J. O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session* (Lincoln, NE: 2010) 1136, accessed, <http://www.nebraskalegislature.gov/FloorDocs/101/PDF/Journal/r2journal.pdf>.

⁸⁰² O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 230.

or substitute employee by passing the bill. The bill also explained in greater detail which employees of the Department of Education could participate in the School Employees Retirement System, and which employees were automatically enrolled in the State Employees System. Joe Schaefer, legal counsel to PERB, was present to testify regarding the specific reasons and details about each of these changes, and Jerry Hoffman of NSEA, and Assistant Commissioner of Education Brian Halstead were both present to support the passage of LB 950.⁸⁰³

LB 950 was designated as the priority bill of the Retirement Committee,⁸⁰⁴ and was amended by AM2087, which incorporated provisions from LB 899 into the bill.⁸⁰⁵ LB 899 was presented to change provisions related to benefit adjustments for cost-of-living.⁸⁰⁶ The bill passed with emergency, with a vote of forty-two affirmative, and seven members not voting.⁸⁰⁷ Governor Heineman approved the bill on April 13.⁸⁰⁸

In the School Employees Retirement Act, LB 950 defined the terms of “State School Official” to mean the Commissioner of Education, or any employee of the Department of Education requiring a certificate, and “Termination” to more clearly state that member status was not considered terminated if, within one hundred eighty days of ceasing employment, the member subsequently provided service to any employer participating in the retirement system unless the service was voluntary or substitute on an

⁸⁰³ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, February 2, 2010, LB 950* (Lincoln, NE: 2010), 1-10.

⁸⁰⁴ O’Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 543.

⁸⁰⁵ O’Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 872.

⁸⁰⁶ O’Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 186.

⁸⁰⁷ O’Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 1372.

⁸⁰⁸ O’Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 1458.

intermittent basis, or was allowed by §79-920. The retirement board was named to determine when a bona fide separation had occurred. The distinction was also made that “part-time service” meant less than fifteen hours per week, but would automatically revert to that of “regular employee” if time exceeded fifteen hours per week in each calendar month of any three calendar months of a plan year, at which time contributions would commence immediately. “Temporary” was further defined as one who was hired to provide service for a limited period of time to accomplish a specific purpose, not to exceed one year in duration.⁸⁰⁹

§79-915 had sub-section two added, detailing that a member must be a legal citizen of the United States, or a qualified alien under the federal Immigration and Nationality Act, and lawfully present in the United States, to participate in the plan.⁸¹⁰

§79-920 provided clarity that Department of Education (DOE) State Officials could elect, within thirty days, to become members of the School Employees Retirement System or the State Employees Retirement System, and other DOE employees who retired from the School Employees Retirement System, and became employed by the DOE within one hundred eighty days of termination would be required to participate in the State Employees Retirement System. Obsolete language was stricken.⁸¹¹

⁸⁰⁹ Patrick J. O’Donnell, *Session Laws, 2010, LB 950* (Lincoln, NE: 2010), 7-10.

⁸¹⁰ O’Donnell, *Session Laws, 2010, LB 950*, 10.

⁸¹¹ O’Donnell, *Session Laws, 2010, LB 950*, 10.

§79-947.01, sub-section three, increased the period of time that the State of Nebraska would be required to contribute the specified amount to the Annuity Reserve Fund, from the 2010-11 fiscal year, to the 2012-13 fiscal year.⁸¹²

§79-951 was amended to state clearly that a member must have become disabled after commencing employment to be eligible for a disability retirement allowance.⁸¹³

Slishinsky and Fiddler reported in December of 2010 that the State of Nebraska would be required to make, in addition to the legislated one percent of all compensation, a payment of nearly \$19 million to the retirement system to pay the normal cost and amortize any unfunded liabilities. In addition, an amount of almost \$1 million would be needed by the Class V School retirement system. Market Value and Actuarial Value rates of return were much lower than projected, and the funded percentage of the system dropped again, to eighty-eight and nine tenths percent. Employer and employee contribution rates were increased collectively by almost two percent of total compensation.⁸¹⁴

2011. During the first session of the One Hundred Second Legislature in 2011, one resolution was introduced for an interim study with possible impact to the retirement

⁸¹² O'Donnell, *Session Laws, 2010, LB 950, 11.*

⁸¹³ O'Donnell, *Session Laws, 2010, LB 950, 12.*

⁸¹⁴ D. H. Slisinsky and D. Fiddler, *Nebraska Public Employees Retirement Systems, School Retirement System 2010: Fifty-Eighth Actuarial Report for State Fiscal Year Ending June 30, 2012 and System Plan Year Beginning July 1, 2010* (Denver, CO: Buck Consultants, 2010), summary, 4-5.

systems. LR 262 proposed a study of the possible effects of imposing an earning cap on the calculation of final pensionable salary for school employees.⁸¹⁵

Two bills were passed that had an impact on both the School Employees Retirement System.

LB 382, introduced by Senator Nordquist (7) at the request of Governor Heineman, was submitted to change employee deposit rates, with emergency clause attached.⁸¹⁶

In committee hearing, further detail was offered about the provisions of the bill, including the rate of increase. Senator Nordquist explained that the original rate requested was an increase of one percent, to nine and twenty-eight hundredths for two years, and then down one percent again each year, until in 2014 the contribution rate was back down to seven and twenty-eight hundredths percent.⁸¹⁷ Speaking in support of the bill were Karen Kilgarin of NSEA, and Gerry Oligmueller, on behalf of the Governor, indicating market losses as the greatest factor in the need for additional funding at the time. He cited legislation over the past years that began addressing the shortfall.⁸¹⁸

Jason Hayes, legal counsel to NPERS, spoke from a neutral stand, and painted a realistic picture of the actuarial status of the systems, and the state's obligation to fund them. Hayes emphasized that the state obligation would amount to \$18.9 million for

⁸¹⁵ Patrick J. O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session* (Lincoln, NE: 2011), 1614, accessed on June 22, 2015, <http://nebraskalegislature.gov/FloorDocs/102/PDF/Journal/r1journal.pdf>.

⁸¹⁶ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 203.

⁸¹⁷ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 1, 2011, LB 382, LB 510, LB 532* (Lincoln, NE: 2011), 1.

⁸¹⁸ O'Donnell, *Transcript, February 1, 2012, LB 382, 2-3*.

2011-12 fiscal year, and \$48.5 million for the 2012-13 fiscal year, according to the actuarial status of the teacher system. The increase in teacher and school contributions would generate \$31.5 million.⁸¹⁹

Speaking from a neutral point of view, on behalf of the Nebraska Association of School Boards (NASB), was John Bonaiuto. He reflected upon the idea of a sunset on contribution rate hikes, getting rates back to a more manageable level, so the school could allocate that money back into resources for classrooms. Senator Pankonin expressed his point of view that the days of sunsets were gone, and we would not see the rates legislated to go down again.⁸²⁰

Throughout discussion, the senators thanked individuals for working together to come up with a solution, to make the system solvent, recognizing that all were making sacrifices to ensure the future of the plan. The bill was designated as a priority bill for the committee.⁸²¹

The bill was amended by AM1101 to bring in provisions from LB 510, which set the Class V Schools contribution rate.⁸²² The bill was passed with a vote of forty-three affirmative, and six members not voting, with emergency.⁸²³

LB 382 amended the School Employees Retirement Act by increasing the employee contribution to eight and eighty-eight hundredths, for the 2011-2012 School Year, and an additional increase to nine and seventy-eight hundredths percent for the

⁸¹⁹ O'Donnell, *Transcript, February 1, 2012, LB 382*, 8-9.

⁸²⁰ O'Donnell, *Transcript, February 1, 2012, LB 382*, 6-8.

⁸²¹ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 642.

⁸²² O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 252.

⁸²³ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1341.

school year beginning in 2013, and to stay at that level until the end of the 2017 school year, in §79-958. The period of time the state would be required to deposit one percent of the total compensation of all members increased, to last until the end of the 2017 fiscal year, which was originally scheduled to end with the 2014 fiscal year in §79-966.⁸²⁴

Introduced by the Nebraska Retirement Systems Committee, Senators Nordquist (7), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Pankonin (2), was LB 509. The bill sought to make changes in provisions relating to multiple retirement systems under NPERS, and the Class V Schools system, with emergency.⁸²⁵ The bill was also designated as a priority bill by the Retirement Committee, and through amendment AM549,⁸²⁶ provisions from LB 486 were brought in.

Both LB 509 and LB 486 were discussed in the Nebraska Retirement Systems Committee hearing held on February 8, 2011. Senator Louden detailed that LB 486 was to provide salary caps for the calculation of formula benefits, by increasing the annual cap from seven percent to nine percent, while eliminating all exemptions. Since 2006, exemption requests had risen from approximately six percent of retirement applications to over forty-seven percent.⁸²⁷ Jerry Hoffman of the NSEA further explained provisions of the bill, stating that in the last sixty months of compensation members' salaries for calculation of formula annuity would be capped at nine percent.⁸²⁸ Phyllis Chambers of

⁸²⁴ Patrick J. O'Donnell, *Session Laws, 2011, LB 382* (Lincoln, NE: 2011), 1-2.

⁸²⁵ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*. 251.

⁸²⁶ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 642.

⁸²⁷ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 8, 2011, LB 486, LB 509* (Lincoln, NE: 2011), 1-2.

⁸²⁸ O'Donnell, *Transcript, February 8, 2011, LB 486, LB 509*, 2.

NPERS discussed the increased workload on her staff to have to calculate so many exemptions, and shared that salary spiking in the final years of employment resulted in additional unfunded liability, since for the majority of the career of such employees paid in at a lower rate, on a lower compensation amount, and were receiving benefits for higher compensation out of sync with the rest of their careers.⁸²⁹

Testimony regarding LB 509 revealed the provisions, as detailed by Kate Allen, legal counsel for the Committee, as eliminating the requirement that NPERS provide preretirement planning for Class V School plan members, with no impact, since Omaha Schools already provided their own, and eliminated the requirement that the Class V plan provide annual plan summaries to PERB. An actuarial report would be provided instead, again with no impact, since the plan conducted an actuarial valuation with report annually on their own.⁸³⁰

Jason Hayes offered testimony regarding language stating that employees would receive the higher of the cost-of-living adjustment calculations, just to eliminate ambiguity. Also, the COLA provisions would be stricken from current location in statute and reorganized under a new section in each act. Additionally, LB 509 provisions clarified that school members must make contributions on their entire compensation, not just the capped compensation increase amount, that would be used to calculate the formula annuity, introduced since one school had unilaterally made the decision to only contribute on a seven percent increase, rather than the actual increase amount.⁸³¹

⁸²⁹ O'Donnell, *Transcript, February 8, 2011, LB 486, LB 509*, 3-5.

⁸³⁰ O'Donnell, *Transcript, February 8, 2011, LB 486, LB 509*, 5-6.

⁸³¹ O'Donnell, *Transcript, February 8, 2011, LB 486, LB 509*, 6-7.

The amended bill was passed upon Final Reading with a vote of forty-four affirmative and five members not voting.⁸³² Governor Heineman approved the bill on April 14.⁸³³

In the School Employees Retirement Act, subsection (d) was stricken from the definition of “Compensation” in §79-902, and added was sub-section (e), detailing how in the last sixty months of employment a member could not receive credit in the formula for increase in salary greater than nine percent during plan year 2012-2013, and not more than eight percent after July 1, 2013.⁸³⁴

In §79-904.01, regarding refunds to plan members, it was added that refunds would not be made for amounts in excess of the limitations created by the changes to compensation in §79-902 of the act.⁸³⁵

Subsection one (a) of §79-916 was removed, regarding the monies transferred to the Class V School Employees Retirement Act to pay for the state contribution.⁸³⁶

The section of statute regarding cost-of-living adjustment and purchasing power adjustment was moved to a different, separate location.⁸³⁷

The actuarial report from December 2011 painted a bleak picture of the status of the School Employees Retirement System, stating an additional state contribution of more than \$23 million was required for the coming year to the state plan, and an

⁸³² O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1119-1120.

⁸³³ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1199.

⁸³⁴ O'Donnell, *Session Laws, 2011, LB 509*, 15.

⁸³⁵ O'Donnell, *Session Laws, 2011, LB 509*, 16.

⁸³⁶ O'Donnell, *Session Laws, 2011, LB 509*, 17.

⁸³⁷ O'Donnell, *Session Laws, 2011, LB 509*, 21.

additional \$1,030,017 would be required of the Class V school plan. While combined contributions increased to a total of more than twenty percent of all compensation, the funded percentage of the system dropped to a low of eighty-six and six tenths percent.⁸³⁸

2012. Two bills made modifications to both the School Employees Retirement Act and the Class V School Employees Retirement Act during the second session of the One Hundred Second Legislature.

LB 782 was introduced by McCoy (39) to simply require reports to be submitted electronically, and to eliminate obsolete reports, plans, a task force, and a program.⁸³⁹ The bill passed with a vote of forty-two affirmative and seven not voting.⁸⁴⁰

The bill amended §79-909 and §79-976 of the School act, and §79-987 of the Class V School act, to require electronic submission of reports.⁸⁴¹

The Nebraska Retirement Systems Committee, members Nordquist (7), Heidemann (1), Karpisek (32), Lambert (2), Louden (49), and Mello (5), introduced LB 916. There were many provisions in the bill, including to exempt per diem from compensation, to require employers to submit termination information to PERB, to require repayment of benefits, to clarify provisions relating to tax-qualification requirements, provisions relating to rollover distributions and death benefits, and to exempt those under the age of eighteen from definition of school employee, with

⁸³⁸ D. H. Slisinsky and D. Fiddler. *Nebraska Public Employees Retirement Systems, School Retirement System 2011: Fifty-Ninth Actuarial Report for State Fiscal Year Ending June 30, 2013 and System Plan Year Beginning July 1, 2011* (Denver, CO: Buck Consultants, 2011), summary, 4-5.

⁸³⁹ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 98.

⁸⁴⁰ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1259-1260.

⁸⁴¹ Patrick J. O'Donnell, *Session Laws, 2012, LB 509*, 68-69.

emergency clause.⁸⁴² This bill was designated as a priority bill for the Retirement committee.⁸⁴³ Amendment AM1739 brought in provisions from LB 973, regarding the use of retirement benefits to pay for civil damages, and LB 1036 to authorize the creation of sub-funds.⁸⁴⁴ A Nebraska Retirement Systems Committee Hearing was held on January 26 to discuss LB 916 and LB 1036.

Kate Allen, legal counsel to the committee, revealed that LB 916 was introduced at the request of NPERS. Testimony from Ms. Allen, and from Jason Hayes revealed that the bill would make mainly technical changes and clerical changes to the acts. No one spoke as a proponent, neutral, or opponent of the bill.⁸⁴⁵

The bill passed with a vote of forty-six affirmative, none negative, and three members not voting, with emergency.⁸⁴⁶ Governor Heineman signed the bill on April 16.⁸⁴⁷

In §79-902 of the School Employees Retirement Act, the definition of “School Employee” was changed to state that members must be eighteen to be eligible to be members, and obsolete language was removed from the definition of “Current Benefit.” The definition of “Compensation” was modified to eliminate per diem from

⁸⁴² O’Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 192.

⁸⁴³ O’Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 501.

⁸⁴⁴ O’Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 522.

⁸⁴⁵ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, January 26, 2012, LB 916, LB 1036* (Lincoln, NE: 2012), 1-4.

⁸⁴⁶ O’Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1297-1298.

⁸⁴⁷ O’Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1512.

compensation, and “Termination” was changed to reflect the responsibility of the employer to report to PERB when a bona fide separation occurred.⁸⁴⁸

Obsolete language, regarding the salary cap for increase of compensation, and the requirement of the employer to report increases greater than seven percent, was removed from §79-906.⁸⁴⁹

Added to §79-933.01 was an election for non-spousal beneficiaries to receive rollover distributions, as provided by Internal Revenue Code.⁸⁵⁰ §79-948 was amended by adding the provision that civil damages, awarded as the result of a member being found guilty of, or pleading no contest to, certain crimes, could be taken from the member’s retirement account.⁸⁵¹

The bill provided that if a member died with twenty years of service, and his or her spouse was entitled to an annuity as prescribed, and the beneficiary elected to take a lump-sum payment of the member’s contribution account balance including interest, they would receive an additional one hundred one percent of the member’s contributions account balance. Also included in this section of the statute was the provision that any beneficiary, other than the member’s estate, could take an eligible distribution in the form of a direct transfer to a retirement plan, and that a member’s beneficiary, if the member’s death occurred on or after January 1, 2007 while performing military service, would be entitled to any additional death benefit that would have been provided, other than the

⁸⁴⁸ O’Donnell, *Session Laws, 2012, LB 916*, 19-23.

⁸⁴⁹ O’Donnell, *Session Laws, 2012, LB 916*, 24.

⁸⁵⁰ O’Donnell, *Session Laws, 2012, LB 916*, 24-25.

⁸⁵¹ O’Donnell, *Session Laws, 2012, LB 916*, 25.

accrual of any benefit relating to the period of qualified military service, and would be determined as if the member had returned to employment and the employment terminated on the date of death.⁸⁵²

In the report issued by Buck Consultants, Slishinsky and Halper summarized the actuarial status of the School System. They indicated that an additional contribution of more than \$48 million would be required of the state for the coming year to maintain the school system, and a contribution of approximately \$1.1 million would need to be made by the state into the Class V system for Omaha Public Schools. A loss on the Actuarial Value of Assets occurred, and the rate of return on two and three tenths percent fell well short of the anticipated eight percent on anticipated investment returns. Some strength was gained, salary increases were less than expected, and the contribution rate increased for all parties involved, but this was not enough to overcome the losses. The funded percentage of the Actuarial Value of the system decreased from eighty-six and six tenths percent to eighty-two and three tenths percent.⁸⁵³

2013. During the first session of the One Hundred Third Legislature, several resolutions were introduced to conduct interim studies that may have had an impact on legislation regarding the retirement systems. LR 246 called for a comparison between the School Employees Retirement Act and the Class V School Employees Retirement Act, comparing benefits, plan assets, funding obligations, and administrative costs. LR 247 asked for a study to examine the purchase of service credits, and LR 248 asked to

⁸⁵² O'Donnell, *Session Laws, 2012, LB 916*, 25-26.

⁸⁵³ D. H. Slishinsky and R. E. Halper, *Nebraska Public Employees Retirement Systems School Retirement System 2012: Sixtieth Actuarial Report for State Fiscal Year Ending June 30, 2014 and System Plan Year Beginning July 1, 2012* (Denver, CO: Buck Consultants, 2012). 4-5.

examine service requirements of the School Employees Retirement Act, regarding temporary service, and service following termination of employment.⁸⁵⁴ In debate regarding LB 553, Senator Krist also referred to LR 191 as a study that may impact the retirement systems. LR 191 is recorded as a study of all the state plans administered by PERB.⁸⁵⁵ This resolution topic of study was requested regularly.

The Unicameral passed two bills that made changes to both systems. Those were LB 263 and LB 553.

LB 263 was introduced by the Nebraska Retirement Systems Committee, Senators Nordquist (7), Conrad (46), Davis (43), Karpisek (32), Kolowski (31), and Mello (5), with the intent of changing membership provisions, changing provisions pertaining to interest and compliance with federal laws, annual benefit adjustments, repayment of benefits, application deadlines, termination of employment, contract requirements, actuarial and audit services, and administering retirement system and plans.⁸⁵⁶ In committee hearing, Kate Allen, legal counsel to the Retirement Committee, went into further detail regarding the proposed changes.

The Class V system statutes needed to be updated to reflect the practice of conducting an annual audit, as statute at the time only required an audit once every three years. Qualifications of the actuary to be employed by the board were updated as well, and the board was to determine the interest rate on purchase of service credits. These

⁸⁵⁴ Patrick J. O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session* (Lincoln, NE: 2013), 1434-1435, accessed on June 23, 2015, <http://nebraskalegislature.gov/FloorDocs/103/PDF/Journal/r1journal.pdf>.

⁸⁵⁵ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1591.

⁸⁵⁶ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 164.

updates were in response to state tax laws. A fee was waived for preretirement planning sessions, and “retirement date” and “retirement application” were added to definitions.⁸⁵⁷

School plan members were asked to apply for retirement benefits one hundred twenty days prior, rather than ninety days prior, to the effective date of initial benefit. Termination would be determined by the end of the contractual agreement, or by the employer. They asked to allow retired members to work intermittently as a sub sixty days after termination, to not accumulate more than one hundred twenty hours with any district, until the one hundred eighty day period had passed. Originally the bill called for language that regular employment, with the requirement to pay into the system, would commence at fifteen hours,⁸⁵⁸ but Mike Dulaney later expressed during the hearing that there was discussion, which was supported, of redefining that amount as twenty hours per week.⁸⁵⁹ Also clarified was the definition of “compensation base” when discussing the salary cap, for calculation of the formula annuity during the last five years prior to retirement.⁸⁶⁰

Phyllis Chambers of NPERS spoke from a neutral stance, asking that purchase of service years be based on an actuarially generated figure rather than a calculation of what the years would have cost, plus interest, which would increase the assets of the system.

⁸⁵⁷ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, February 20, 2013, LB 263* (Lincoln, NE: 2013), 24.

⁸⁵⁸ O’Donnell, *Transcript, February 20, 2013, LB 263*, 25.

⁸⁵⁹ O’Donnell, *February 20, 2013, Transcript, LB 263*, 26.

⁸⁶⁰ O’Donnell, *February 20, 2013, Transcript, LB 263*, 25.

She was not, as a representative of NPERS, in support of allowing intermittent substitute teaching during the one hundred eighty day waiting period.⁸⁶¹

The bill was designated as a priority bill for the Retirement Committee,⁸⁶² and underwent amendment, AM835,⁸⁶³ which included provisions from LB 321, regarding the police, and LB 594, regarding veterans, in the final version of LB 263. The bill was voted upon at Final Reading, with forty-five in favor, and four members not voting.⁸⁶⁴ Governor Heineman signed the bill on April 24.⁸⁶⁵

Definitions in §79-902 were amended as discussed in committee hearing, clarifying that members must apply one hundred twenty days, rather than ninety days, prior to benefits commencing. Also adjusted to be more clear was the definition of “Compensation” by striking the original section F (i)-(ii), and rewriting that statute. The definition of “regular employee” was *not* changed to provide for employees with twenty hours or more per week, but kept the original provision of fifteen hours per week, under this bill.⁸⁶⁶

§79-904.01 was amended to add that if the board determined termination had not occurred, the member must pay back the benefits received. In §79-917, new school employees were given extended time, up to one hundred eighty days, to apply for vesting credit for years in another Nebraska governmental retirement plan. §79-921 had sub-

⁸⁶¹ O’Donnell, *February 20, 2013, Transcript, LB 263*, 29-31.

⁸⁶² O’Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 675.

⁸⁶³ O’Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 846.

⁸⁶⁴ O’Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1025.

⁸⁶⁵ O’Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1143.

⁸⁶⁶ Patrick J. O’Donnell, *Session Laws, 2013, LB 263* (Lincoln, NE: 2013), 18-21.

section two added, reiterating the responsibility of the employer to report when a termination had occurred.⁸⁶⁷

Regarding a minimum accrual rate, used for calculation of benefit adjustment for purchasing power and cost-of-living increases, in §79-947.06 subsections four (e) had clarifying information added to define the minimum accrual rates for certain years. §79-958 was amended to correct a reference to Internal Revenue Code, and §79-962 clarified that employee contracts must specify a beginning and an end date.⁸⁶⁸

LB 553 was introduced by Senator Nordquist (7) to change provisions relating to retirement allowances, change state, employer, and employee deposits, to change provisions related to retirement plan funding, and to change provisions relating to the state aid calculation, with emergency.⁸⁶⁹ The bill was designated as a priority of the Retirement Committee⁸⁷⁰ and through amendment, portions of LB 554 regarding the Class V retirement system, LB 306 regarding Judges system, and LB 305 regarding the State Patrol system were rolled into LB 553.⁸⁷¹

Senator Nordquist stated in Committee Hearing that LB 553 was developed in partnership with various school organizations to address both short and long-term funding obligations in the School Employees Retirement System. The bill created a new tier of benefits for new school employees beginning July 1, 2013. For these employees, the cost-of-living adjustment would cap at one percent upon retirement, and the formula

⁸⁶⁷ O'Donnell, *Session Laws, LB 263*, 21-22.

⁸⁶⁸ O'Donnell, *Session Laws, LB 263*, 23-25.

⁸⁶⁹ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 262.

⁸⁷⁰ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 675.

⁸⁷¹ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 939.

calculation would be based on the five highest years of compensation, rather than three. The bill would increase the state obligation to contribute from one percent of total compensation of all members, to two percent, with no sunset on that increase. The contribution rate, scheduled to lower for employees and employers as of August 31, 2013, would be set to an unspecified amount with no sunset. Without passage of the bill, the system would become more unfunded, and the obligations of the state to fund the system would be irresponsibly ignored. Nordquist shared that Governor Heineman did not include a provision to fund this plan in his budget, nor did he propose another bill with a solution, so if the bill did not pass, the funds would need to come from the general fund budget, which would detract from other obligations.⁸⁷²

Jason Hayes, as a representative of NSEA, supported the passage of LB 553. He stated the funding needs, based on actuarial reports, of the system as it were, would climb up to \$138 million by 2018, and the state would be required to fund that amount by statute. He stated the contribution rate for employees would remain at nine and seventy-eight hundredths percent, with no sunset, the employer would match that amount by one hundred one percent, and the state would need to contribute two percent of total compensation to the plan, an increase from one percent. An adjusted benefit schedule would be added for new employees. This plan required that each funding source would marginally contribute additional amounts, making it a balanced solution.⁸⁷³

⁸⁷² Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 6, 2013, LB 553, LB 554* (Lincoln, NE: 2013), 2-3.

⁸⁷³ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 9-10.

Mike Dulaney, Executive Director of NCSA, spoke in favor of the bill. He added that it was his belief that all working together had done their due diligence to the Executive Branch, meeting with the Governor and his staff, and preparing the potential Speaker, Senator Adams, that the bill's introduction was impending. He also was able to clarify that members who had a bona fide separation from the plan, were receiving retirement benefits, and then were rehired by a school district, would be subject to a new plan under the new provisions. Any member who had a lapse in employment, but had not retired or taken a retirement annuity, and became rehired, would continue under the old plan.⁸⁷⁴

John Spatz of the NASB, spoke in favor of the bill as well, and acknowledged that much proactive work had been done among the organizations representing those with vested interest in the plan. He spoke of the director of the plan for Kansas educators, who informed him their unfunded liability was in the billions, not millions, sharing it made him proud to be from Nebraska because "we keep up with stuff like this."⁸⁷⁵

Phyllis Chambers of NPERS also spoke, in a neutral stance. She believed the bill to be good, however, the switch from three highest years of service to five, to calculate the formula annuity for new employees, would create a lot of additional work for her staff, and she would prefer that the adjustment be made to the formula multiplier rather than the compensation factor.⁸⁷⁶ Coby Mach, of the Lincoln Independent Business Association, took a neutral stance as well, and made a suggestion that perhaps the

⁸⁷⁴ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 13-16.

⁸⁷⁵ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 18-22.

⁸⁷⁶ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 22-25.

definition of regular employee could be adjusted to mean those with twenty hours or more per week, rather than fifteen.⁸⁷⁷

Testimony continued with consideration of LB 554, which would ultimately become provisions in LB 553. Senator Nordquist detailed that most of the provisions of LB 554 were aligned with LB 553, but applied to the Class V School Employees retirement plan. Michael Smith further explained that historically the Omaha system had “worked” according to its formula, until the dot-com bubble burst and Omaha suffered from the sub-prime mortgage crisis. His projections demonstrated that if no changes were made to the plan, it would be seventy-three percent funded (in 2013), and would only be able to reach the level of seventy-seven percent funded in thirty years, which was not acceptable. He proposed also a change to the rule of eighty-five, adjusting that to age ninety, suggesting that members should retire at a later age, as he believed social security had indicated would happen.⁸⁷⁸ Chris Proulx of the Omaha Education Association, and Jason Hayes, also both supported LB 554.⁸⁷⁹

Upon first Final Reading, the LB 553 failed to gain the necessary votes, recorded as twenty-seven affirmative, eight negative, and fourteen not voting.⁸⁸⁰ Senator Nordquist immediately moved to reconsider the vote. Later the same day, a second vote was cast, and thirty-four members voted affirmative, gaining a two-thirds majority to pass the bill.⁸⁸¹ However, the fight was far from over.

⁸⁷⁷ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 28-29.

⁸⁷⁸ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 34-38.

⁸⁷⁹ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 38-39.

⁸⁸⁰ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1259.

⁸⁸¹ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1261.

Governor Heineman refused to sign the bill, returning it with his specific objections to the increase of the state contribution from one percent to two percent of total compensation, and to the district matching the employee contribution at one hundred one percent, which cost the taxpayers too much. He also stated he believed the assumed rate of return was estimated too high at eight percent, even though based on actuarial reviews, and that there ought to be an interim study conducted on the rate of return on investments of the retirement systems.⁸⁸²

Senator Nordquist made a motion, MO69, that LB 553 become law notwithstanding the objections of the Governor, and the motion was presented to override the veto.⁸⁸³ The floor debate following yielded many opinions regarding the passage of the bill.

Senator Larson asked for more time, and an interim study, to come up with a better solution, stating that contributions for all were remaining the same, except the state contribution was asked to double. Senator McCoy suggested the actuarial report may not be all that accurate, and then proposed that Senator Nordquist and the Retirement Committee consider a cash-balance plan. Senator Nordquist responded by stating [Nebraska] courts had ruled that a change could not be made to the benefits of current members, so there was indeed a need to address the unfunded liability of the current system.⁸⁸⁴

⁸⁸² O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1329-1331.

⁸⁸³ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1345; 1348-49.

⁸⁸⁴ Patrick J. O'Donnell, *Transcript, Floor Debate, May 14, 2013* (Lincoln, NE: 2013), 38-43.

Senator Mello spoke up in favor of the bill, and Senator Krist detailed how the state was statutorily obligated to fund the amount that was being requested, but maybe there was another way, which is why he introduced LR 191 to request a study.

Senator Harr spoke of the legal implications of not passing the bill, and how teachers, judges, and state patrol deserve better. Senator Lathrop was in favor of overriding the veto of Governor Heineman as well, stating that such a move by the leader of our state should be indicative that he (the Governor) has a better plan. But that was not the case; there were no other plans presented for consideration. Without passing the bill, the state obligation to fund the retirement systems would have to come out of the general fund, and that would leave many other revenue bills without funding.⁸⁸⁵ Senators Sullivan, Karpisek and Harms voiced support for the override of the veto. Speaker Adams detailed how it was a bit of a double-edged sword for him, since he was benefiting from the system as a retired teacher, but, whether the attempt was right or wrong, it was an attempt to fix the system and to make it work for years, and that is what needed to be done.⁸⁸⁶

Senator Carlson spoke of the possibility of introducing a shell bill, suspending the rules to do so, to incorporate the \$48 million shortfall for the year into the budget, and then request an amortization change and not accept the other provisions of the bill.

Senator Kolowski spoke of losing teachers to other states, like Wyoming, where the pay and the benefits are better; losing our most talented teachers.⁸⁸⁷

⁸⁸⁵ O'Donnell, *Floor Debate, May 14, 2013*, 43-46.

⁸⁸⁶ O'Donnell, *Floor Debate, May 14, 2013*, 46-53.

⁸⁸⁷ O'Donnell, *Floor Debate, May 14, 2013*, 53-58.

Senator Krist again referred to LR 191 as part of the solution, but reiterated that we cannot break contracts with our citizens. The debate went on for quite some time, with many Senators reiterating the state obligation in statute to fund the system, and how in Nebraska, we meet our obligations and work together to see to it that solutions are found to problems. One request to suspend debate failed, before a second finally passed. Eventually, with the Unicameral under call, meaning all were required to be present in chambers and accounted for, for the purpose of a vote, a vote was cast. Thirty-two voted affirmative, meeting the three-fifths majority necessary to override a veto of the Governor. The bill was passed, notwithstanding the objections of Governor Heineman.⁸⁸⁸

The following changes were made to the School Employees Retirement Act by the passage of LB 553:⁸⁸⁹

- Definition of “Final Average Compensation” was amended to reflect second tier, new employees as of July 1, 2013.
- “Regular Employees” were redefined as those working twenty hours a week.
- Actuarial accrued liability, beginning July 1, 2013, would be determined on a percentage-of-salary basis.
- §79-947.06 was amended to reflect the change for new employees after July 1, 2013, whose COLAs would be no greater than one percent.
- Beginning September 1, 2012, with no projected end date, the employee contribution rate was set at nine and seventy-eight hundredths of compensation in §79-958. Obsolete language was removed.

⁸⁸⁸ O’Donnell, *Floor Debate, May 14, 2013*, 58-77.

⁸⁸⁹ Patrick J. O’Donnell, *Session Laws, 2013, LB 553* (Lincoln, NE: 2013), 1-12.

- §79-966 was amended to reflect that beginning July 1, 2014, the state would be required to deposit two percent of all total compensation.
- §79-966.01 was amended to state that actuarial accrued liability would be based on a level percentage of salary, which would be amortized over a thirty-year period.

Actuaries Beckham and Banister reported that changes in valuation procedures, with a replication of the 2012 valuation, actually decreased the unfunded actuarial accrued liability slightly, although the percentage reported would have been lower than the previous year overall. A new method used to determine the costs for the Class V Omaha plan also reduced that plans unfunded liability by nearly \$2 million. With the legislated increase in the state contribution from one to two percent, and the elimination of the sunset on the higher contribution rates for both employee and employer, it was determined that no additional contribution would need to be made by the state for the coming year.⁸⁹⁰

2014. During the Second Session of the One Hundred Third Legislature, two bills were introduced, which became one through amendment, to make changes to the School Employees Retirement Act and the Class V School Employees Retirement Act.

Senator Nordquist (7) introduced both bills, LB 1041 and LB 1042. LB 1041 intended to provide for changes regarding purchase of service credits for school employees, change provisions relating to Class V school plan, change provisions related

⁸⁹⁰ P. A. Beckham and B. A. Banister, *Nebraska Public Employees Retirement Systems School Retirement System Actuarial Valuation Report as of July 1, 2013: Sixty-first Actuarial Report for State Fiscal Year Ending June 30, 2015 and System Plan Year Beginning July 1, 2013* (Bellevue, NE: Cavanaugh Macdonald Consulting, LLC., 2013), 1-3.

to an annual report, and define a term, with emergency. LB 1042 was introduced to define a term, and provide for repayments upon rejoining the School Employees Retirement Act, with emergency.⁸⁹¹

In the committee hearing on February 12, Senator Nordquist explained that LB 553 the previous year had really gotten members of the Unicameral to think about the retirement systems for the first time, and in doing so the purchase of “air time,” a provision of both systems, was brought into question. “Air time” is time purchased by employees after being members of the system for five years to increase their years of creditable service, and the desire was to increase the period of time an employee must be a member before allowing such purchase, up to ten years. Also included in the bill, for Class V Schools, was the clarification of liabilities and responsibilities for retirement board members and trustees according to Internal Revenue Code, and also to provide the requirement that the Class V system present an annual actuarial valuation report to the PERB on March 1.⁸⁹² David Kramer of Omaha Public Schools, outside counsel, spoke in favor of the bill, but wanted it detailed that the school board was responsible for the management of the system, and also questioned the timing of the report to the PERB.⁸⁹³

Presented for discussion in the same hearing was LB 1042, which detailed a new manner in which the committee hoped to have legislated to purchase years. The bill proposed to base the price of years on an actuarially determined amount, rather than what the years would have cost, plus interest. Phyllis Chambers supported the measure, stating

⁸⁹¹ O’Donnell, *Legislative Journal, One Hundred Third, Second Session*, 306.

⁸⁹² Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, February 12, 2014, LB 1041, LB 1042* (Lincoln, NE: 2014). 1-3.

⁸⁹³ O’Donnell, *Transcript, February 12, 2014, LB 1041, LB 1042*, 3-6.

that the system was taking on unfunded liability when years were purchased, but going forward from an unspecified date, if the cost of years were based on the actuarial data, the purchases would essentially be “neutral” to the system, or wouldn’t increase the unfunded-ness, nor add to the strength. Mike Dulaney and Jason Hayes added their comments in support of the bill.⁸⁹⁴

Provisions of the legislative bills were merged by amendment AM2132, and passed upon Final Reading with emergency, with a vote of forty-eight affirmative, and one member not voting.⁸⁹⁵ Governor Heineman approved the bill on April 16.

Added to §79-902 was an additional term, “Relinquished Creditable Service” to mean accumulated contributions a member had withdrawn, and in doing so, giving up the total amount as a result of the election to not remain a member of the retirement system. The old provision regarding reinstatement of service was stricken, §79-921 sections three and four, and new sections were added. The new section provided circumstances for which membership years could be purchased for those reinstated, with provisions for those applying before the effective date of the act, and after the effective date of the act. The amount to be repaid would be the actual amount withdrawn, plus an amount equal to the actuarial assumed rate of return to the date of repayment.⁸⁹⁶ Language was corrected when referring to purchase of relinquished creditable service in several other sections.

Beckham and Banister, of Cavanaugh Macdonald Consulting, reported on the actuarial status of the retirement system. Citing stabilization of the rate of contribution

⁸⁹⁴ O’Donnell, *Transcript, February 12, 2014, LB 1041, LB 1042*, 7-11.

⁸⁹⁵ O’Donnell, *Legislative Journal, One Hundred Third Legislature, Second Session*, 1560.

⁸⁹⁶ Patrick J. O’Donnell, *Session Laws, 2014, LB 1042* (Lincoln, NE: 2014), 5-6.

due to the elimination of the sunset and the increased state contribution, and very strong market gains on the actuarial value of assets of thirteen and two tenths percent, and on the market value of assets of eighteen percent, a favorable report was made. The funded ratio percentage increased more than five points, to eighty-two and seven tenths percent, and the narrative indicated that if assumptions regarding the gains of the system were met, the deferred gains recognized over the next four years would continue to improve the funded status of the system. The statutory contributions were sufficient to maintain the system, and no additional state contribution was required.⁸⁹⁷

2015. In 2015, LB 446 was introduced by the Nebraska Retirement Systems Committee chairperson, Nordquist (7), with the intention of redefining compensation and changing provisions related to the calculation of final average compensation for formula annuities.⁸⁹⁸

Senator Nordquist further stated the purpose of LB 446 in Committee Hearing on January 29. The intent was to add a salary cap to prevent “spiking” or intentional inflating salaries in various ways, for members of the Class V plan, or OSERS. The provision to prevent salary increases of greater than eight percent to be included in the calculation of final average compensation mirrored language that was in the School Employees Retirement plan administered by NPERS, which would also be modified slightly so both plans had matching language in the reflective sections. He clarified that

⁸⁹⁷ P. A. Beckham and B. A. Banister, *Nebraska Public Employees Retirement System School Retirement System Actuarial Valuation Report as of July 1, 2014: Sixty-second Actuarial Report for State Fiscal Year Ending June 30, 2016 and System Plan Year Beginning July 1, 2014* (Bellevue, NE: Cavanaugh Macdonald Consulting, LLC, 2014), 1-3.

⁸⁹⁸ Patrick J. O'Donnell, *Legislative Journal, One Hundred Fourth Legislature, First Session* (Lincoln, NE: 2015), 218. Accessed on October 10, 2015 at <http://nebraskalegislature.gov/FloorDocs/104/PDF/Journal/r1journal.pdf>.

members could make more than eight percent more than they did the preceding year, but only eight percent or less growth would be included in the calculation of final average compensation during the five highest years. Questions were fielded from committee members concerned about the ability of plan members to move easily between the OPS system and other state schools and receive retirement benefits from both plans, and Nordquist and committee legal counsel Kate Allen explained the provisions regarding purchase of years of service between plans, which was not truly a provision of LB 446, but obviously was a concern of senators. Nordquist interjected that he was also introducing a bill to bring the two plans together, which would eliminate that possibility, but also alluded to the difficulty that might be experienced in bringing the plans together.⁸⁹⁹

Orron Hill of PERB spoke from a neutral point, essentially stating that PERB was not opposed to the passage of this bill for OSERS, but had concerns with the provision of the bill allowing for an exemption language for unpaid absences being added to the School Employees Retirement Act. He detailed how exemption requests to this particular rule had grown substantially over the past five years, to the point where they felt as if the exemptions were “swallowing” the rule.⁹⁰⁰

Michael Smith, Director of OSERS, while not on testimony at the committee hearing, expressed his feelings in an interview, regarding the measures to prevent spiking of salaries. “In a single employer plan, we do not have issues with salary spiking in the

⁸⁹⁹ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, January 29, 2015, LB 446, LB 484* (Lincoln, NE: 2015), 1-7.

⁹⁰⁰ O’Donnell, *Transcript, January 29, 2015, LB 446*, 8-9.

way the statewide plans have experienced them.” He estimated that five hundred calculations would have to be manually rechecked for compliance with the unique provisions of the law, costing their organization about fifteen hundred dollars per year, making them less efficient.⁹⁰¹ However, when John Lindsay spoke on behalf of the OPS Board during the committee hearing, he did take a favorable position, and noted they appreciated the work of Senator Nordquist to more closely align the plans specifically in definitions.

LB 446 in its final form was passed on March 6 with a nod of forty-seven affirmative votes, and two members not voting.⁹⁰² Governor Ricketts signed the bill into law on March 12, 2015.⁹⁰³

According to slip law, LB 446, the definition of compensation in §79-902 was adjusted by removing (35)(d)i-(B), and reflected that compensation should not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993. Definitions of compensation in (35)(a)-(c) described what would and would not constitute compensation as previously established. A great deal of detail was added to calculation of formula annuity benefits in §79-934 with the addition of (7)(a)(i)-(c)(i) by adding much of what was stricken from definitions, as Senator Nordquist said it would be in committee hearing. For those employed after July 1, 2005, a salary cap of seven percent annually, with exceptions was still in place. For those whose retirement date was on or after July 1, 2012 through June 30, 2013, member’s

⁹⁰¹ Michael Smith, interviewed by Dawn Lewis, Omaha, NE, August 12, 2015.

⁹⁰² O’Donnell, *Legislative Journal, One Hundred Fourth, First Session*, 744.

⁹⁰³ O’Donnell, *Legislative Journal, One Hundred Fourth, First Session*, 857.

compensation was capped over the amount of nine percent, which would be excluded from the calculation of final average compensation. For those retiring after July 1, 2013 the capped amount would be an eight percent increase. For capping purposes, the period of time considered would be five plan years preceding the later of either the date of retirement, or such member's final compensation date, defined as the date on which a retiring member's final compensation is actually paid or would have been paid.⁹⁰⁴

Also added to OSERS plan was the provision for those retiring after July 1, 2016, the member's compensation could not exceed eight percent for the plan year preceding the next, or the amount over eight percent would be excluded, with an exception for those who took part of a year unpaid. The capping period was determined to be the five years preceding the later of a member's retirement date or member's final compensation date, just as in the School Employees plan.⁹⁰⁵

⁹⁰⁴ Patrick J. O'Donnell, *Slip Laws, Legislative Bill 446, 2015* (Lincoln, NE: 2015), 3-6.

⁹⁰⁵ O'Donnell, *Slip Law, LB 46*, 9.

Chapter V

Findings: Class V (Omaha) School Employees System (OPER)

Legislating a Class V School Employees Retirement System

1951. The Omaha School system had a retirement plan for teachers thirty-six years before the state system was established. In 1909, the Omaha Board of Education had legislation passed that gave them the authority to establish and control a retirement system for their teachers. According to Dr. Christiansen, the Omaha Teachers Association's early efforts included fund-raisers like bake sales and cookbook sales to get a retirement plan established.⁹⁰⁶ Contributions were made by the teachers and by the district, and Omaha teachers were able to retire after 35 years of service with a benefit of \$500 per year initially, which increased to \$900 annually in 1929.⁹⁰⁷

On January 26, the Nineteenth day of the 1951 Legislative Session, Senators Tvrdik, Syas, Claver, Bogel, Moulton, Adams, Sr., and Larkin were co-introducers of LB 336, A Bill for an Act to Provide a Retirement System for All Regular Employees of School Districts of Class V.⁹⁰⁸ This bill was referred to the Education Committee for further revision the next day.⁹⁰⁹

The standing committee made seven amendments to the bill on March 21.⁹¹⁰ On the seventy-sixth day of the session, the amendments were adopted and the bill was

⁹⁰⁶ Craig Christiansen, phone conversation with author, Arnold, NE, August 14, 2015.

⁹⁰⁷ Christiansen, (unknown) *A 130-year History*, 37.

⁹⁰⁸ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 261-262.

⁹⁰⁹ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 301.

⁹¹⁰ Srb, *Legislative Journal, Sixty-Second Session, 1951*, 862-863.

advanced for engrossment,⁹¹¹ the process of preparing a bill for Final Reading by incorporating all adopted amendments.⁹¹² A few other clarifications of terminology were made as the session progressed. On the ninety-first day of the session, May 10, 1951, LB 336 was submitted for vote with emergency, enacting the bill immediately after it is signed into law⁹¹³ and the bill passed. Thirty-eight members voted in the affirmative, none in the negative, and five abstained from the vote.⁹¹⁴ It was signed by the President of the Legislature, Charles J. Warner, Lieutenant Governor,⁹¹⁵ on May 15⁹¹⁶ and presented to the Governor the next day.⁹¹⁷ Governor Peterson approved the bill on May 21.⁹¹⁸

As recorded in *Session Laws, 1951, Chapter 274, Legislative Bill 336* was “Relating to Omaha Teachers’ Retirement System.”⁹¹⁹ The Act read as follows:

AN ACT relating to schools; to provide a retirement system for all regular employees of school districts of Class V; to provide a retirement allowance with optional joint and survivorship annuity to the member’s spouse upon retirement at age sixty-five or for total disability, such allowance to consist of an annuity based upon individual accrued rights under presently existing salary not in excess of five thousand dollars per annum received after the establishment of the system; to provide for financing such annuity for past service prior to the installation of the new system, by a special tax levy of not to exceed two mills on the dollar annually upon the valuation of all taxable property in the district, except intangible property, which tax levy shall be based upon actuarial estimates for

⁹¹¹ *Srb, Legislative Journal, Sixty-Second Session, 1951, 1154.*

⁹¹² *Glossary of Legislative Terms*

⁹¹³ *Glossary of Terms*

⁹¹⁴ *Srb, Legislative Journal, Sixty-Second Session, 1951, 1417-1418.*

⁹¹⁵ *Srb, Legislative Journal, Sixty-Second Session, 1951, III.*

⁹¹⁶ *Srb, Legislative Journal, Sixty-Second Session, 1951, 1477.*

⁹¹⁷ *Srb, Legislative Journal, Sixty-Second Session, 1951, 1491.*

⁹¹⁸ *Srb, Legislative Journal, Sixty-Second Session, 1951, 1551.*

⁹¹⁹ *Srb, Session Laws, 1951, 909-25.*

each year of current payments of account of such prior service, and to finance such annuity for future service by five per cent contribution by the employee and by the school district, adjustable every three years upon actuarial estimates of the necessary reserves to provide for such annuities; to provide for advisory trustees to supervise the financial and actuarial operation of the system, invest the reserves of the system with the approval of the board of education in securities permissible for investment of fund of a domestic legal reserve life insurance company; to prescribe the duties of the board of education and trustees with respect to the operation of the system; to provide that all present employees shall have the right to elect not to become members of the new system and to receive payments in accordance with existing retirement laws the same as though said laws had not been repealed; to provide for an adjustment of benefits in the event members shall be made eligible to social security or to service annuities from the state school retirement system.⁹²⁰

Details of the bill as found in *Session Laws, 1951* specifically define terms associated with the new law. For every Class V School, this retirement system applied, and each city requiring the label of “Class V” would name their retirement fund, “School Employees’ Retirement System of the School District of (name of city).”⁹²¹ At current time, the only school that has ever reached the required district size to enact such a plan is Omaha Public Schools, which by definition means the district could be classified as a metropolitan area (or with a population greater than 200,000), according to Nebraska Revised §79-102: School Districts; Classification, section five,⁹²² as determined by the most recent census (§79-103).⁹²³ Any district reaching such size would establish its own system in accordance with this law. The Omaha Board of Education was placed in

⁹²⁰ Srb, *Session Laws, 1951*, 909-910.

⁹²¹ Srb, *Session Laws, 1951*, 913.

⁹²² Neb. Rev. Stat. §79-102. Accessed April 6, 2015 at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-102>.

⁹²³ Neb. Rev. Stat. §79-103. Accessed on April 6, 2015 at <http://nebraskalegislature.gov/laws/statutes.php?statute=79-103>.

charge of the general administration of the plan, and were given instructions on appointing trustees to make decisions regarding the plan.⁹²⁴

The act defined membership by stating each employee hired after the establishment date of the law would automatically be a member, unless the age of that individual was less than twenty-five, or greater than sixty. All existing employees automatically became a member, unless “during the period of sixty days prior to the establishment he shall have filed with the board on a form prescribed by the system a duly executed waiver of all present and prospective annuities or benefits which he would otherwise have as a member.” Any employee who elected not to become a member would continue to make contributions upon the same basis as he had contributed in any pre-existing plan.⁹²⁵

The Class V plan allowed that each member would be credited annually with an annuity of one and one half percent of salary not in excess of \$5,000 from the date the plan was established, and would also receive an annuity on account of prior service, which would be a percentage of the maximum annuity under the terms of the previous plan, based on the number of years of service under the prior plan and the total number of years of service. The sum of these two annuities would constitute the retirement allowance to which the member was entitled.⁹²⁶ Additionally, LB 337 in 1951 established that Omaha plan members would also receive the state service annuity.

⁹²⁴ *Srb, Session Laws, 1951, 913.*

⁹²⁵ *Srb, Session Laws, 1951, 916.*

⁹²⁶ *Srb, Session Laws, 1951, 918.*

The plan provided that the employee would contribute five percent of salary not in excess of \$5,000, and the school district would deposit an equal amount.⁹²⁷ It was further stated that the members and district would maintain equal contributions to the fund, and in order to maintain this, the school must send in matching amounts from the general fund, and would in return receive payments from the retirement system to be added to the general fund an amount matching any refunds received by a member on account of withdrawal from the system.⁹²⁸

Members with twenty-five years of service could sever their membership and leave their funds in the system to receive an allowance at normal retirement age. If a member severed with ten years or less, he would receive a refund of his contributions, and with more than ten years but less than twenty-five, a refund of his contributions to the new plan and of the previous plans refundable contributions.⁹²⁹

The trustees estimated annually the total amount of annuities and refunds to be paid, and submitted that amount to the board, who in turn certified with the county clerk each year during the month of July, the amount of mills to levy against properties in the district, not to exceed two mills on the dollars, to keep the system solvent.⁹³⁰ If three consecutive annual valuations showed the liabilities of the plan to exceed the totals assets by not less than ten percent, the contributions would be increased. Likewise, if three valuations showed that the assets exceeded the liabilities by the same margin, the

⁹²⁷ Srb, *Session Laws, 1951*, 922-923.

⁹²⁸ Srb, *Session Laws, 1951*, 925.

⁹²⁹ Srb, *Session Laws, 1951*, 920.

⁹³⁰ Srb, *Session Laws, 1951*, 922.

contribution rate would be decreased. If, in the future, plan members became eligible for social security, their contributions would be adjusted.⁹³¹ Christensen pointed out that teachers were initially not subject to benefits of social security, but they were specifically excluded.⁹³²

The Class V Schools Retirement Act of 1951 was originally codified as §79-1032 to §79-1060.⁹³³

1953. Legislative Bill 327, introduced again by Tvrdik, Syas, and Larkin, Jr. (Douglas) was a bill intended to amend certain sections of the Class V Employees' Retirement System by redefining terms, removing the requirement that employees reach the age of twenty-five to become a member, striking the provision that prior service credit must come from a different district than the district involved, and to define the adjustment made to benefits upon reaching the age of social security.⁹³⁴ The bill was referred to the Education Committee.⁹³⁵

On April 24 the bill was voted upon and passed with forty members voting affirmative, none voting negative, and three members not voting. The bill was declared passed with emergency clause.⁹³⁶ Governor Crosby signed the bill into law on May 1, and with the emergency clause attached it took effect immediately.⁹³⁷

⁹³¹ Srb, *Session Laws, 1951*, 923.

⁹³² Christensen, phone conversation.

⁹³³ Srb, *Session Laws, 1953*, (Lincoln, NE: 1953), 1025.

⁹³⁴ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 280.

⁹³⁵ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 294.

⁹³⁶ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 1231-32.

⁹³⁷ Srb, *Legislative Journal, Sixty-Fifth Session, 1953*, 1312.

§79-1032 was affected by making a change in the definition of “regular interest,” clarifying it to mean “interest (a) on the total contribution of the member prior to the close of the last preceding fiscal year, (b) compounded annually, (c) at rates to be determined annually by the board, provided that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during such year.”⁹³⁸ The original definition simply stated that regular interest was determined from the actual experience of the system and as prescribed by the board.”⁹³⁹

§79-1041 originally allowed Class V School employees to become members upon reaching the age of twenty-five. LB 327 eliminated any minimum age requirement, but kept the maximum age for members to make contributions at sixty years.⁹⁴⁰

§79-1045 removed language specific to an accrual of interest at the rate of two per cent annually, and changed the specified amount to “regular interest thereon as defined in §79-1023 as amended by this act.”⁹⁴¹

§79-1056 was changed to address the amount being contributed by a member, collectively, to the retirement system and to social security, limiting the combined amount of contribution to not more than five percent of a member’s salary up to \$5,000. The bill also defined that members who were receiving an annuity from the state school retirement system could be eligible for an annuity from the Class V system, but there

⁹³⁸ Srb, *Session Laws, 1953*, 1026-27.

⁹³⁹ Srb, *Session Laws, 1951*, 911.

⁹⁴⁰ Srb, *Session Laws, 1953*, 1028.

⁹⁴¹ Srb, *Session Laws, 1953*, 1029.

would be deducted an amount equal to the credit such year on account of membership service, not to exceed an amount equal to the state service annuity.⁹⁴²

1955. At the beginning of each legislative session, the Governor addresses the Unicameral and presents his budget. Outgoing Governor Crosby did so on January 5, 1955 and asked members of the senate to re-enact the mill levy, in an effort to collect enough tax dollars for the retirement system, to pay more than just the benefits due, and to bring the system into solvency.⁹⁴³ On January 20, the newly sworn in Governor Victor Anderson addressed the issue of solvency in the teacher's retirement system as well, urging the Unicameral to continue efforts to place the Teacher Retirement Program on a sound financial basis.⁹⁴⁴

On January 26, Senators Moulton, Tvrdik, and Syas (Douglas), introduced LB 259 to propose amendments to the Class V School Retirement System, and later upon request, all Douglas County senators were added as co-introducers of the bill. These gentlemen asked the legislature to address annual meetings of the trustees of the system, eliminate refunds to the general fund of a district in the event of severance of employment of a member, reduce contributions from five percent to three percent not in excess of six thousand dollars, and reduce the service credit from one and one half to nine-tenths of one percent of the salary of members eligible for Old Age and Survivors Insurance under provisions of social security, with similar proportionate reductions for

⁹⁴² Srb, *Session Laws, 1953*, 1030.

⁹⁴³ Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-Seventh Session*, (Lincoln, NE: Journal Star Publishing Company, 1955), 41, accessed April 12, 2015, <http://www.nebraskalegislature.gov/FloorDocs/67/PDF/Journal/r1journal.pdf>.

⁹⁴⁴ Srb, *Legislative Journal, Sixty-Seventh*, 1955, 175.

employees electing to not be members of the system because they had pre-existing benefits from other systems, and include in any agreement for social security services performed by employees in positions not covered by an existing retirement system but otherwise eligible to the benefits of Old Age and Survivors Insurance. These changes were asked for with emergency.⁹⁴⁵ The bill was referred to the Education Committee.⁹⁴⁶ On May 24, the bill was shared with the Unicameral on final reading, and voted upon. Forty members voted affirmative, none negative, and three did not vote.⁹⁴⁷ On May 29, Governor Anderson signed the bill and it became effective immediately.⁹⁴⁸

This bill included revisions to §79-1036, §79-1049, and §79-1056. Simply stated, §79-1036 changed the frequency with which the trustees were required to meet from once quarterly to once annually.⁹⁴⁹ Changes to §79-1049 removed the requirement that the school district be reimbursed into the general fund for the district contributions made for any member whose employment met severance before becoming eligible to receive benefits, and requested a refund of their contributions.⁹⁵⁰

LB 259 made multiple changes to §79-1056:⁹⁵¹

- A majority vote would be required of the eligible members to be included into an agreement providing old age and survivors insurance under the Social Security Act, and if that would happen, the member and school

⁹⁴⁵ Srb, *Legislative Journal, Sixty-Seventh*, 1955, 219.

⁹⁴⁶ Srb, *Legislative Journal, Sixty-Seventh*, 1955, 235.

⁹⁴⁷ Srb, *Legislative Journal, Sixty-Seventh*, 1955, 1397-98.

⁹⁴⁸ Srb, *Legislative Journal, Sixty-Seventh*, 1955, 1466.

⁹⁴⁹ Hugo Srb, *Session Laws, 1955*, (Lincoln, NE: 1955), 992; Srb, *Session Laws, 1951*, 914.

⁹⁵⁰ Srb, *Session Laws, 1955*, 992.

⁹⁵¹ Srb, *Session Laws, 1955*, 993-996.

contributions to the system would be reduced from five percent to three percent of salary not to exceed \$6,000, annually. Credits for annuity would be reduced from one and one half percent to nine-tenths percent of salary, not in excess of \$6,000.

- If such an agreement with old age and survivors insurance was entered into, any teacher who had elected not to become a member would have their contributions reduced from five to three percent, and the monthly payments received upon retirement would be such portion of the maximum retirement allowance of \$75 per month, under the contract terms of the previous retirement plan applicable to teachers.
- Non-teacher employees who elected to not become members would have contribution amounts reduced from five percent to three percent of salary not in excess of three thousand dollars, annually. These employees were entitled to a maximum of fifty dollars per month upon retirement under provisions of the previous plan.
- Cafeteria workers would be subject to similar reductions in contributions and benefits if they elected to remain under a previous plan.
- Any member or employee electing to remain under a previous plan, and who retired before the age for social security benefits, could pay into the system an amount equal to the amount that would have been contributed, and the district would pay the same amount to the system. Such member

was entitled to benefits equal to service credits, as would have been the case had there been no reduction.

1957. In 1957, legislation was introduced by Tvrdik, Klaver, and Munelly (Douglas County) to amend §79-1048, and §79-1052. LB 175 was introduced to eliminate the six month waiting period to receive disability benefits under the teacher retirement system, and to provide that a special levy for the retirement fund be certified to the county clerk before the county board of equalization determines its levy. Once again, Senator Tvrdik asked to add the names of all the senators from Douglas County as co-introduces, and without objection the request was granted.⁹⁵² The bill was referred to the Education Committee.⁹⁵³ The bill was voted upon on March 7, and was declared passed with thirty-nine voting affirmative, none voting negative, and four abstaining.⁹⁵⁴ Governor Anderson approved the bill on March 13, and it became law.⁹⁵⁵

§79-1048 was amended to remove the language, "...that he is not and has not been engaged in gainful employment for a period of at least six months from which he has received more than one hundred dollars per month..." thereby entitling members to disabilities benefits paid at a rate of seventy-five percent of full benefits as soon as two physicians verified a permanent disability.⁹⁵⁶

⁹⁵² Hugo Srb, *Legislative Journal of the State of Nebraska, Sixty-Eighth Session*, (Lincoln, NE: Joe Christensen Printer, 1957), 132.

⁹⁵³ Srb, *Legislative Journal, Sixty-Eighth Session, 1957*, 142.

⁹⁵⁴ Srb, *Legislative Journal, Sixty-Eighth Session, 1957*, 705.

⁹⁵⁵ Srb, *Legislative Journal, Sixty-Eighth Session, 1957*, 796.

⁹⁵⁶ Srb, *Session Laws, 1951*, 918.; Hugo Srb, *Session Laws, 1957* (Lincoln, NE: 1957), 1202.

LB 175 amended §79-1052 from simply stating “during the month of July,” in reference to when the board of education should certify to the county clerk the amount of mills to levy for the retirement system, and stated more clearly, “before the county board of equalization shall make its levy in each year.”⁹⁵⁷

1963. The Seventy-Third Legislature addressed the Class V Schools Retirement System in the form of LB 351. Introduced by Syas, Klaver, and Skarda, Jr. (Douglas),⁹⁵⁸ the bill proposed to provide for increasing the number of members on the board of trustees, and to discontinue the reduction for state service annuity.⁹⁵⁹ The Education Committee reported upon the bill with a recommendation to pass, since the Omaha school was the only impact, and there would be no cost, all but which would be incurred by the Omaha plan itself. If the Omaha Senators supported such a change, the Unicameral saw no reason to oppose it.⁹⁶⁰ On final reading on July 1, thirty-two members voted affirmative, two members voted negative, and nine members did not vote. It was declared passed,⁹⁶¹ and signed by the Governor on July 9.⁹⁶²

LB 351 amended §79-1034 to increase the number of trustees to seven⁹⁶³ from the originally established number of five.⁹⁶⁴ §79-1049 was changed to eliminate the

⁹⁵⁷ *Srb, Session Laws, 1951, 922.*; *Srb, Session Laws, 1957, 1203.*

⁹⁵⁸ *Srb, Legislative Journal, Seventy-Third Session, 1963, V.*

⁹⁵⁹ *Srb, Legislative Journal, Seventy-Third Session, 1963, 200.*

⁹⁶⁰ *Srb, Legislative Journal, Seventy-Third Session, 1963, 1106-1107.*

⁹⁶¹ *Srb, Legislative Journal, Seventy-Third Session, 1963, 2190-2191.*

⁹⁶² *Srb, Legislative Journal, Seventy-Third Session, 1963, 2274.*

⁹⁶³ *Srb, Session Laws, 1963, 1564.*

⁹⁶⁴ *Srb, Session Laws, 1951, 912.*

requirements of years of service a member must have had to receive a refund.⁹⁶⁵ §79-1052 was changed to remove the reduction of annuities for prior services, provided in §79-1056,⁹⁶⁶ which was also amended so that after September 1, 1963, all employees would contribute two and three-fourths percent of salary covered by old age and survivors insurance, five percent over that amount, and the district would contribute whatever amount necessary to remain solvent, and after such date all employees would be credited with a membership service annuity of nine-tenths of one percent of salary covered by old age and survivors insurance, and one and one half percent of salary above that amount. It went on to read that credits, under the state school retirement system for service prior to September 1, 1951, would not be offset against credits for membership service under the school employees' retirement system.⁹⁶⁷ Prior to this, if a Class V School employee was eligible to receive benefits from the state system, he would receive full state system benefits, but that amount would be deducted from the membership service annuity as provided for in the Class V School Retirement System.⁹⁶⁸ And finally, §79-1059 was revised to clarify that the school district would receive payment from the retirement system, to be added to the general fund, an amount equal to any refunds received by any member on account of withdrawal from membership.⁹⁶⁹

1965. LB 481 was the only bill that made changes to the Class V School Employees Retirement System during the session. Introduced by all senators from

⁹⁶⁵ *Srb, Session Laws, 1955, 992-993.*; *Srb, Session Laws, 1963, 1566.*

⁹⁶⁶ *Srb, Session Laws, 1957, 1203.*; *Srb, Session Laws, 1963, 1566.*

⁹⁶⁷ *Srb, Session Laws, 1963, 1567-1568.*

⁹⁶⁸ *Srb, Session Laws, 1955, 993-994.*

⁹⁶⁹ *Srb, Session Laws, 1963, 1568.*

Douglas County, including Syas, Klaver, Danner, Moylan, Moulton, Pedersen, Proud, Batchedler, Karda, Mahoney, and D. Payne, the bill sought to amend §79-1047 to provide that members of the Class V system could elect, at any time prior to retirement, to receive a survivorship annuity in lieu of a refund of accumulated contributions.⁹⁷⁰ The bill was referred to the budget committee⁹⁷¹ and with support for passage from the advisory committee⁹⁷² was voted upon on Final Reading with forty-four members affirmative, none negative, and five members not voting.⁹⁷³ It was signed into law on April 21.⁹⁷⁴

LB 481 revised §79-1047 to add the provision that, prior to retirement and upon having twenty-five years or more of service, a member may elect to have a named survivor receive an annuity if the member would happen to die before retirement. If this election were not made, the survivor would receive a lump sum of the member's accumulated contributions. Only a spouse, or parent(s) of the member would be eligible for such an election.⁹⁷⁵

1967. Class V Schools Retirement System underwent some minor changes in 1967. Legislative Bills 813 and 420 helped to more clearly define this system.

LB 813 was introduced by Omaha Senators Syas, Proud, Batchelder, Danner, Moylan, Moulton, and Skarda to prescribe procedures for investment of funds, increase penalties, provide for investment management, and prescribe the types of investments

⁹⁷⁰ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 274.*

⁹⁷¹ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 315.*

⁹⁷² *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 1089.*

⁹⁷³ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 1170-1171.*

⁹⁷⁴ *Srb, Legislative Journal, Seventy-Fifth Session, 1965, 1209.*

⁹⁷⁵ *Srb, Session Laws, 1965, 1659.*

that could be made.⁹⁷⁶ This was passed on Final Reading with a vote of forty affirmative, no negative, and nine members not voting, on May 25.⁹⁷⁷ The bill was signed into law on June 7.⁹⁷⁸

LB 813 made changes to §79-1051 by adding sections two through six, which gave the board of trustees authority to hire an investment manager to make recommendations to them, who then in turn would make a monthly report to the board of education, who approve or disapprove of the recommended investments. The bill also gave the board of trustees the authority to collect on defaulted interest or investments, or make adjustments to future payments of interest or principle as deemed advisable for the purpose of protecting the investment. Details about what types of bonds would be acceptable for investment were outlined in section four of §79-1051 as amended by the bill, and section five detailed the process by which investments could be made in stocks. Finally, section six added that investments could be made in first mortgages on improved real property insured by the Federal Housing Administration.⁹⁷⁹

LB 813 also increased the amount of fine to be paid if a member would be convicted of a misdemeanor charge by violating any of the provisions, from not less than ten dollars and not more than one hundred dollars,⁹⁸⁰ to not less than one hundred dollars and not more than one thousand dollars.⁹⁸¹

⁹⁷⁶ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 364.

⁹⁷⁷ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 2144.

⁹⁷⁸ Srb, *Legislative Journal, Seventy-Seventh Session, 1967*, 2276.

⁹⁷⁹ Srb, *Session Laws, 1967*, 1791-1795.

⁹⁸⁰ Srb, *Session Laws, 1951*, 921-922.

⁹⁸¹ Srb, *Session Laws, 1967*, 1791.

LB 420 was introduced by Senator Pedersen, Jr. (4) to define a term within the Class V Schools Districts Retirement System, reduce the number of years of service required, and to provide a permissive retirement date, with emergency.⁹⁸² This bill was further developed by the Budget Committee⁹⁸³ and voted upon, after Final Reading, with forty-four members voting affirmative, two voting negative, and three not voting.⁹⁸⁴ On April 24, the bill was signed into law.⁹⁸⁵

LB 420 revised §79-1032, §79-1047, §79-1049, and §79-1057. The bill added a new definition, that of “permissive retirement date” as any date after which the member has thirty-five years of service, or any date after the age of sixty and having twenty-five years of creditable service.⁹⁸⁶

§79-1047 was amended to state that beneficiaries could designate that a survivor, including parent or spouse, could receive an annuity of the member’s accumulated contributions, so long as the member had more than twenty years of creditable service and made such an election. The amount would be determined as if the member retired at the age of sixty-five.⁹⁸⁷ LB 420 reduced the amount of creditable service required for a member to leave funds in his account, from twenty-five years to twenty years, if

⁹⁸² *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 221.*

⁹⁸³ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 257.*

⁹⁸⁴ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 1399.*

⁹⁸⁵ *Srb, Legislative Journal, Seventy-Seventh Session, 1967, 1467.*

⁹⁸⁶ *Srb, Session Laws, 1967, 1788.*

⁹⁸⁷ *Srb, Session Laws, 1967, 1789.*

severance occurred for a reason other than retirement, to receive a refund of contributions by making changes to §79-1049.⁹⁸⁸

1969. During the Eightieth Legislative Session in 1969, the Legislature adopted a change, proposed by Senator Holmquist, to add the Nebraska Retirement Systems Advisory Committee as a standing committee of the Unicameral Legislature.⁹⁸⁹ This is one of the fourteen standing committees of the Legislature yet today.⁹⁹⁰ From this point in this document going forward, in proposed legislation, all retirement bills were referred to the retirement committee, unless otherwise notated.

The Class V Schools Retirement System was changed by only one bill, LB 530, during the Eightieth session of the Unicameral Legislature.

LB 530 was introduced by Senator Pedersen, Jr. (4) to increase benefits, provide a base for benefits, increase the maximum allowance of teachers who were nonmembers, increase the maximum allowance for non-teacher nonmembers, increase benefits to cafeteria workers, and provide for an annual adjustment by the board of education, all effective after September 1, 1969.⁹⁹¹ The bill was referred to the Budget Committee for further consideration⁹⁹² and was rerouted to the Nebraska Retirement Systems Advisory Committee.⁹⁹³ The bill advanced to Final Reading on August 6, and was declared passed

⁹⁸⁸ Srb, *Session Laws, 1967*, 1789.

⁹⁸⁹ Hugo Srb, *Legislative Journal of the State of Nebraska, Volume I, Eightieth Session*, (Lincoln, NE: Joe Christensen, Inc., 1969), 901, 1022.

⁹⁹⁰ Standing Committees, *Nebraska Legislature: the official site of the Nebraska Unicameral Legislature*, (Lincoln, NE: unknown) Accessed on May 17, 2015, <http://nebraskalegislature.gov/committees/standing-committees.php>.

⁹⁹¹ Srb, *Legislative Journal, Eightieth Session, 1969*, 224.

⁹⁹² Srb, *Legislative Journal, Eightieth Session, 1969*, 233.

⁹⁹³ Srb, *Legislative Journal, Eightieth Session, 1969*, 1187.

with emergency by a vote of forty-four affirmative, no negative, five abstaining votes.⁹⁹⁴

The Governor signed the bill into law on August 11.⁹⁹⁵

LB 530 made changes to §79-1044 and §79-1056. The former was amended, adding that for each active member who retired on or after August 31, 1969, such annual credit would be an amount equal to one and sixty-five hundredths percent of such salary or wage, not in excess of \$5,000. This addition was the only change, and nothing was deleted from the statute.⁹⁹⁶

§79-1056 was amended by adding a special circumstance for members who retired on or after August 31, 1969, to receive one percent of salary or wages covered by old age and survivors insurance, and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, but before September 1, 1969. Beginning September 1, 1969, all employees were to contribute two and three-fourths percent of the first \$7800 of salary, and five percent of salary over \$7800.⁹⁹⁷

§79-1056.01 was added to, with an exception for teachers who retired after August 31, 1969, who had not become a member, but remained under a preexisting plan. Those employees would receive a maximum of eighty-two dollars and fifty cents, an increase from seventy-five dollars. §79.1056.02 had a similar adjustment made under the same conditions for non-teaching, non-member employees, whose maximum allowance

⁹⁹⁴ Srb, *Legislative Journal, Eightieth Session, 1969*, 3343.

⁹⁹⁵ Srb, *Legislative Journal, Eightieth Session, 1969*, 3485.

⁹⁹⁶ Srb, *Session Laws, 1969*, 2754.

⁹⁹⁷ Srb, *Session Laws, 1969*, 2754-2756.

would become fifty-five dollars, an increase from fifty dollars, and §79-1056.03 added a provision under the same conditions for cafeteria workers who were non-members, whose contributions and benefits under a pre-existing plan would increase proportionately in the same manner as provided for other non-members employees.⁹⁹⁸

1972. During the second session of the Eighty-Second Legislature, in 1972, one bill made changes to the Class V School Retirement System. That bill was LB 1116.

LB 1116 was introduced by Senator Snyder (14) to make provisions for employees of Class V Schools systems who retired after August 31, 1972.⁹⁹⁹ The bill was referred to the Nebraska Retirement Systems Committee,¹⁰⁰⁰ and advanced to Final Reading on March 28, with additional provisions stated to change the rate and amount of contributions, and to redefine when a member becomes fully vested. The vote passed with forty-four affirmative votes, no negative, and five members not voting.¹⁰⁰¹ The bill was signed by the Governor on March 29.¹⁰⁰²

LB 1116 amended §79-1044 to create levels of contributions for members who initially chose the legislated retirement system in 1951, and retired after August 31, 1972. These employees would have their funds credited with two percent of their salary from 1951-1955, not in excess of \$5,000 annually; their funds would be credited with one and two-tenths percent of their salary from 1955-1963, not in excess of \$6,000 annually; their

⁹⁹⁸ Srb, *Session Laws, 1969, 2757-2758.*

⁹⁹⁹ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Eighty-Second Legislature, Second Session*, (Lincoln, NE: 1972), 105, accessed on May 27, 2015, <http://nebraskalegislature.gov/FloorDocs/82/PDF/Journal/r2journal.pdf>.

¹⁰⁰⁰ Brown, *Legislative Journal, Eighty-Second Legislature, Second Session, 1972*, 113.

¹⁰⁰¹ Brown, *Legislative Journal, Eighty-Second Legislature, Second Session, 1972*, 1605.

¹⁰⁰² Brown, *Legislative Journal, Eighty-Second Legislature, Second Session, 1972*, 1677.

accounts would be credited with one and two-tenths percent of their salary up to the social security wage base, plus two percent of their salary in excess thereof from the years of 1963-1969; and beyond 1969, their fund would be credited with one and two-tenths percent of the first \$7,800 of salary and two percent of the excess of salary over the amount of \$7,800.¹⁰⁰³

§79-1049 was changed to reduce the amount of years of service that an employee was required to have, in order to leave funds in the system if severance of employment occurred before regular retirement age, from twenty to fifteen.¹⁰⁰⁴

§79-1056 was revised to reflect the new provisions in §79-1044. §79-1056.01, was revised by adding that for any teacher who retired on or after August 31, 1972, the monthly payments which were attributable to service after September 1, 1951, shall be determined as if such maximum retirement allowance was \$99. Amended §79-1056.02 allowed for similar adjustments for non-teaching Class V School employees.¹⁰⁰⁵

1973. During the first session of the Eighty-Third Legislature, LB 215 was introduced by Senator Whitney (44) to provide for annual audits of the Class V School Employees Retirement System.¹⁰⁰⁶ The bill advanced to Final Reading on March 7, and was declared passed by a vote of forty affirmative, no negative, with nine members not voting.¹⁰⁰⁷ It was signed by the Governor on March 14.¹⁰⁰⁸

¹⁰⁰³ Vincent D. Brown, *Session Laws, 1972, LB 1116*, (Lincoln, NE, 1972), 617.

¹⁰⁰⁴ Brown, *Session Laws, 1972, LB 1116*, 618.

¹⁰⁰⁵ Brown, *Session Laws, 1972, LB 1116*, 619-621.

¹⁰⁰⁶ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 153.

¹⁰⁰⁷ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 705.

¹⁰⁰⁸ Brown, *Legislative Journal, Eighty-Third Legislature, First Session*, 799.

LB 215 amended §79-1050 by moving the responsibility of the audit of the Class V Schools system from the Department of Insurance of the State of Nebraska, who were originally required to examine the audit, to the board governing the system, who were to hire a certified public accountant or the Auditor of Public Accounts at the expense of the system annually.¹⁰⁰⁹

1976. In 1976, the Class V Schools Retirement System was amended by LB 994. The bill was introduced by the Nebraska Retirement Systems Committee members, Hasebroock (18), Stull (49), Luedtke (28), F. Lewis (45), Marvel (33), and Goodrich (20), to provide retirement benefits for members of a retirement system in a Class V school district who retired or terminated employment after August 31, 1976, and to change the rate and amount of contributions.¹⁰¹⁰ The bill reached a Final Reading on March 10, with forty-five members voting affirmative, none voting negative, and four members not voting.¹⁰¹¹ The Governor approved the bill on March 12.¹⁰¹²

LB 994 made changes to many sections of the Class V Schools Retirement System. The definition of permissive retirement was changed to refer to just the month and year at which a member attained thirty-five years of service, rather than the exact date.¹⁰¹³ It also increased the tiered benefit amount in §79-1044 for members who retired on or after August 31, 1976, as follows:

¹⁰⁰⁹ Brown, *Session Laws, 1973, LB 215*, 564.

¹⁰¹⁰ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 512.

¹⁰¹¹ Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1033.

¹⁰¹² Brown, *Legislative Journal, Eighty-Fourth Legislature, Second Session, 1976*, 1105.

¹⁰¹³ Brown, *Session Laws, 1976, LB 994*, 877.

- For service from September 1, 1951 to August 31, 1955, the percentage increased from two percent to two and four-tenths of a percent of wage not in excess of \$5,000;
- From September 1, 1955 to August 31, 1963, the percentage increased from one and two-tenths to one and forty-four hundredths percent of wages, not in excess of \$6,000;
- From September 1, 1963 to August 31, 1969, the percentage increased from one and two-tenths to one and forty-four hundredths of salary or wage up to the social security wage base, plus two and four-tenths percent of salary in excess thereof;
- Credit for service after September 1, 1969 would increase to one and forty-four hundredths percent of the first \$7,800 of salary, and two and four-tenths percent over that amount.¹⁰¹⁴

§79-1056 was revised to reflect the same percentage increases, and also to add that after September 1, 1976, all members would contribute the same percentage of salary, an amount of two and nine-tenths percent of the first \$7,800 of salary, and five and twenty-five hundredths percent of salary in excess of that amount. §79-1056.01 was changed to increase the maximum retirement allowance to be \$118.80 for members who retired after September 1, 1976, an increase from \$99. The amount was also increased

¹⁰¹⁴ Brown, *Session Laws, 1976, LB 994, 877-878.*

for non-teaching members in §79-1056.02, a maximum compensation was \$72.20 per month, increased from \$66.¹⁰¹⁵

1977. The Legislative Session in 1977 brought a set of comprehensive bills to be debated that were connected to the Criminal Codes, but made changes to many different Nebraska Codified Statutes, including those composing the School Employees Retirement Act, and the Class V School Employees Retirement Act.

LB 39 was a bill that made changes to both systems. It was introduced by members of the Judiciary Committee, including Senators Luedtke (28), DeCamp (40), Chambers (11), Barnett (26), and Schmit (23). The intent of the bill was to harmonize provisions with the criminal code, related to crimes and punishment.¹⁰¹⁶ The bill was heard at Final Reading on May 17, with a vote of thirty-one affirmative, eleven negative, four abstaining, and three not present to vote.¹⁰¹⁷

Governor Exon vetoed LB 39, returning it to the Legislature with the message that LB 38 should have been reviewed by members of the legal community for accuracy before it was passed by the legislature, not after as proposed, and therefor LB 39 and other bills, which made changes based on the passage of LB 38, could not be approved. He cited that we should rather be “cautious now rather than sorry later” when passing bills.¹⁰¹⁸

¹⁰¹⁵ Brown, *Session Laws 1976, LB 994*, 880-881.

¹⁰¹⁶ Vincent D. Brown, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Fifth Legislature, First Session* (Lincoln, NE: 1977), 103, Access on June 1, 2015 at <http://nebraskalegislature.gov/FloorDocs/85/PDF/Journal/r1journal.pdf>.

¹⁰¹⁷ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2090.

¹⁰¹⁸ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2175.

The bill was returned to the Unicameral, where it again was voted upon to override the veto. The final vote was thirty-four affirmative, fourteen negative, and one member not voting. The bill was declared passed over the veto, with a three-fifths majority.¹⁰¹⁹

LB 39 made changes to §79-1051, to state that no trustee or member of the board of the Class V School Retirement System could have any direct interest in the income, gains, or profits of investments made on behalf of the retirement system, and if any person violated this provision, they shall be guilty of a Class II misdemeanor.¹⁰²⁰

1979. The Eighty-Sixth Legislature, Session One, in 1979, brought one bill that changed both the School Employees Retirement System and the Class V School Employees Retirement System. LB 391 was introduced by Senator Duis (39) to change the mandatory age of retirement.¹⁰²¹ Upon Final Reading on May 21, an additional provision was indicated to extend certain benefits. The vote was forty-seven affirmative, no negative, and two members excused and not voting.¹⁰²² Governor Thone approved the bill on May 23.¹⁰²³

LB 391 amended §79-1041 and §79-1057 of the Class V School system. In an effort to reflect the equality between men and women which was emphasized during the 1970's social era, all references in all four of these sections which previously referred to

¹⁰¹⁹ Brown, *Legislative Journal, Eighty-Fifth Legislature, First Session, 1977*, 2269.

¹⁰²⁰ Brown, *Session Laws, 1977, LB 39*, 331-332.

¹⁰²¹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Sixth Legislature, First Session* (Lincoln, NE: 1979), 237, accessed on June 1, 2015, <http://nebraskalegislature.gov/FloorDocs/86/PDF/Journal/r1journal.pdf>.

¹⁰²² O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 2230.

¹⁰²³ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 2301.

members as “he” or “his” were adjusted to “he or she” and “his or hers.”¹⁰²⁴ Also changed in §79-1041 was the age at which an employee could still become a member, increased from the age of sixty to sixty-five, of the Class V system. §79-1057 was amended so that all members must retire at the mandatory retirement age, with no longer any exceptions accepted.¹⁰²⁵

LB 135 was introduced by the Education Committee, consisting of Senators Koch (12), George (16), Vickers (38), Kahle (37), Kremer (34), Lamb (43), and Landis (46). The intent of the bill was to specify membership on the Board of Trustees for the Class V School Retirement System.¹⁰²⁶ The bill was heard upon Final Reading on April 18, and forty-one senators voted affirmative, none voted negative, three were present but did not vote, and five were excused.¹⁰²⁷ The Governor approved the bill on April 24.¹⁰²⁸

LB 135 amended §79-1034 to increase the number of trustees, appointed by a majority of board members, from seven to nine. It also specified that of the trustees, three must be staff members of the school, two certificated, and one classified, and three must be members of the board of education. The terminology was changed from men to persons. Also clarified, with the increased number of members, that a quorum would now require five members.¹⁰²⁹

¹⁰²⁴ Patrick J. O’Donnell, *Session Laws, 1979, LB 391* (Lincoln, NE: 1979), 1126-1128.

¹⁰²⁵ O’Donnell, *Session Laws, 1979, LB 391*, 1126-1127.

¹⁰²⁶ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 135.

¹⁰²⁷ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 1522.

¹⁰²⁸ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 1600.

¹⁰²⁹ O’Donnell, *Session Laws, 1976, LB 135*. 399.

Introduced by Senator Warner (25) was LB 187, with the intent of changing property tax valuation, and restating methods of levying taxes.¹⁰³⁰ The bill was amended through work done by the Revenue Committee¹⁰³¹ and when heard upon Final Reading included a provision to increase an authorized levy. The vote was thirty-six affirmative, five negative, and eight members were excused from session and did not vote.¹⁰³² Governor Thone signed the bill on April 17.¹⁰³³

Amended by LB 187 were §79-1036 and §79-1052. In §79-1036, the language was changed from “number of mills” to “rate of tax” when referring to the money needed to be raised through taxation to cover payments from the system. §79-1052 also made the adjustment from “number of mills” to “rate of tax,” and also made the change that the tax would be based on the actual valuation, not the adjusted, as it was prior to the bill. The bill limited the rate of tax to seven cents per one hundred dollars on the actual valuation.¹⁰³⁴

There were nearly 4,800 Omaha plan members.¹⁰³⁵

1980. The Legislative Session held in 1980 brought change to both systems by legislating supplemental benefits for retired members of the School Employees Retirement System and the Class V School Employees Retirement System.

¹⁰³⁰ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*. 154.

¹⁰³¹ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 185.

¹⁰³² O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 1377.

¹⁰³³ O’Donnell, *Legislative Journal, Eighty-Sixth Legislature, First Session*, 1471.

¹⁰³⁴ O’Donnell, *Session Laws, 1976, LB 187*, 151-152.

¹⁰³⁵ J. S. Rubie, *School Retirement System of the State of Nebraska System Actuary’s Report Actuarial Valuation June 30, 1979*, (Unknown: Tillinghast, Nelson, & Warren, 1980).

LB 228 was introduced by Senator Fowler (27), who was also chair of the Nebraska Retirement Systems Committee. The legislative bill intended to provide supplemental benefits for retired teachers, determine the value of such benefits, and establish the Retired Teachers Supplemental Fund.¹⁰³⁶ The bill reached Final Reading on April 8, with a vote of forty-four affirmative, two negative, one member present and not voting, and two members excused from session.¹⁰³⁷ The bill was signed by Governor Thone on April 14, along with LB 228A to pay for the provisions in LB 228.¹⁰³⁸

LB 228 created a new fund. It specifically stated that beginning September 1, 1980, the Public Employees Retirement Board (PERB) would determine a supplemental benefit for each certificated member of either system with at least twenty-five years of creditable service as of July 1, 1980. This monthly benefit was to be computed as if the member had retired at sixty-five, or at the actual age of retirement, whichever was later. The PERB had the obligation of determining the value of the total monthly benefit by subtracting the member's total monthly benefit from one hundred fifty-five dollars, and the positive difference was to be the amount of the supplemental benefit paid to the retired certificated member, unless the difference was less than five dollars, at which time the minimum benefit paid would be five dollars per month. This amount would also be paid to a named beneficiary in the event the member was deceased. The fund established to pay this benefit was known as the Retired Teachers Supplementary Benefits Fund, and

¹⁰³⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume II, Eighty-Sixth Legislature, Second Session* (Lincoln, NE: 1980), 14-15, Accessed on June 2, 2015, <http://nebraskalegislature.gov/FloorDocs/86/PDF/Journal/r2journal.pdf>.

¹⁰³⁷ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1700.

¹⁰³⁸ O'Donnell, *Legislative Journal, Eighty-Sixth Legislature, Second Session*, 1825.

the monies used to sustain this fund were to be the express obligation of the state, to be budgeted for on an annual basis as determined by the PERB.¹⁰³⁹

1981. LB 369 was first presented to the legislature for consideration by Senator Burrows (30) on behalf of the NSEA, to allow creditable service for certain leaves of absence.¹⁰⁴⁰ On May 14 the bill reached Final Reading, and was brought to a vote. Forty-four legislators voted affirmative, none negative, two did not vote, and three were excused.¹⁰⁴¹ The bill was signed into law by the Governor on May 18.¹⁰⁴²

LB 369 brought changes for the Class V school retirement systems. Amended was §79-1043 by adding a subsection that allowed members to receive creditable service for board approved leaves of absence, which might include sabbaticals, maternity leave, exchange teaching programs, leave to pursue study, or leave due to fulltime duties as an elected official of a professional association or collective bargaining unit. Members were required to regain employment in a school district in Nebraska within one year of the leave ending, or with a Class V school if applicable, and were required to pay the amount to the retirement system that would have been paid on the behalf by the school district based on compensation the year prior to the leave, within three years of the end of the leave of absence. Any leave of absence could not exceed four years.¹⁰⁴³

¹⁰³⁹ Patrick J. O'Donnell, *Session Laws, 1980, LB 228*, (Lincoln, NE: 1980), 102-103.

¹⁰⁴⁰ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Seventh Legislature, First Session* (Lincoln, NE: 1981), 263, accessed on June 3, 2015, <http://nebraskalegislature.gov/FloorDocs/87/PDF/Journal/r1journal.pdf>.

¹⁰⁴¹ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2045.

¹⁰⁴² O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2075.

¹⁰⁴³ O'Donnell, *Session Laws, 1981, LB 369* (Lincoln, NE 1981), 1271-1274.

Senator Wagner (41) introduced LB 204 in 1981 during the Eighty-Seventh Legislature, First Session. The bill, introduced on behalf of efficiency of government, related to mileage and expenses. It intended to harmonize provisions, increase certain rates, provide intent for adjustments to certain rates, and provide severability.¹⁰⁴⁴ This bill was voted upon after Final Reading, with thirty-four affirmative votes, no negative, thirteen members present but not voting, and two members excused from session.¹⁰⁴⁵ Governor Thone signed the bill, along with LB 204A to provide funding for the changes, on May 18.¹⁰⁴⁶

LB 204 made an adjustment to §79-1034, adding that reimbursable expenses incurred by the board trustees would be paid according to §84-306.01 through §84-306.05 for state employees.¹⁰⁴⁷

1982. During the Eighty-Seventh Legislature, Second Session, there were several bills that addressed the needs of an aging workforce. Included among the action taken was Legislative Resolution 231, an effort to recognize the value of older workers in Nebraska, and a reflection of the national effort to gain support for older workers. Since March 14-20 was deemed, “National Employ the Older Worker Week,” the Unicameral urged Nebraskans to observe “Employ the Older Worker Week,” not only for a specific week of March, but throughout the year.¹⁰⁴⁸ Reflected in legislation connected to the

¹⁰⁴⁴ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 183.

¹⁰⁴⁵ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 1924.

¹⁰⁴⁶ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, First Session*, 2090.

¹⁰⁴⁷ Patrick J. O’Donnell, *Session Laws, 1981, LB 204*, 758.

¹⁰⁴⁸ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Seventh Legislature, Second Session* (Lincoln, NE: 1982) accessed on June 3, 2015, <http://nebraskalegislature.gov/FloorDocs/87/PDF/Journal/r2journal.pdf>.

school retirement systems were three bills, two of which addressed mandatory retirement age.

Introduced by Rumery (42), to eliminate the mandatory retirement age of teachers and to harmonize provisions with other legislation,¹⁰⁴⁹ LB 287 intended to make a significant change for teachers. When the bill was heard upon Final Reading, it had been amended to change provisions relating to mandatory retirement, and to authorize employment beyond mandatory retirement age, with emergency. The final vote recorded was forty-five affirmative, no negative, and four members present but not voting.¹⁰⁵⁰ The bill was approved by Governor Thone on February 19.¹⁰⁵¹

§79-1057 relating to Class V Schools Retirement System was amended to reflect that employees could continue employment after the compulsory retirement date with the annual approval of the board.¹⁰⁵²

Formula Annuity for Class V School Employees

Senator Newell (13) introduced LB 131 to increase certain employee retirement ages.¹⁰⁵³ At Final Reading on February 19, it was changed to simply revise the system as prescribed with emergency clause. The final vote was forty-three affirmative, no

¹⁰⁴⁹ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 16.

¹⁰⁵⁰ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 764.

¹⁰⁵¹ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 792.

¹⁰⁵² Patrick J. O'Donnell, *Session Laws, 1982, LB 287*, 270.

¹⁰⁵³ O'Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 6.

negative, and six members not voting.¹⁰⁵⁴ The bill was approved by the Governor on the same day it passed.¹⁰⁵⁵

The Class V School Employees Retirement System underwent multiple changes by the passage of LB 131:¹⁰⁵⁶

- The definition of compensation was changed to mean all compensation, including bonuses, overtime, etc.
- The term “permissive” retirement was changed to early, and would mean having ten years of service and reached the age of fifty-five.
- Sub-section two of §79-1041 was completely removed, relating to membership as of the establishment date of the system in 1951, and how to elect to not become a member.
- §79-1043 was amended to change the way interest was calculated for members who had taken military leave, and were purchasing creditable service for years of military service.
- Sub-section four of §79-1043 was added, to provide for a formula-based annuity for any member who retired after the effective date of the act, unless the formula annuity was to be less than the initially legislated annuity. The formula would be based on final average compensation, determined by dividing total compensation for the three highest years by thirty-six,

¹⁰⁵⁴ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 761-762.

¹⁰⁵⁵ O’Donnell, *Legislative Journal, Eighty-Seventh Legislature, Second Session*, 792.

¹⁰⁵⁶ O’Donnell, *Session Laws, 1982, LB 131*, 182-195.

multiplied by one and one half percent, multiplied by the number of years of creditable service up to thirty years.

- §79-1047 was amended to reflect the change made of allowing a formula annuity.
- §79-1048 redefined that disability benefit would begin after the first of two exams to determine a total disability.
- §79-1049 was amended to reflect that members who severed employment could leave their funds in the system and receive an annuity at regular retirement age if they had accumulated ten years of service, lowered from fifteen years. Such member could also take early retirement benefits as prescribed in accordance with the act.
- In §79-1051.03 and §79-1051.04, changes were made to allow investment in bonds and debt obligations guaranteed by corporations existing under the laws of Canada on such securities payable in United States currency. Changes also reflected other issues related to securities and bonds.
- §79-1056 was changed to indicate that the employee contribution rate would increase on September 1982, to four and nine-tenths percent of annual salary, made in the form of a monthly deduction from compensation. Terms of employment included agreeing to such deduction, and compensation minus said deductions would constitute a complete and full discharge of all claims and demands for services rendered.

- §79-1057 was amended to reflect that all employees would retire at the compulsory retirement age, but could continue employment with approval from the board.

1983. The Eighty-Eighth Legislature brought one bill to fruition that made adjustments to the retirement system for Class V School Employees. That bill was LB 488.

LB 488 was introduced by Senator Newell (13) to change retirement benefits as prescribed.¹⁰⁵⁷ The bill was amended, and included a change to provisions relating to the age of retirement, and to ask for passage with emergency clause. The Final Reading on March 2 passed with a vote of forty-six affirmative, two negative, and one not voting.¹⁰⁵⁸ Governor Kerrey signed the bill on March 7 and it was enacted.¹⁰⁵⁹

Modifications made by LB 488 impacted §79-1056 by removing limitations on the amount of annuity that could be received by members who had elected to receive the state service annuity by choosing to not become members of the Class V system. Also, a completely new sub-section was created, to provide for a cost-of-living adjustment for members who retired prior to February 21, 1982, not to exceed the amount of one dollar and fifty cents per month for each year of service, and one dollar per month for each year

¹⁰⁵⁷ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Eighth Legislature, First Session* (Lincoln, NE: 1983), 251, accessed on June 4, 2015
<http://nebraskalegislature.gov/FloorDocs/88/PDF/Journal/r1journal.pdf>.

¹⁰⁵⁸ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, First Session, 1983*, 712.

¹⁰⁵⁹ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, First Session, 1983*, 835.

of completed retirement as measured from the effective date of retirement until June 30, 1983.¹⁰⁶⁰

1984. During the Eighty-Eighth Legislature, Second Session, Legislative Resolution 426 was presented, to ask for an interim study on the cost and benefits of allowing public employees to retire at an earlier age with full benefits. The intent of the study was to determine financial and psychological considerations of early retirement, direct costs to the retirement system, impact on society of allowing earlier retirement in light of projections showing an increase in the ratio of retired persons to working persons, possible saving to the employer from pensioning higher-paid workers and replacing them with lower-paid younger workers, trends in private industry, and methods of providing equivalent benefits for defined-contribution and defined-benefit systems.¹⁰⁶¹

Also introduced was LR 427, by the Nebraska Retirement Systems Committee, to conduct an interim study on the issues involved in providing cost-of-living adjustments in benefits to retired public employees. This more specifically proposed to study the monetary cost, erosion of pension income due to inflation, pockets of retirees who may have retired under inadequate plans, and special cases not eligible for social security benefits.¹⁰⁶²

¹⁰⁶⁰ Patrick J. O'Donnell, *Session Laws, 1983, LB 488* (Lincoln, NE: 1983), 1227.

¹⁰⁶¹ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Eighth Legislature, Second Session* (Lincoln, NE: 1984), 2103, accessed on June 4, 2015, <http://nebraskalegislature.gov/FloorDocs/88/PDF/Journal/r2journal.pdf>.

¹⁰⁶² O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2104.

LR 428 also addressed issues concerning the multiple retirement systems of the State of Nebraska. As in 1974,¹⁰⁶³ the Nebraska Retirement Systems Committee again felt the need to conduct a comparison study of the various systems administered by the state as well as those authorized or required for subdivisions of government.¹⁰⁶⁴

One bill passed in 1984 that made changes to the Class V Schools Retirement System: LB 218.

The members of the Nebraska Retirement Systems Committee, Fowler (27), Vickers (38), Wesely (26), and Schmit (23), introduced LB 218 to provide for the employer to pick up certain employee contributions and to harmonize provisions. The bill originally intended to make changes to both the Class V School and the School Employees systems¹⁰⁶⁵ but as printed in the *Legislative Journal*, changes to the School Employees Retirement System were removed.¹⁰⁶⁶ On Final Reading, the bill received forty-five affirmative votes, no negative votes, and four members did not vote.¹⁰⁶⁷ Governor Kerrey signed the bill on April 9.¹⁰⁶⁸

§79-1056 of the Class V School Retirement System had sub-section two added due to LB 218, which provided that the district had the obligation to pick up the employee contributions through deduction from salary, either through a reduction in the cash salary of the employee or a combination of a reduction in salary to offset a future

¹⁰⁶³ Srb, *Legislative Journal, Eighty-Third Legislature, Second Session*. 1439.

¹⁰⁶⁴ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2104.

¹⁰⁶⁵ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 11.

¹⁰⁶⁶ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 355.

¹⁰⁶⁷ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2145.

¹⁰⁶⁸ O'Donnell, *Legislative Journal, Eighty-Eighth Legislature, Second Session*, 2389.

salary increase. Federal tax was to be withheld from the amount picked-up, but the amount was not to be included as gross income of the employee.¹⁰⁶⁹

1985. The Eighty-Ninth Legislature, First Session, brought the introduction of some bills that reflected the findings of LR 426 interim study from 1984. LB 311 was introduced to provide for early retirement incentives, a preretirement planning program, retirement options, and allowing employees to choose early retirement.¹⁰⁷⁰ The bill died; however, it was an initial effort to provide for early retirement. Legislation leading up to this point provided for retirement only at designated retirement age.

Other noteworthy bills introduced were LB 402 and LB 403, which initiated the conversation of retirement eligibility based on factors other than simply the age of the member. LB 402 introduced the idea of a combination of age plus years of experience to determine eligibility for retirement benefits, proposing that a combination of ninety years might be considered, and LB 403 was submitted as an effort to provide that members could retire after thirty-five years of service, regardless of age.¹⁰⁷¹ These bills did not pass during the 1985 session.

Senator Goodrich (20) introduced LB 215. The intent of the bill was to change provisions for benefits of employees of Class V school districts, to redefine terms, and to provide duties for the Reviser of Statutes.¹⁰⁷² The bill was passed with emergency on

¹⁰⁶⁹ O'Donnell, *Session Laws, 1984, LB 218*, 157.

¹⁰⁷⁰ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Eighty-Ninth Legislature, First Session* (Lincoln, NE: 1985) 223, accessed on June 5, 2015, <http://nebraskalegislature.gov/FloorDocs/89/PDF/Journal/r1journal.pdf>.

¹⁰⁷¹ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 265.

¹⁰⁷² O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 118.

April 11, with a recorded vote of forty-seven affirmative, no negative, and two non-voting members.¹⁰⁷³ The bill was signed by the Governor on April 15.¹⁰⁷⁴

Session Laws reflect changes made to §79-1032, §79-1035, §79-1044.01, §79-1046, §79-1047, and §79-1049 because of the passage of LB 215.

§79-1032 reflected changes in the definitions of actuarial tables and actuarial equivalent. For retirement allowances at an early age, a table based on unisex mortalities, calculated using thirty percent male mortality and seventy percent female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback, would be used, with an interest at a rate of five and seventy-five hundredths percent compounded annually. And for joint and survivorship annuities, the unisex mortality table would be based on sixty-five percent male mortality and thirty-five percent female for survivorship, and thirty-five percent male and sixty-five percent female for joint annuitants. §79-1035 removed the requirement of adopting necessary actuarial tables.¹⁰⁷⁵

§79-1044.01 had removed the language “up to a maximum of thirty” when determining formula annuity amount, indicating there was no longer a limit on years of creditable service that would be used in calculating benefits.¹⁰⁷⁶

§79-1046 and §79-1047 reflected removal of the language regarding actuarial tables and maximum years allowed as well.¹⁰⁷⁷

¹⁰⁷³ O’Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1486.

¹⁰⁷⁴ O’Donnell, *Legislative Journal, Eighty-Ninth Legislature, First Session*, 1555.

¹⁰⁷⁵ Patrick J. O’Donnell, *Session Laws, 1985, LB 215* (Lincoln, NE: 1985), 322.

¹⁰⁷⁶ O’Donnell, *Session Laws, LB 215*, 323.

¹⁰⁷⁷ O’Donnell, *Session Laws, LB 215*, 324.

§79-1048 had changed the limit on years of service to be eligible for disability from ten to five years, excluding prior service credit.¹⁰⁷⁸

§79-1049 also made the same change in creditable years required to elect to keep contributions in the system upon termination of employment.¹⁰⁷⁹ Also added to the Class V School Retirement Act was a new section, which detailed that members could not receive an annuity greater than ninety thousand dollars, or of one hundred percent of the average compensation paid to the member during the three calendar years prior to retirement, in any year. If a member annuity was less than ten thousand dollars, this cap would not apply. Other limitations based on this addition to the act were detailed in subsequent sections, which placed retirement age limits in connection with the amount that could be received. The final statement indicated this change was made due to Internal Revenue Service code, section 415.¹⁰⁸⁰

1986. In 1986, Senator Goodrich (20) introduced one bill that amended the Class V School Employees Retirement System. That bill was LB 1048, and it was designed to provide for an adjustment to certain annuities.¹⁰⁸¹ Upon Final Reading on April 15, the bill received forty-nine affirmative votes.¹⁰⁸² The unanimously-passed bill was signed by the Governor on April 24.¹⁰⁸³

¹⁰⁷⁸ O'Donnell, *Session Laws, LB 215*, 324.

¹⁰⁷⁹ O'Donnell, *Session Laws, LB 215*, 325.

¹⁰⁸⁰ O'Donnell, *Session Laws, LB 215*, 326-327.

¹⁰⁸¹ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 351.

¹⁰⁸² O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2335.

¹⁰⁸³ O'Donnell, *Legislative Journal, Eighty-Ninth Legislature, Second Session*, 2476.

Passage of the bill added §79-1051.04, sub-section four, stating that an investment which was authorized by sections §79-1051 to §79-1051.05 would not be made if it did not meet the requirement for the investment of state funds pursuant to sections §72-1270 to §72-1276. After July 1, 1989, no funds were to remain invested in any stock not meeting the requirements. Also added by LB 1048 was §79-1056.06, sub-section 2, pertaining to cost-of-living increases. Any annuity which had a first payment dated on or before September 1, 1985 would be adjusted by the increase in the cost-of-living or wage levels between the effective date of retirement and June 30, 1986, not to exceed three and one half percent for annuities first paid on or after September 1, 1984, seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, and ten and one half percent for all other annuities.¹⁰⁸⁴

1987. During the Ninetieth Legislature, First Session, the Nebraska Retirement Systems Committee proposed a Legislative Resolution to study the benefits of certain retired teachers. The purpose of LR 231 was to examine the system for the benefit of more than 1,300 retired teachers across the state of Nebraska with twenty-five years of service or more, who had retired when both salaries and retirement benefits were low. Those teachers were receiving \$250 or less per month, and the cost-of-living had increased considerably over the years, making it difficult to maintain any standard of living. The study was to help determine if those benefits were adequate.¹⁰⁸⁵

¹⁰⁸⁴ O'Donnell, *Session Laws, 1986, LB 1048*, 1902-1906.

¹⁰⁸⁵ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninetieth Legislature, First Session* (Lincoln, NE: 1987), 2282, accessed on June 5, 2015, <http://nebraskalegislature.gov/FloorDocs/90/PDF/Journal/r1journal.pdf>.

Senator Goodrich (20) introduced LB 298 to make changes to the Class V School retirement system. The bill intended to provide for contributions for prior service, to redefine terms, to eliminate a restriction on membership, to change provisions relating to prior service contributions, to eliminate a provision relating to compulsory retirement, and to harmonize all provisions.¹⁰⁸⁶ The original intent upon introduction remained at Final Reading on May 28. A vote was cast with forty-three affirmative, no negative, and six members not voting.¹⁰⁸⁷ Governor Kay Orr signed the bill on May 29.¹⁰⁸⁸

LB 298 added four sections to the act which addressed the purchase of prior years of service of up to ten years accumulated in another school district, the cost of which would be based on the salary from the prior school if such school verified said salary, or upon the salary of the employee at the time they became a member of the Class V School Employees Retirement system, or years of service to be purchased because of a military leave or other leave of absence, as prescribed in §79-1043. These payments could be made in equal installments over a period of time not to exceed two years from the date of the election to purchase years for school service, or three years if purchasing for military or other leave of absence. Years purchased would be credited in six-month increments so long a payment was made to purchase each increment.¹⁰⁸⁹

§79-1032 had definition seventeen, defining compulsory retirement age of seventy, eliminated, and subsequent definitions re-numbered.¹⁰⁹⁰ Similarly, §79-1041 had

¹⁰⁸⁶ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 173-174.

¹⁰⁸⁷ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 2660.

¹⁰⁸⁸ O'Donnell, *Legislative Journal, Ninetieth Legislature, First Session*, 2723.

¹⁰⁸⁹ O'Donnell, *Session Laws, 1987, LB 298*, 703-705.

¹⁰⁹⁰ O'Donnell, *Session Laws, 1987, LB 298*, 706-707.

language, specifying new employees age sixty-five or older were not eligible for membership, removed.¹⁰⁹¹

§79-1045 was amended to restate that employees buying service years from another school system would pay at the rate of their former salary if verified by the previous employing school.¹⁰⁹² §79-1049 had language removed that indicated an employee, if withdrawing from the system, only had five years to become reemployed by the district to become a member of the system again if a refund were requested and received. From the enactment of this bill forward, any member who took a refund could rejoin the system at any time, no matter how many years passed, if they repaid the amount of the refund, plus the interest that would have accumulated on the amount during the years they were not members. Only two years were to be given to repay the amount.¹⁰⁹³

1988. During her budget address to the Ninetieth Legislature, Second Session, Governor Kay Orr included a request of \$3.5 million to fund the Teacher’s Retirement System. Her purpose for the request, as recorded in the *Legislative Journal of the State of Nebraska*, was to “stand by the commitments made.”¹⁰⁹⁴

Two legislative bills passed that made changes to the Class V Schools Retirement System in 1988. Those were LB 551 and LB 1142.

¹⁰⁹¹ O’Donnell, *Session Laws, 1987, LB 298*, 707.

¹⁰⁹² O’Donnell, *Session Laws, 1987, LB 298*, 709.

¹⁰⁹³ O’Donnell, *Session Laws, 1987, LB 298*, 710.

¹⁰⁹⁴ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninetieth Legislature, Second Session* (Lincoln, NE: 1988), 239, accessed on June 6, 2015, <http://nebraskalegislature.gov/FloorDocs/90/PDF/Journal/r2journal.pdf>.

LB 551 was introduced by Senator Goodrich (20) to provide credit for prior service for certain members.¹⁰⁹⁵ The bill was voted upon, with an additional provision to redefine terms, at Final Reading held on March 31. The recorded vote was forty-three affirmative, no negative, and six members not voting.¹⁰⁹⁶ Governor Orr signed the bill into law on April 6.¹⁰⁹⁷

Changes made by this bill enabled Class V School employees who had previously been employed by a service unit to purchase up to ten years of creditable service at a rate based upon the salary they were while employed by the service unit, plus interest.¹⁰⁹⁸

Teachers who were employed in the District of Columbia, overseas, in an Indian School, or with a teacher-exchange program, could purchase up to ten years of creditable service in the Class V system. Also, members of the retirement system could purchase the years they did not receive creditable service for prior to turning twenty-one. In each of these instances, members had to decide within three years of the bill passing to purchase years as specified, and no members who were already retired at the passage of the bill would be eligible for its provisions.¹⁰⁹⁹

The final change made by LB 551 was that “school employee” would mean a member with five hundred sixteen hours or more of service each year, which would

¹⁰⁹⁵ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 30-31.

¹⁰⁹⁶ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 1949.

¹⁰⁹⁷ O’Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 2173.

¹⁰⁹⁸ O’Donnell, *Session Laws, 1988, LB 551*, 489.

¹⁰⁹⁹ O’Donnell, *Session Laws, 1988, LB 551*, 496-497.

entitle a member to receive credit for one-half of a year of service.¹¹⁰⁰ This change also applied to the School Employees Retirement System.

LB 1142 was introduced by members of the Education Committee, Withem (14), Baack (47), Chizek (31), Dierks (40), V. Johnson (8), and Nelson (35). The purpose of the bill was to provide for a uniform method for designating school districts, to change provisions relating to sale of school busses, and eliminate the physician at the Nebraska School for the Deaf.¹¹⁰¹ The bill was voted upon at Final Reading, with forty-five members voting affirmative, no members voting negative, and four members not voting.¹¹⁰² The Governor signed it on March 23.

LB 1142 changed how metropolitan cities were referred when naming their retirement systems. This change was made at three times throughout the retirement act.¹¹⁰³

1989. LB 237 introduced in 1989 made changes to the Class V School Employees Retirement System. The bill was first read by Senator Goodrich (20) with the intent of providing additional options for annuities, increasing employee contributions, providing a cost-of-living adjustment, and eliminating provisions relating to authorized investments.¹¹⁰⁴ The Final Reading included a provision to increase benefits as well, and

¹¹⁰⁰ O'Donnell, *Session Laws, 1988, LB 551*, 497.

¹¹⁰¹ O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 363.

¹¹⁰² O'Donnell, *Legislative Journal, Ninetieth Legislature, Second Session*, 1555.

¹¹⁰³ O'Donnell, *Session Laws, 1988, LB 1142*, 1539-1542.

¹¹⁰⁴ O'Donnell, *Legislative Journal, Ninety-First Legislature, First Session*, 107.

a vote of thirty-six affirmative, none negative, and thirteen members not voting was recorded.¹¹⁰⁵ Governor Orr signed the bill on April 10.¹¹⁰⁶

§79-1044.01 was amended by LB 237 to add that, for retirement after June 15, 1989, the formula percentage would be one and sixty-five hundredths percent of final average compensation, when calculating the monthly annuity. Also added to the same section was that if a member was sixty-two and did not have thirty-five years of creditable service, the amount of the annuity would be the actuarial equivalent of the annuity deferred to the sixty-second birthday. If the annuity began prior to the sixty-second birthday, and the member had thirty-five years of creditable service, the annuity will not be reduced. Payments made upon the death of an annuitant would be paid to the beneficiary or estate until sixty payments had been made, if the member chose the normal form of the formula annuity.¹¹⁰⁷

§79-1046 was amended to clarify the joint and survivorship annuity option. By adding sub-sections two, three, and four, it was defined that a member could choose a joint and survivorship annuity, and in doing so would ensure that a spouse or other beneficiary whose age at the time of such election was fifty-five years or older would receive an annuity that was seventy-five percent of the member's monthly benefit for life. If a spouse or survivor passed away prior to receiving at least one hundred and twenty payments, the payments would continue to the estate of the member. If a member chose a joint or survivorship annuity, but the beneficiary passed away before the member, then

¹¹⁰⁵ O'Donnell, *Legislative Journal, Ninety-First Legislature, First Session*, 1514.

¹¹⁰⁶ O'Donnell, *Legislative Journal, Ninety-First Legislature, First Session*, 1600.

¹¹⁰⁷ O'Donnell, *Session Laws 1989, LB 237*, 778.

the amount would increase to the full amount of the annuity the member was entitled to.¹¹⁰⁸

§79-1051.06 was amended to state that trustees: would invest retirement funds with prudence, discretion, and intelligence; would not make investments on speculation, but in considering the safety of their capital and probable income; would not buy on margin, but may write call options and put options; may lend if backed with government obligations equal to or exceeding the market value of the security lent are received as collateral; must vote on stock purchases.¹¹⁰⁹

§79-1056 detailed that all members, commencing on September 1, 1989, would contribute five and eight-tenths of compensation earned that fiscal year.¹¹¹⁰

In §79-1056.06, sub-section three was added, stating that members receiving payments on or before September 1, 1989, would be subject to a cost-of-living or wage level adjustment for the time between when first payment was received and June 30, 1989, not to exceed three percent for annuities first paid on or after September 1, 1987, and six percent for those first paid on or after September 1, 1986 but before September 1, 1987, or nine percent for all other annuities.¹¹¹¹

1990. The year 1990 brought very little as far as legislative action to amend the Class V School Employees Retirement Act. Senator Haberman (44) did ask for a Legislative Resolution, LR 287, to conduct an interim study. The purpose of the study

¹¹⁰⁸ O'Donnell, *Session Laws 1989, LB 237, 779.*

¹¹⁰⁹ O'Donnell, *Session Laws 1989, LB 237, 780.*

¹¹¹⁰ O'Donnell, *Session Laws 1989, LB 237, 781.*

¹¹¹¹ O'Donnell, *Session Laws 1989, LB 237, 784.*

was extensive. The resolution referred to a need to examine defined-benefit versus defined-contribution plans, funding, disability and survivor benefits, unfunded liability, cost of improved benefits, cost-of-living adjustment, prefunding benefits, lump-sum withdrawal of employee accounts, early retirement, social security income, and the advantages and disadvantages of changing retirement laws of the state.¹¹¹²

1991. Two bills emerged from the legislative session in 1991 that made changes to the Class V School Employees Retirement System. Those were LB 2, and LB 350.

LB 2 was introduced by Senator Labeledz (5), Chair of the Executive Board, to change references to the Veteran's Administration, the Department of Health, Education and Welfare, and other federal entities that had been renamed or re-organized.¹¹¹³ The Final Reading yielded a vote of forty-two affirmative, none negative, and seven members not voting.¹¹¹⁴ Governor Orr signed the bill on February 15.¹¹¹⁵

The only change was made to §79-1051.01, changing from the Veterans Administration to the United States Department of Veterans Affairs.¹¹¹⁶

LB 350 was introduced to the Legislature by Horgan (4), Hartnett (45), Rasmussen (20), and Will (8). The intent of the bill was to redefine terms, provide for an administrator to transfer duties, change provisions relating to credit for military service, and provide minimum number of payments for certain annuities. There were also

¹¹¹² Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-First Legislature, Second Session* (Lincoln, NE: 1990), 1358-1359, accessed on June 8, 2015, <http://nebraskalegislature.gov/FloorDocs/91/PDF/Journal/r2journal.pdf>.

¹¹¹³ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 55.

¹¹¹⁴ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 644.

¹¹¹⁵ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 712.

¹¹¹⁶ O'Donnell, *Session Laws, 1991, LB 2*, 23-24.

provisions relating to reduction of disability benefits and the investment of funds, and a provision for payment of benefits and annuities pursuant to qualified domestic relations orders.¹¹¹⁷ The provisions remained the same upon Final Reading, and a vote of forty-one affirmative, none negative, and eight members not voting was recorded.¹¹¹⁸ The bill was approved on April 5.¹¹¹⁹

§79-1035 was amended to state that the school board would appoint an administrator of the retirement system, to be paid as the board determined and approved. The first administrator selected was Michael Smith, as he indicated in his interview, and he to this date has been the only plan administrator of the Class V School Employees Retirement Act.¹¹²⁰

§79-1043 clarified that members eligible for reemployment after military service pursuant to 30 U.S.C 2021 to 2026, or under §55-160 to §55-163, would have three years to purchase years of creditable service, without a limit on the amount of years they could receive credit for while they were deployed.¹¹²¹

§79-1046 was amended by section five of the bill, to add that each actuarial equivalent annuity, as prescribed in the act, would be paid out over a minimum of sixty months, and would be paid to spouse or beneficiary if the member passed away before sixty payments had been made.¹¹²²

¹¹¹⁷ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 230.

¹¹¹⁸ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 1492.

¹¹¹⁹ O'Donnell, *Legislative Journal, Ninety-Second Legislature, First Session*, 1561.

¹¹²⁰ Michael Smith, interviewed by Dawn Lewis, Omaha, NE, August 12, 2015.

¹¹²¹ O'Donnell, *Session Laws, 1991, LB 350*, 1072-1073.

¹¹²² O'Donnell, *Session Laws, 1991, LB 350*, 1075.

§79-1048 was changed so that a member who retired because of a disability before the age of sixty-two would experience no reduction in benefits, except that reductions for workers' compensation benefits would be made as specified.¹¹²³

§79-1060 was changed to include that retirement annuities as established in the act would be subject to garnishment, execution, or attachment if subject to a qualified domestic relations orders, and payments would be made only after the administrator received written notice of such order.¹¹²⁴

1992. During the Ninety-Second Legislature in 1992, a Legislative Resolution was proposed by Senator Coordsen (32) to request for the Nebraska Retirement Systems Committee to conduct an interim study on the feasibility of allowing public school teachers who had years of service in non-public schools to purchase creditable years of service for their non-public teaching years.¹¹²⁵

Making its way to law was one bill that affected both retirement systems. LB 1001 was introduced by Senators Horgan (4), Lynch (13), Nelson (35), and Will (8) with the intent of transferring certain powers from the board of education to the trustees, to change provisions relating to annuities, and to authorize the acceptance of cash rollover contributions, with emergency clause attached.¹¹²⁶ Through the session, portions of several other bills merged with LB 1001 through amendment. AM5290 included parts of

¹¹²³ O'Donnell, *Session Laws, 1991, LB 350*, 1076.

¹¹²⁴ O'Donnell, *Session Laws, 1991, LB 350*, 1077.

¹¹²⁵ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Second Legislature, Second Session* (Lincoln, NE: 1992), 1363-1364, accessed on June 9, 2015, <http://nebraskalegislature.gov/FloorDocs/92/PDF/Journal/r2journal.pdf>.

¹¹²⁶ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 202-203.

LB 41, LB1071, LB 1072, LB 1125, and LB 1153.¹¹²⁷ The Final Reading of the bill was much different, consequently, than the first reading. Items added that were still pertaining specifically to the retirement systems were:

- Change provisions related to reporting duties
- Provide additional provisions for uses of proceeds of bond issues under Nebraska Investment Finance Authority Act
- Provide for expenses for governing board members
- Cost-of-living adjustments, buy-backs, formula annuities, survivorship annuities, and the acceptance of cash rollover contributions
- Credit for military service under the School Employees Retirement System¹¹²⁸

The recorded vote was forty-four members affirmative, none negative, and five members not voting.¹¹²⁹ The bill was approved by Governor Nelson on April 17.¹¹³⁰

Changes made to the Class V School Employees Retirement System began with §79-1043, giving the trustees duties that the board of education had, prior to the enactment of LB 1001. §79-1045 was modified to also direct specific duties away from the board and to the trustees. §79-1049 was changed to direct duties to the trustees.

§79-1044.01 was amended to reflect that for retirement on or after the effective date of the act, the percentage of final average compensation that a formula annuity would be based upon would be one and seventy hundredths.¹¹³¹

¹¹²⁷ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2239.

¹¹²⁸ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2255-2256.

¹¹²⁹ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2256.

¹¹³⁰ O'Donnell, *Legislative Journal, Ninety-Second Legislature, Second Session*, 2293.

§79-1047 was stricken, and completely re-written to reflect that if a member died before retirement, with twenty years or more of creditable service, the primary beneficiary would receive a survivorship annuity, as prescribed, if the beneficiary was a spouse, or another designated person who was at least fifty-five years old at the time of the member's death. The amount would be based upon the actuarial equivalent of the age of the members, and the age of the beneficiary. The beneficiary could file to receive a lump sum within sixty days of the death of the member. If a member passed away before twenty years of service had been credited, or the beneficiary did not meet these requirements, then a lump sum would be sent to the estate of the member equal to the accumulated contributions.¹¹³²

§79-1056.06 had the addition of a sub-section detailing a new cost-of-living adjustment if the first annuity payment a member received was on or before October 1, 1991. Any amount between the first payment and June 30, 1992, would be subject to an increase of not more than three percent if paid on or after September 1, 1990, six percent for annuities first paid on or after September 1, 1989, and nine percent for all other annuities.¹¹³³

Section twenty-seven of the bill provided for a cash rollover into the system to buy creditable years of service, not to exceed the amount the years would cost the member, if the contributions represented all or any portion of a former employer's 410(a) plan, or the contributions represented a qualified total distribution as defined in the

¹¹³¹ Patrick J. O'Donnell, *Session Laws, 1992, LB 1001* (Lincoln, NE: 1992), 968-969.

¹¹³² O'Donnell, *Session Laws, 1992, LB 1001*, 971-972.

¹¹³³ O'Donnell, *Session Laws, 1992, LB 1001*, 974.

Internal Revenue Code as a tax-free rollover amount, transferred to the system within sixty days from the date of distribution of the individual retirement account or annuity.¹¹³⁴

1993. LB 107 was the only bill passed in 1993 that made changes to the Class V School retirement system. Introduced by Senator Horgan (4), the intent of the bill was to change provisions relating to school employees retirement systems for Class V Schools.¹¹³⁵ Upon Final Reading, a vote was recorded of forty affirmative, none negative, and nine members not voting, passing with emergency.¹¹³⁶ The bill was signed by Governor Nelson on February 15.¹¹³⁷

The first change was made to definition, changing from the term “certified” to “certificated” in §79-1034. Changes to §79-1036 removed the requirement that trustee meetings were to be held in the office of the board of education, and that the amount needed from taxes must be determined in July.¹¹³⁸

In §79-1043, for those purchasing service for military deployment years, creditable service could only be purchased in one-half year increments, starting with the most recent year’s salary, as well as for members who were purchasing years for board approved leaves of absence or for years in another public school or service unit.¹¹³⁹

¹¹³⁴ O’Donnell, *Session Laws, 1992, LB 1001, 974-975.*

¹¹³⁵ O’Donnell, *Legislative Journal, Ninety-Third Legislature, Third Session, 85.*

¹¹³⁶ O’Donnell, *Legislative Journal, Ninety-Third Legislature, Third Session, 598.*

¹¹³⁷ O’Donnell, *Legislative Journal, Ninety-Third Legislature, Third Session, 652.*

¹¹³⁸ O’Donnell, *Session Laws, 1993, LB 107, 262-263.*

¹¹³⁹ O’Donnell, *Session Laws, 1993, LB 107, 263-264.*

§79-1046 was changed to detail that members who elected the normal form or one of the optional forms of the formula retirement annuity, and the member and his or her spouse/beneficiary died before the specified months of payments had been made, the member must have designated in writing on the proper form who would receive the remainder of payments, and if such designation was not made, then the estate would get the rest of the payments.¹¹⁴⁰

§79-1048 was modified by the removal of the reduction of annuity benefits if a member retired prior to the age of sixty-two.¹¹⁴¹

Added to §79-1049.06 was a section detailing that effective January 1, 1993, those qualifying for a cash rollover by Internal Revenue Code, could elect to have such distribution made in the form of a direct transfer to a retirement plan, and tax laws would apply.¹¹⁴²

1995. During the first session of the Ninety-Fourth Legislature, the address delivered by Governor Ben Nelson included a request for the Unicameral to merge the administrative functions of Public Employees Retirement Systems and the Investment Council, into one Department of Administrative Services.¹¹⁴³ This was an effort to streamline government functions and duties.

During the session, Senator Wickersham proposed Legislative Resolution 165 to conduct an interim study to review the conclusions of the study from LR 382 in 1992,

¹¹⁴⁰ O'Donnell, *Session Laws, 1993, LB 107*, 265.

¹¹⁴¹ O'Donnell, *Session Laws, 1993, LB 107*, 266.

¹¹⁴² O'Donnell, *Session Laws, 1993, LB 107*, 268.

¹¹⁴³ O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fourth Legislature, First Session* (Lincoln, NE: 1995), 262, accessed on June 11, 2015, <http://nebraskalegislature.gov/FloorDocs/94/PDF/Journal/rljournal.pdf>.

review and evaluate Nebraska policies on the purchase of prior service credit, or “buy back” for retirement systems under the authority of the PERB. Also requested was to conduct a comparison of the “buy-back” provisions in the three different defined benefit plans for public employees, to identify additional periods of time that could be purchased, to review methods for allocating costs, to review the need to track the actuarial cost, and to identify subsidies.¹¹⁴⁴

Wickersham also introduced LR 167, with a request to conduct a study on the “retire/rehire” policies of retirement systems.¹¹⁴⁵

In 1995, the Unicameral passed one bill to make changes to the Class V School Retirement System, which was introduced by several Senators from Douglas and Sarpy Counties. Senators Will (8), Brashear (4), Brown (6), Hall (7), Lindsay (9), Pederson (39), Pirsch (10), Preister (5), and Withem (14) brought the bill to the Unicameral to change provisions, redefine terms, and change the benefit, contributions, and cost-of-living adjustment in the retirement system.¹¹⁴⁶ This bill passed with a vote of thirty-eight affirmative, four negative, and seven members not voting, with emergency.¹¹⁴⁷ Governor Nelson signed the bill on June 6.¹¹⁴⁸

LB 505 amended §79-1032 to redefine “compensation” according to Internal Revenue Code, of how elective contributions were deducted and picked up by the district. The definition of “actuarial tables” was modified to remove the differentiation between

¹¹⁴⁴ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2244.

¹¹⁴⁵ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2245.

¹¹⁴⁶ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 323.

¹¹⁴⁷ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2709.

¹¹⁴⁸ O’Donnell, *Legislative Journal, Ninety-Fourth Legislature, First Session*, 2752.

retirement at full age and at an early age. No longer would different tables be used.¹¹⁴⁹

§79-1034 was amended to state that the board of trustees and administrator of the system would comply with tax-qualification requirements according to the Internal Revenue Code section 401(a).¹¹⁵⁰

§79-1040 was modified to add provisions for the treasurer regarding international and other investments.¹¹⁵¹ §79-1043 regarding purchasing creditable service years for military deployment was changed so that such members only had five years to purchase credit, and the board would be responsible for any funding necessary to provide for the benefit because of the increase in the creditable service years. The trustees would determine how the payments should be made to the system, and installment payments would be credited in half-year increments.¹¹⁵²

§79-1044.01 was changed to allow that members retiring after the date of this enactment of the bill would receive their formula annuity based on one and eighty-hundredths percent of final average compensation. Also, members whose annuity began prior to reaching the age of sixty-two would be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity began and the member's sixty-second birthday. However, if the member's age and years of creditable service equaled eighty-five, the amount would not be reduced; if the same equaled eighty-four, the annuity would not be reduced by greater than three percent of the

¹¹⁴⁹ O'Donnell, *Session Laws, 1995, LB 505, 975-976.*

¹¹⁵⁰ O'Donnell, *Session Laws, 1995, LB 505, 975-976.*

¹¹⁵¹ O'Donnell, *Session Laws, 1995, LB 505, 977.*

¹¹⁵² O'Donnell, *Session Laws, 1995, LB 505, 977.*

unreduced annuity; if the same equaled eighty-three, the annuity would not be reduced by an amount greater than six percent of the unreduced annuity; and if the same equaled eighty-two, the amount would be reduced by no more than nine percent. For this calculation, age and creditable service were measured in one-half year increments.¹¹⁵³

§79-1045 was amended, regarding purchase of years served in other public schools or service units, to state that years could be paid in direct payment to the system, or installments as a binding irrevocable payroll deduction over no more than five years, and years would be credited in one-half year increments.¹¹⁵⁴

§79-1046 was changed to indicate a member could elect to have a beneficiary receive a lump sum payment, rather than annuity of the remaining monthly payments.¹¹⁵⁵

§79-1056 was amended to increase the contribution amount, beginning September 1, 1995, to six and three-tenths percent of compensation each fiscal year. The school would pick up this contribution through a binding irrevocable payroll deduction, and deductions would be subject to provisions in the Internal Revenue Code.¹¹⁵⁶

§79-1056.06 had two subsections added to determine how cost-of-living adjustments would be credited between specific dates.¹¹⁵⁷

LB 574, passed regarding the Internal Revenue Code, amended §79-1046.01, §79-1046.09, and §79-1056 by changing references the Internal Revenue Code.¹¹⁵⁸

¹¹⁵³ O'Donnell, *Session Laws, 1995, LB 505, 978.*

¹¹⁵⁴ O'Donnell, *Session Laws, 1995, LB 505, 979.*

¹¹⁵⁵ O'Donnell, *Session Laws, 1995, LB 505, 979.*

¹¹⁵⁶ O'Donnell, *Session Laws, 1995, LB 505, 980-981.*

¹¹⁵⁷ O'Donnell, *Session Laws, 1995, LB 505, 982.*

¹¹⁵⁸ O'Donnell, *Session Laws, 1995, LB 505, 1108-1109.*

1996. Although LB 604 and LB 900 were both indicated to have made changes to the Class V School Retirement System in 1996, the changes indicated in *Session Laws, 1996* reflect no functional change to this retirement system.¹¹⁵⁹

1997. In 1997, all reference numbers of the codified statutes of the School Employees Retirement Act and the Class V School Employees Retirement Act were adjusted to current statute numbers, due to the reorganization efforts of LB 900 in 1996. The new Act numbers became §79-901 through §79-977 for the School Employees Retirement Act, and §79-978 through §79-9,118 for the Class V School Employees Retirement Act.

Three Legislative Resolutions were introduced to conduct interim studies regarding the retirement systems. Those were LR 146, LR 148, and LR 190.

LR 146 and LR 148 were both introduced by the Nebraska Retirement Systems Committee to conduct studies regarding the process by which information was collected and reported to the PERB, including the adequacy of the statutory processes and limitations of procedures by which information was conveyed, and to develop a uniform set of criteria to be used in the determination of adequacy for all of the systems under the administration of PERB.¹¹⁶⁰

¹¹⁵⁹ O'Donnell, *Legislative Journal, Ninety-Fourth Legislature, Second Session*. 37, 179-181; O'Donnell, *Session Laws, 1996, LB 604*, 174; LB 900, 497-494.

¹¹⁶⁰ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Fifth Legislature, First Session* (Lincoln, NE: 1997). Accessed on June 15, 2015, <http://nebraskalegislature.gov/FloorDocs/95/PDF/Journal/rljournal.pdf>. 2086-2088.

LR 190 was requested by Senator Robinson (16) to study the consequences of adopting into the School Employees Retirement System, a “Rule of Eighty-Five” with a minimum retirement age of fifty-five years.¹¹⁶¹

During the Ninety-Fifth Legislative Session in 1997, three bills passed that impacted the Class V School Employee Retirement System: LB 347, LB 623, and LB 624.

LB 347 was introduced by Senators Bohlke (3), and McKenzie (34) to change provisions relating to schools, education, penalties, and districts.¹¹⁶² This bill was considered further by the Education Committee¹¹⁶³ and when presented at Final Reading, the vote was forty-four affirmative, none negative, and four members did not vote.¹¹⁶⁴ Governor Nelson signed the bill on March 10.¹¹⁶⁵

§79-978 of the Class V Schools Act was modified by removing the definition of “withdrawal from service” and renumbering the remaining definitions.¹¹⁶⁶

LB 623 was introduced by the Nebraska Retirement Systems Committee members, Senators Wickersham (49), Crosby (29), Lynch (13), C. Peterson (35), Stuhr (24), and Wehrbein (2). The bill intended to provide for benefit limitations, custodial funds, deferred compensation, purchase of service credit, domestic relations orders,

¹¹⁶¹ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2211.

¹¹⁶² O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 252.

¹¹⁶³ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 296.

¹¹⁶⁴ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 868.

¹¹⁶⁵ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 989.

¹¹⁶⁶ O’Donnell, *Session Laws, 1997, LB 347, 755*.

custodian of school funds, and mandatory retirement.¹¹⁶⁷ The Final Reading of the bill included an emergency clause, and all provisions relating to school retirement remained, as introduced. The vote was thirty-nine affirmative, none negative, and ten members did not vote.¹¹⁶⁸ The bill was approved on March 26.¹¹⁶⁹

Changes made by LB 623 to the Class V School Retirement System included a technical change to the definition of “military service,” and a change to the definition of “normal retirement” to include a statement that five years of service must be credited to achieve “normal retirement.” Detailed in §79-986, the school district of the system would act as treasurer, and removed was the requirement that the treasurer must purchase a surety bond, paid by the district. Also removed was §79-1,102 sub-section two (b) regarding a certain compensation limitation specific to retirees with less than five years of service, no longer pertinent given the change in definition of “normal retirement.” Added to the same statute, sub-section two (a) was a special provision for members who retired at or before the age of fifty-five, and sub-section four to keep the provisions of the system in compliance with Internal Revenue Code 415. §79-9,104 had sub-section two added that stated a spouse could receive a lump-sum payment under a domestic relations order, and in doing so released all further interest in the retirement system, and the member’s account would be reduced by the amount of the settlement to such spouse.¹¹⁷⁰

¹¹⁶⁷ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 340.

¹¹⁶⁸ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 1164-1165.

¹¹⁶⁹ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 1248.

¹¹⁷⁰ O’Donnell, *Session Laws, 1997, LB 623*, 1193-1197.

LB 624 was also introduced by the senators of the Retirement Committee, detailed to change provisions relating to membership, service, retirement age, termination of employment, re-employment, repayment of benefits, cash rollover contributions, interest, prior service credit, investments, deferred annuities, and breaks in service.¹¹⁷¹ Included upon Final Reading, due to amendment AM0759, incorporating sections of LB 96 and LB 330¹¹⁷² were provisions relating to death benefits and deferred compensation as well, and the vote was forty-two members affirmative, no members negative, and seven members not voting.¹¹⁷³ The bill was signed on June 4.¹¹⁷⁴

The Class V School Employees Retirement System was amended by LB 624, first by giving new school districts, those experiencing enough growth to fall under the Class V provisions, the option to start their own Class V system or remain part of the School Employees Retirement System. As with the School Employees Retirement System, members would not be disqualified from this system because of qualifying for membership in another public system. §79-991 had sub-section two added, providing that employees of a Class V system with at least five years of creditable service could purchase another five years, and in doing so would have the same status as if they had worked those additional five years. Payment provisions for this scenario were provided as well. §79-992 was amended to reflect that payments made to purchase service years could be made through direct payments to the system, or on installment basis due to

¹¹⁷¹ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 341.

¹¹⁷² O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2951.

¹¹⁷³ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2450-2451.

¹¹⁷⁴ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, First Session*, 2663.

irrevocable agreement between member and the school district. Also added to this particular statute were sub-sections two and three, stating that retired members who returned to employment would participate in the retirement system as a new employee, and their original annuity would not increase due to the new creditable service years. Employees who re-retired then would receive another annuity, so long as they had reached the vested point of five years of creditable service upon the re-retirement. If the member did not have five creditable years of service, a simple refund of contributions would be made.¹¹⁷⁵

§79-9,111 was amended to detail investment procedures for the trustees.¹¹⁷⁶

1998. Two bills passed in the Unicameral in 1998 that made changes to the Class V School Employee Retirement Act. Those legislative bills were LB 497 and LB 1191.

LB 497 was introduced by Senators Will (8), Brown (6), Hartnett (45), Hilgert (7), Kiel (9), Dw. Pedersen (39), Preister (5), Suttle (10), and Withem (14) to change provisions relating to Class V school districts, to name and act, to change the monthly formula retirement annuity, and to provide a cost-of-living adjustment, and was presented with an emergency.¹¹⁷⁷ The bill was voted upon at Final Reading with forty-five members affirmative, none negative, and four members not voting.¹¹⁷⁸ The Governor approved the bill on March 3.¹¹⁷⁹

¹¹⁷⁵ O'Donnell, *Session Laws, 1997, LB 624, 1222-1223.*

¹¹⁷⁶ O'Donnell, *Session Laws, 1997, LB 624, 1224.*

¹¹⁷⁷ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session, 28.*

¹¹⁷⁸ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session, 758.*

¹¹⁷⁹ O'Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session, 891.*

The bill changed reference from a notation of “§79-978 to §79-9,116” to “Class V School Employees Retirement Act” throughout sections of the School Employees Retirement Act and the Class V School Employees Retirement Act. §79-9,100 was amended, modifying the final average compensation calculation to be based upon a multiplier of one and eighty-five hundredths percent after the effective date of the bill. Most significantly, added to §79-9,103 were sub-sections seven through eleven, providing for an annual cost-of-living adjustment after January 1, 2000, enacted to be an amount which was the lesser of one and one-half percent, or the increase in the consumer price index. In addition, the board would determine annually if there were enough funds to provide for a cost-of-living increase. If so, the board would pass a resolution and declare the percentage that would be used to base the additional increase, with certain limitations. This decision made by the board could not be challenged by any member or beneficiary.¹¹⁸⁰

LB 1191 was introduced by members of the Nebraska Retirement Systems Committee, Senators Janssen (15), Crosby (29), Lynch (13), C. Peterson (35), Stuhr (24), and Wehrbein (2). The purpose of the bill was to change provisions relating to eligibility and vesting credit, military service credit, purchase of service credit, deferred compensation, contributions, and liability, and to eliminate provisions relating to additions to members’ account.¹¹⁸¹ The committee designated this as one of their priority bills for the session¹¹⁸² and through amendments AM3754, AM3832 and AM2832

¹¹⁸⁰ O’Donnell, *Session Laws, 1998, LB 497*, 117-131.

¹¹⁸¹ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 331.

¹¹⁸² O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 720.

incorporated portions of LB 337, LB 1076, and LB 1192, respectively.¹¹⁸³ The title at the Final Reading eliminated originally introduced provisions relating to eligibility and vesting credit and military service credit, and added a provision to require actuarial and financial analyses and reports, and to change provisions regarding retirement funds, benefits, service credits, contributions liabilities, records, investments, claims, and penalties. The vote was forty-three members affirmative, none negative, and six not voting.¹¹⁸⁴

The Class V School Employees Retirement System was amended by LB 1191 by providing that the administrator of the system would provide to the PERB annually, an audit consisting of the number of persons participating, contribution rates, assets and liabilities, name and positions of persons administering and investing the plan, the form and nature of investments, and reports of defined benefit and defined contribution plans. Every four years, Class V plans would be required to file a full actuarial analysis of defined benefit plans, and a full financial audit and analysis of investments for defined contribution plans, prepared by organizations or entities with demonstrated expertise.¹¹⁸⁵

1999. Governor Mike Johanns took office in January of 1999. In his “State of the State and Budget” address, the governor addressed the School Employees Retirement Act, making the statement that his budget included eliminating a seven-tenths percent of all compensation contribution to the School Retirement System, which had been paid in since 1984. His intent in requesting to eliminate the state contribution was that he

¹¹⁸³ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 2146.

¹¹⁸⁴ O’Donnell, *Legislative Journal, Ninety-Fifth Legislature, Second Session*, 1888-1889.

¹¹⁸⁵ O’Donnell, *Session Laws, 1998, LB 1191*, 686-687.

believed the responsibility for the system should be placed directly on those who benefit from it.¹¹⁸⁶

During the first session of the ninety-sixth legislature, one bill passed that made changes to the Class V School Employees Retirement Act: LB 795.

LB 795 was introduced by Senators Stuhr (24), Bromm (23), and Wickersham (49). The intent was to change provisions relating to retirement plan reporting requirements.¹¹⁸⁷ The bill passed with the same description upon Final Reading, with a vote of forty-eight affirmative, none negative, and one not voting.¹¹⁸⁸ The bill was signed by Governor Johanns on March 8.¹¹⁸⁹

LB 795 made adjustments to §79-987, pertaining the required reporting that must be completed to the PERB, removing sub-section three (b) referencing defined contribution plan reporting.¹¹⁹⁰

2000. During 2000, the second session of the Ninety-Sixth Legislature, very few bills were introduced to impact either school retirement system, and only two passed.

Two Legislative Resolutions were introduced to provide for interim studies to be conducted to benefit the systems. Those were LR 336, which asked to study sound retirement planning principles, and LR 337, which asked for an interim study to review the processes and criteria used when appointing members to the PERB.

¹¹⁸⁶ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Sixth Legislature, First Session* (Lincoln, NE: 1999), 362, accessed on June 16, 2015, <http://nebraskalegislature.gov/FloorDocs/96/PDF/Journal/r1journal.pdf>.

¹¹⁸⁷ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 277.

¹¹⁸⁸ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 813.

¹¹⁸⁹ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, First Session*, 869.

¹¹⁹⁰ O'Donnell, *Session Laws, 1999, LB 795*, 13-14.

In 2000, LB 155 was introduced by Senator Lynch to modify the Class V School Employee's Retirement Act. The intent of the bill was to change provisions relating to the monthly formula annuity, domestic relations orders, disability benefits, and school district contributions.¹¹⁹¹ At Final Reading with emergency, the bill passed with a vote of forty-two affirmative, none negative, and seven not voting.¹¹⁹² Governor Johanns signed the bill on March 21.¹¹⁹³

LB 155 modified the definition of "Actuarial Table" in §79-978, by adjusting the percentages used on the unisex mortality tables, and stipulating that the table used would be the 1994 table, rather than the 1951 table.¹¹⁹⁴

§79-9,100 had added that members retiring after the enactment of the bill would have their final average compensation based on a two percent calculation for the formula annuity.¹¹⁹⁵ §79-9,104 was changed to further clarify situations surrounding retirement funds affected by a domestic relations court order.¹¹⁹⁶

Section four of the bill added information to the Act regarding deferred payments for disability retirement. A member at any time could request deferral to end and payments to begin, if approved for deferred disability. If approved for deferred disability, the member would continue to accumulate creditable years of service during the deferral period. When payments commenced, the amount of annuity would not be reduced by any

¹¹⁹¹ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 9.

¹¹⁹² O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 1111-1112.

¹¹⁹³ O'Donnell, *Legislative Journal, Ninety-Sixth Legislature, Second Session*, 1173.

¹¹⁹⁴ O'Donnell, *Session Laws, 2000, LB 155*, 2.

¹¹⁹⁵ O'Donnell, *Session Laws, 2000, LB 155*, 2.

¹¹⁹⁶ O'Donnell, *Session Laws, 2000, LB 155*, 3.

amount other than payments received for workman's compensation. All payments would be made in accordance with Internal Revenue code applicable. Payments would be suspended if the board, at any time determined, prior to the sixty-second birthday of the member, that total disability had ceased.¹¹⁹⁷

§79-9,113 was changed to state that school contributions to the retirement system would be one hundred percent of the employee contribution, or whatever amount the board determined was necessary to maintain the solvency of the system, whichever amount was greater.¹¹⁹⁸

2001. Passed during the first session of the Ninety-Seventh Legislature was LB 711, which amended the Class V School Employees Retirement Act. LB 711 was introduced by Senator Wickersham (49) initially to change provisions relating to death benefits, the monthly formula annuity, and make benefit adjustments for the School Employee's Retirement Act alone.¹¹⁹⁹ Amendments AM870 and AM913 added provisions from LB 363 relating to judges, LB 596 relating to state patrol, and LB 526 relating to the Class V School Employee's Retirement System to LB 711.¹²⁰⁰ The Final Reading with emergency clause included provisions relating to creditable service, retirement annuities, cost-of-living and medical cost-of-living adjustments, purchase of service credits for maternity leaves of absence, eliminated a tax relating to prior service

¹¹⁹⁷ O'Donnell, *Session Laws, 2000, LB 155*, 4.

¹¹⁹⁸ O'Donnell, *Session Laws, 2000, LB 155*, 5.

¹¹⁹⁹ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 311.

¹²⁰⁰ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 593; 1010.

annuities, and investment reports. It was passed with a vote of thirty-nine affirmative, no negative, and ten members did not vote.¹²⁰¹ The Governor signed the bill on May 1.¹²⁰²

Changes to the Class V School Employee's Retirement Act were made by removing obsolete language regarding the initial trustees who took office in 1951, and removing language regarding a tax that was to be levied to keep the system solvent.¹²⁰³ §79-990 sub-section three was added, so that members who had quit working prior to September 1, 1979 for the purpose of having children, would have one year from the date of the enactment of this bill to purchase creditable service years for the years of absence due to maternity, which would also be included in determining member eligibility.¹²⁰⁴

§79-9,101 was amended by adding a provision to sub-section one stating that joint and survivorship annuities would be paid to the spouse, or other beneficiary designated whose attained age in the calendar year in which the payment of the annuity commenced was not more than ten years younger than the age of the member in the same calendar year. If the member chose a seventy-five percent joint and survivor annuity, the designated beneficiary could be no more than nineteen years younger than the age of the member in the same calendar year. If the member chose a joint and survivor annuity at the fifty percent level, there would be no age limit on the beneficiary.¹²⁰⁵

§79-9,103 had sub-section twelve added, which included a statement that the Legislature declared the retirement system to be attractive in retaining necessary school

¹²⁰¹ O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1763-1764.

¹²⁰² O'Donnell, *Legislative Journal, Ninety-Seventh Legislature, First Session*, 1774.

¹²⁰³ O'Donnell, *Session Laws, 2001, LB 711*, 4-5.

¹²⁰⁴ O'Donnell, *Session Laws, 2001, LB 711*, 7.

¹²⁰⁵ O'Donnell, *Session Laws, 2001, LB 711*, 8-9.

employees, and that rising health care costs generated the need to include a medical cost-of-living increase for retired members receiving annuity payments to assist them in meeting the increased cost of medical care. A formula was included as to how the benefit would be calculated.¹²⁰⁶

§79-9,106 provided a death benefit annuity for a member not yet retired but with twenty years or more of creditable service, to be paid to a spouse of other designated beneficiary whose age was not more than ten years younger than the age of the member in the same calendar year.¹²⁰⁷

2002. Members of the second session of the Ninety-Seventh Legislature considered several bills to make changes to the School Employees Retirement Act, and the Class V School Employees Retirement Act. The bills, through amendment, became one: LB 407.

Originally introduced by Senators Bruning (3), Bourne (8), Erdman (47), Stuhr (24), Wehrbein (2), and Wickersham, who made up the Nebraska Retirement Systems Committee, LB 407 intended to provide changes relating to membership, participation, and service for sections of the School Employees Retirement Act.¹²⁰⁸ The bill was amended through legislative action to incorporate parts of LB 686, LB 1019, LB 1027, LB 1111, all pertaining to the same act, and LB 1144 pertaining to the Class V School

¹²⁰⁶ O'Donnell, *Session Laws, 2001, LB 711*, 11.

¹²⁰⁷ O'Donnell, *Session Laws, 2001, LB 711*, 13.

¹²⁰⁸ Patrick J. O'Donnell, *Legislative Journal of the State of Nebraska, Ninety-Seventh Legislature, Second Session* (Lincoln, NE: 2002). Accessed June 16, 2015 at <http://nebraskalegislature.gov/FloorDocs/97/PDF/Journal/r2journal.pdf>. 31.

system, through AM2886.¹²⁰⁹ The final version of the bill contained provisions from each of these, including changes relating to: actuarial valuation, contributions, the Nebraska Investment Council, termination of employment, administrative fees, reemployment, compliance audits, rollover distributions and transfer of funds, creating a fund, eliminating and combining certain funds, and changing and eliminating duties and powers of the state investment officer. It was passed with emergency clause, by a vote of forty-four affirmative, none negative, and five members not voting.¹²¹⁰ Governor Johanns approved the bill on April 17.¹²¹¹

Added to §79-966 was sub-section three which legislated the state obligation, in addition to all other payments required, to be deposited on or after July 1, 2011, and each year after, an amount equal to the normal cost of the service annuity benefit established by §79-933 which had accrued during the prior fiscal year for members of both systems. The retirement board would then transfer the amount deposited on behalf of Class V employees to administrators of that system.¹²¹²

Section forty-two of LB 407 created the School Retirement Fund, and all deposits from all entities required would go in, and all annuities would be paid out, of this Fund. All other accounts previously existing for these purposes transferred funds into the School Retirement Fund as of June 30, 2002.¹²¹³ Multiple references to this new account were made as changes throughout the retirement act.

¹²⁰⁹ O'Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 774.

¹²¹⁰ O'Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 1634-1635.

¹²¹¹ O'Donnell, *Legislative Journal, Ninety-Seventh, Second Session*, 1739.

¹²¹² O'Donnell, *Session Laws, 2002, LB 407*, 23.

¹²¹³ O'Donnell, *Session Laws, 2002, LB 407*, 23.

For the Class V School Employees Retirement Act, LB 407 made changes regarding cash rollovers. Cash rollovers would be accepted for members paying for service credits, as provided through the act, so long as they do not exceed the amount required to be paid by the member, and payments would be accepted directly from the member, or as a rollover from a plan. Compliance with Internal Revenue Code was detailed in §79-998, sub-sections one through four, just as it was in the School Employees Retirement Act as changed by LB 407.¹²¹⁴

2003. Senator Stuhr (24) presented two Legislative Resolutions requesting interim studies in 2003.¹²¹⁵ LR 128 was regarding a study to examine transfers from the School Employees Retirement System to the Class V School Employees Retirement System. Results would determine the manner in which the transfers were calculated, how the transfers should be made, and what changes to statutes might be necessary.

LR 129 was regarding supplemental benefits for certain retired employees, specifically the medical cost-of-living adjustment, adjustments in purchasing power percentage, minimum monthly benefit, or such other benefits as adequate and appropriate to meet the needs of members.

2004. During the second session of the Ninety-Eighth Legislature, Senator Stuhr presented a Legislative Resolution, LR 255, with a request to conduct an interim study on a medical cost-of-living adjustment for the School Retirement System. The research was to determine if the benefits were adequate, and what the effect would be of adopting such

¹²¹⁴ O'Donnell, *Session Laws, 2002, LB 407*, 25.

¹²¹⁵ Patrick J. O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, First Session* (Lincoln, NE: 2003), 1783, accessed on June 17, 2015, <http://nebraskalegislature.gov/FloorDocs/98/PDF/Journal/r1journal.pdf>.

a cost-of-living adjustment.¹²¹⁶ The Class V Retirement System already had the benefit of a medical COLA since 2001.

Senator Stuhr also read Legislative Resolution 321, with a request to conduct a study to examine the definition of compensation in §79-902, and to determine whether the provisions were appropriate, in order to ensure the amount of compensation used to calculate benefits would not be increased substantially prior to retirement for the purpose of spiking the amount of benefit received by a member.¹²¹⁷

2005. During the first session of the Ninety-Ninth Legislature, two Legislative Resolutions were proposed to conduct interim studies to inform future legislation. LR 178, and LR 189.

LR 178 was proposed to once again look at the definition of compensation, as in 2004, but this time with the purpose of making certain it was appropriate to ensure uniformity among school districts and school boards. It was also proposed to look at technical corrections, to clarify statutory language, and determine whether modifications to the systems benefits or contribution processes may be considered.¹²¹⁸

LR 189 was proposed to review the Class V School Employees Retirement system. In an effort to draft legislation to move the system under the direction of the Public Employees Retirement Board, they hoped to study the transfer of new members

¹²¹⁶ Patrick J. O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session* (Lincoln, NE: 2004), 1037, accessed <http://nebraskalegislature.gov/FloorDocs/98/PDF/Journal/r2journal.pdf>.

¹²¹⁷ O'Donnell, *Legislative Journal, Ninety-Eighth Legislature, Second Session*, 1326.

¹²¹⁸ Patrick J. O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session* (Lincoln, NE: 2005), 1596, accessed on June 17, 2015, <http://nebraskalegislature.gov/FloorDocs/99/PDF/Journal/r1journal.pdf>.

from the Class V Employees system to the School Employees plan, and to compare benefits of each system.¹²¹⁹

LB 364 was introduced by the Nebraska Retirement System Committee members, Senators Stuhr (24), Erdman (47), D. Pederson (42), Price (26), and Synowiecki (7), to change calculations as prescribed, change provisions relating to prior service credit, and to harmonize provisions and redefine terms, with emergency clause attached.¹²²⁰ The retirement committee designated this as one of their priority bills, as well.¹²²¹

During a committee hearing on February 22, Jason Hayes explained LB 364 to the committee, with details regarding the reasons that the Class V School Employees Retirement plan needed the changes. As he explained, the bill as proposed would require employees to work one thousand hours to be considered fulltime, and employees working less than one thousand hours would have creditable service years reported in tenths, or one hundred hour increments. Next, the bill provided to include qualified transportation expenses as compensation. The bill also included a limit on the amount of creditable service years that could be purchased, from ten, to an amount no greater than the number of years employees worked for the Class V district. Also, the bill asked to increase the acceptable age difference between a member and non-spouse beneficiary. Michael Smith, the director of Omaha School Employees Retirement System (OSERS) spoke in favor of the bill, and explained the reasoning behind each of the provisions. He was particularly vocal about the purchase of service years, as some employees were

¹²¹⁹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1601.

¹²²⁰ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 190.

¹²²¹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 823.

purchasing years from other states they were already drawing a retirement benefit from, in essence, getting credit for the same years in both states.¹²²²

Through amendment, other provisions were added. AM1210 drew in portions of LB 365, LB 367, and LB 691, to change provisions relating to all of the retirement systems the NPERS administered, and the Class V School Employees Retirement, and to create and eliminate funds.¹²²³ The bill passed with much support, forty-eight members affirmative, and one not voting.¹²²⁴

For the Class V School Employees Retirement Act, the bill modified the way in which service hours were credited. As proposed, any member who worked more than one thousand hours would be considered fulltime, and for hours less than fulltime, creditable service would be granted in increments of one-tenth year for every one hundred hours compensated for.¹²²⁵

In §79-991, regarding purchase of service years, the original section allowing purchase of ten years was stricken, and replacing it were new requirements detailing that a member could purchase up to the lesser of a member's years of creditable service in the system, or ten years, not to be used in the calculation of a defined benefit plan having been paid, being paid, or payable in the future to such member by such other school district. A member must make this request in writing, and the amount of salary in each year with the other district or service unit must be verified, as well as the assurance that

¹²²² Patrick J. O'Donnell, *Transcript, Committee on Nebraska Retirement Systems, February 22, 2005, LB 364* (Lincoln, NE: 2005).

¹²²³ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1207; 1278; 1378.

¹²²⁴ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, First Session*, 1796.

¹²²⁵ O'Donnell, *Session Laws, 2005, LB 364*, 10.

such prior service is not also credited in the calculation of another defined benefit retirement system or program. A member must have made this request within the first five years of membership in the retirement plan. The member would pay the total amount he or she would have contributed to the system had he or she been a member during the period for which prior service was being purchased, with interest, based on the verified salary, or if verification was not received, the annual salary at which time the member joined the system. Payment could be sent directly, or through irrevocable payroll deduction, and service would be granted in one-tenth year increments. If all payments had not been made at the time of termination of employment, the remaining amount would be due immediately and payable to the retirement system. Members will not be given credit for more years than they have been employed in the Class V system, and if employment terminated before the member worked enough hours to match what had been purchased, the retirement board would refund the difference. The school district would contribute an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments were made by the member.¹²²⁶

Regarding joint and survivorship annuities, the adjusted age of the member would be used, rather than the actual age, if death occurred and a non-spouse beneficiary was left a benefit. The adjusted age was defined as the actual age in the calendar year that payments began, of the beneficiary, plus the number of years by which the member's

¹²²⁶ O'Donnell, *Session Laws, 2005, LB 364*, 13.

attained age in the calendar year in which payment of the annuity commences is younger than seventy years.¹²²⁷

2006. The theme behind LR 178 from 2005 emerged again in LR 341 in 2006, with a request to conduct an interim study to further examine the treatment of compensation for the purpose of calculating retirement benefits for both systems, and whether it was an appropriate definition to ensure uniformity. Also introduced was LR 342, to study the minimum benefit for purchasing power of the original benefit received upon retirement for the School Employees Retirement Act, and LR 343, to study whether or not there was a need for the state to make an additional contribution to the School Employees Retirement System, transferred to the Class V School Employees Retirement System, as legislated in §79-966.¹²²⁸

Also requested, as proposed in LR 365, was an interim study to examine the feasibility of making participation in the School Employees Retirement Act voluntary.¹²²⁹

Legislative Bill 1019 was introduced by the Nebraska Retirement Systems Committee, Senators Stuhr (24), Erdman (47), D. Pederson (42), Price (26), and Synowiecki (7) to change provisions relating to vesting, annuities, contribution amounts, refunds of contributions, and the PERB, and to change terms of the members of the Nebraska Investment Council, to provide a duty for the School Employees Retirement

¹²²⁷ O'Donnell, *Session Laws, 2005, LB 364*, 15.

¹²²⁸ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1176-1177.

¹²²⁹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1206.

System, and to eliminate obsolete language.¹²³⁰ The bill was designated as the priority bill of the committee.¹²³¹

Jason Hayes further explained the legislation in a committee hearing detailing provisions pertaining to the school plans. He shared considerations in changing the employer matching rate of contribution from one hundred one percent of the employee rate, to a specific percentage, which would make the law more clear to school districts, but Herb Simek disagreed, as a representative of the Nebraska State Education Association (NSEA); he stated anyone with a twenty-five cent calculator could easily determine the rate of contribution for districts based on the formula, and they wished to keep it, and merely clarify how many decimal points that schools should round to.¹²³²

Mr. Hayes also spoke of the Class V School concern, brought forward by Omaha Schools, that they could no longer issue a refund of contributions if a non-vested member left the system and made no election for the system to refund contributions. The Internal Revenue Code indicated such funds needed to be moved into an IRA by the system on behalf of the member. Michael Smith, director of the Omaha Schools Employees Retirement System, expressed the need for this change to be reflected in the act.¹²³³

Through amendment, AM2207, provisions from LB 1020, requesting to amortize over thirty years rather than twenty-five, LB 1023, regarding health departments, and LB

¹²³⁰ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 274.

¹²³¹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 429.

¹²³² Patrick J. O'Donnell, *Transcript, Committee On Nebraska Retirement Systems, January 31, 2006* (Lincoln, NE: 2006).

¹²³³ O'Donnell, *Retirement Committee Transcript, Jan 31, 2006*.

1140, regarding county and state employees systems, were incorporated into LB 1019.¹²³⁴

The bill was voted upon with forty-six affirmative and three members not voting, and passed with emergency.¹²³⁵ Governor Heineman approved the bill on March 22.¹²³⁶

Changes made to the Class V School Employees Retirement Act included an annual date by which the system must make an annual report to the PERB, March 15.¹²³⁷ Additionally, §79-992 was amended by adding sub-section four, detailing that if a member was entitled to a refund greater the \$1,000, and they made no election of how they wanted those funds refunded to them, the trustees would roll the funds into an individual retirement plan.¹²³⁸

LB 1024 was submitted by Senator Raikes (25) regarding the formation of the Learning Community.¹²³⁹ Discussion around the bill in committee mainly focused on its creation, and not on the impact to the retirement system.¹²⁴⁰ It passed with a vote of thirty-one affirmative, sixteen negative, and two members not voting.¹²⁴¹ The Learning Community came into existence on April 13, with the approval of the Governor.¹²⁴²

LB 1024 made modifications to the Class V School Employees Retirement System by adding provisions for the establishment of a Learning Community. §79-979

¹²³⁴ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*. 611.

¹²³⁵ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1082.

¹²³⁶ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1095.

¹²³⁷ O'Donnell, *Session Laws, 2006, LB 1019*, 14.

¹²³⁸ O'Donnell, *Session Laws, 2006, LB 1019*, 16.

¹²³⁹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 275.

¹²⁴⁰ Patrick J. O'Donnell, *Transcript, Committee on Education, January 30, 2006* (Lincoln, NE: 2006).

¹²⁴¹ O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1665.

¹²⁴² O'Donnell, *Legislative Journal, Ninety-Ninth Legislature, Second Session*, 1679.

detailed that new Class V school districts established pursuant to the passage of the Learning Community Reorganization Act, which were formed at least in part by territory that had been in the existing Class V Employees Retirement System, would continue to participate in that system. Added to §79-980 was sub-section two, which detailed how the system would be managed if at any time the retirement system would consist of more than one Class V school district. There would be trustees from each district, appointed by each respective board, and regulations determining who those trustees would be chosen from among, and representative of, and what their duties and responsibilities would be. All other changes made by LB 1024 throughout the act, made reference to the possible change of structure in the future, but did not change the language of the statutes or function of the system.¹²⁴³

2007. During the One Hundredth Legislature, First Session, in 2007, Phyllis Chambers was appointed by the Governor to be the new director of the Public Employees Retirement Board.¹²⁴⁴

LB 596 was introduced by Senator Kopplin (3) to change provision relating to annuity payment for school employees, with emergency.¹²⁴⁵

Testimony regarding the introduction of, and support for, LB 596 was lengthy. Senator Kopplin explained that there was a provision in statute to allow for an adjustment to benefits so that annuity amounts would retain at least seventy-five percent of the purchasing power they had upon initial retirement for members. However, the adequacy

¹²⁴³ O'Donnell, *Session Laws, 2006, LB 1024*, 26-28.

¹²⁴⁴ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 234.

¹²⁴⁵ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 281.

of adjustment being in question, the bill sought to make a one-time adjustment to ninety percent of the purchasing power of the initial benefit. In favor of the bill, speaking during the committee, were Robert Bussmann, Bill Pfeiff, Janet Hibbs, Bob Kuhn and Roger Rea. These individuals painted an alarming picture of the inadequacy of the benefits received by some of the earliest retirees under the systems, citing annuity checks in the amount of \$186-560 per month for teachers who had dedicated from twenty-seven to forty years of their lives educating students in public schools. Adequacy studies placing Nebraska benefits in an array with neighboring Midwestern states also exposed the benefit to those in the oldest groups, ages eighty-five to ninety, and ninety plus years, to be among the lowest by almost \$7,000 per year.¹²⁴⁶

The bill was passed with emergency, and the recorded vote indicated forty-eight affirmative, and one member not voting.¹²⁴⁷ Governor Heineman approved the bill.¹²⁴⁸

The Class V School Employees Act, §79-9,113 was adjusted to set the contribution rate for employees, beginning September 1, 2007, at seven and three-tenths percent of compensation, and the employer's rate of contribution became one hundred one percent, or such amount as determined by the actuary and trustees for the system to remain solvent.¹²⁴⁹

2008. In 2008, one Legislative Resolution was proposed, by Senator Pahls, LR 304, to direct the Education Committee to conduct an interim study regarding public

¹²⁴⁶ O'Donnell, *Transcript, February 20, 2007*, 14-23.

¹²⁴⁷ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1526.

¹²⁴⁸ O'Donnell, *Legislative Journal, One Hundredth Legislature, First Session*, 1626.

¹²⁴⁹ O'Donnell, *Session Laws, 2007, LB 596*, 3.

school teachers and the issues relating to early retirement, specifically those issues associated with healthcare and insurance.¹²⁵⁰

The auditors of the Class V School Employees System reported the plan assets, representing the funds available to current and future benefits, decreased by more than \$67 million during the challenging economic period. The plan only experienced gains of \$6.5 million, and deductions were higher than the previous year due to increased numbers of retirees receiving greater benefits.¹²⁵¹

2009. Introduced, with the intent of conducting an interim study was LR 120. Senator Avery asked that the committee conduct this study on the equity of compensation for teachers of similar years of experience and education, as well as those working in different districts. It also asked to examine merit pay or bonus pay, fringe benefits such as cell phone or mileage reimbursement, and computer use, and reimbursement of contributions to employees. This study was requested in response to LB 612, introduced by Avery and McGill, to prohibit schools from reimbursing or paying the employee for contributions to the system. The bill was not enacted, but required more research.¹²⁵²

LB 187 was introduced by the Nebraska Retirement Systems Committee members, Senators Pankonin (2), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Nordquist (7), to adjust the contribution rate of employees of both the School Employees Retirement System and the Class V School Employees Retirement

¹²⁵⁰ Patrick J. O'Donnell, *Legislative Journal, One Hundredth Legislature, Second Session* (Lincoln, NE: 2008), 1123, accessed on June 20, 2015, <http://www.nebraskalegislature.gov/FloorDocs/100/PDF/Journal/r2journal.pdf>.

¹²⁵¹ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2008* (Omaha, NE: Seim Johnson Sestak & Quist, 2008), 4.

¹²⁵² O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 245.

System.¹²⁵³ Very little discussion was held regarding LB 187 in the hearing of the Retirement Committee, and it was referred to by Kate Allen, legal counsel to the committee, as a place-holder until the amount of increase of the rate of contribution could be determined.¹²⁵⁴

LB 187 was passed unanimously and Governor Heineman approved the bill.¹²⁵⁵

LB 187 raised the employee rate of contribution, as of September 1, 2009, to eight and three-tenths percent of compensation for Class V School members. The state contribution was increased to one percent of the total compensation for all members from July 1, 2009 until July 1, 2014. All three rates were legislated to return to previous rates after said time periods had expired.¹²⁵⁶

Actuarially, the Omaha plan experienced a net loss of sixteen percent in net assets, due to world wide economic turmoil, and received contributions of only \$49 million. As this plan was legislated so that the district would keep the system solvent, Omaha Public Schools made additional contributions to the plan.¹²⁵⁷

2010. The second session of the One Hundred First Legislature met during 2010, with one request for a Legislative Resolution calling for a study, LR 477, to study the sustainability of the public retirement plans.¹²⁵⁸

¹²⁵³ O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 104.

¹²⁵⁴ O'Donnell, *Transcript, LB 187*, 1.

¹²⁵⁵ O'Donnell, *Legislative Journal, One Hundred First Legislature, First Session*, 1516; 1702.

¹²⁵⁶ O'Donnell, *Session Laws, 2009, LB 187*, 1-2.

¹²⁵⁷ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2009* (Omaha, NE: Seim Johnson Sestak & Quist, 2009), 2.

¹²⁵⁸ Patrick J. O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session* (Lincoln, NE: 2010) 1136, accessed, <http://www.nebraskalegislature.gov/FloorDocs/101/PDF/Journal/r2journal.pdf>.

LB 950 was introduced by the Nebraska Retirement Systems Committee, Senators Pankonin (2), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Nordquist (7), with a number of provisions for several of the plans under the direction of Nebraska Public Employees Retirement Systems (NPERS), and the Class V School Employees Retirement System. They asked for changes to provisions relating to participation eligibility, use of funds, disability eligibility, and retirement system options, with emergency clause.¹²⁵⁹

Discussion in the Retirement Committee hearing characterized many of the changes as technical and clarifying, according to Kate Allen, legal counsel to the Retirement Committee. The bill was presented, at the request of the NPERS, to specify that a disability must have occurred after a member became part of whichever system they were a part of to qualify for disability retirement allowance. They also hoped to clarify the definition of termination, and who qualified as a temporary, part-time, regular, or substitute employee by passing the bill. The bill also explained in greater detail which employees of the Department of Education could participate in the School Employees Retirement System, and which employees were automatically enrolled in the State Employees System. Joe Schaefer, legal counsel to PERB, was present to testify regarding the specific reasons and details about each of these changes, and Jerry Hoffman of NSEA, and Assistant Commissioner of Education Brian Halstead were both present to support the passage of LB 950.¹²⁶⁰

¹²⁵⁹ O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 230.

¹²⁶⁰ O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 2, 2010, LB 950* (Lincoln, NE: 2010), 1-10.

LB 950 was designated as the priority bill of the Retirement Committee,¹²⁶¹ and was amended by AM2087, which incorporated provisions from LB 899 into the bill.¹²⁶² LB 899 was presented to change provisions related to benefit adjustments for cost-of-living.¹²⁶³ The bill passed with emergency, with a vote of forty-two affirmative, and seven members not voting.¹²⁶⁴ Governor Heineman approved the bill on April 13.¹²⁶⁵

The Class V School Employees Retirement Act was amended by LB 950 by correcting the federal statutory reference to military service, throughout the act.¹²⁶⁶

Seim Johnson reported that the Class V system gained in assets and strength from the previous year, due to a better return on investments, causing a seven percent increase of market value, and because of the increase in employee and employer contributions.¹²⁶⁷

2011. During the first session of the One Hundred Second Legislature in 2011, one resolution was introduced for an interim study with possible impact to the retirement systems. LR 262 proposed a study of the possible effects of imposing an earning cap on the calculation of final pensionable salary for school employees.¹²⁶⁸

Two bills were passed that had an impact on the Class V School Employees Retirement System.

¹²⁶¹ O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 543.

¹²⁶² O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 872.

¹²⁶³ O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 186.

¹²⁶⁴ O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 1372.

¹²⁶⁵ O'Donnell, *Legislative Journal, One Hundred First Legislature, Second Session*, 1458.

¹²⁶⁶ O'Donnell, *Session Laws, 2010, LB 950*, 13.

¹²⁶⁷ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2010* (Omaha, NE: Seim Johnson Sestak & Quist, 2010), 2.

¹²⁶⁸ Patrick J. O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session* (Lincoln, NE: 2011), 1614, accessed on June 22, 2015, <http://nebraskalegislature.gov/FloorDocs/102/PDF/Journal/r1journal.pdf>.

LB 382, introduced by Senator Nordquist (7) at the request of Governor Heineman, was submitted to change employee deposit rates, with emergency clause attached.¹²⁶⁹

In committee hearing, further detail was offered about the provisions of the bill, including the rate of increase. Senator Nordquist explained that the original rate requested was an increase of one percent, to nine and twenty-eight hundredths for two years, and then down one percent again each year, until in 2014 the contribution rate was back down to seven and twenty-eight hundredths percent.¹²⁷⁰ Speaking in support of the bill were Karen Kilgarin of NSEA, and Gerry Oligmueller, on behalf of the Governor, indicating market losses as the greatest factor in the need for additional funding at the time. He cited legislation over the past years that began addressing the shortfall.¹²⁷¹

Jason Hayes, legal counsel to NPERS, spoke from a neutral stand, and painted a realistic picture of the actuarial status of the systems, and the state's obligation to fund them. Hayes emphasized that the state obligation would amount to \$18.9 million for 2011-12 fiscal year, and \$48.5 million for the 2012-13 fiscal year, according to the actuarial status of the teacher system. The increase in teacher and school contributions would generate \$31.5 million.¹²⁷²

Speaking from a neutral point of view, on behalf of the Nebraska Association of School Boards (NASB), was John Bonaiuto. He reflected upon the idea of a sunset on

¹²⁶⁹ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 203.

¹²⁷⁰ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 1, 2011, LB 382, LB 510, LB 532* (Lincoln, NE: 2011), 1.

¹²⁷¹ O'Donnell, *Transcript, LB 382*, 2-3.

¹²⁷² O'Donnell, *Transcript, LB 382*, 8-9.

contribution rate hikes, getting rates back to a more manageable level, so the school could allocate that money back into resources for classrooms. Senator Pankonin expressed his point of view that the days of sunsets were gone, and we would not see the rates legislated to go down again.¹²⁷³

Throughout discussion, the senators thanked individuals for working together to come up with a solution, to make the system solvent, recognizing that all were making sacrifices to ensure the future of the plan. The bill was designated as a priority bill for the committee.¹²⁷⁴

The bill was amended by AM1101 to bring in provisions from LB 510, which set the Class V Schools contribution rate.¹²⁷⁵ The bill was passed with a vote of forty-three affirmative, and six members not voting, with emergency.¹²⁷⁶

The bill amended the Class V School Employees Act, increasing the employee contribution to nine and three tenths percent of compensation beginning September 1, 2011 in §79-9,113.¹²⁷⁷

Introduced by the Nebraska Retirement Systems Committee, Senators Nordquist (7), Heidemann (1), Karpisek (32), Louden (49), Mello (5), and Pankonin (2), was LB 509. The bill sought to make changes in provisions relating to multiple retirement systems under NPERS, and the Class V Schools system, with emergency.¹²⁷⁸ The bill was

¹²⁷³ O'Donnell, *Transcript, LB 382*, 6-8.

¹²⁷⁴ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 642.

¹²⁷⁵ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 252.

¹²⁷⁶ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1341.

¹²⁷⁷ O'Donnell, *Session Laws, 2011, LB 382*, 3.

¹²⁷⁸ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*. 251.

also designated as a priority bill by the Retirement Committee, and through amendment AM549,¹²⁷⁹ provisions from LB 486 were brought in.

Both LB 509 and LB 486 were discussed in the Nebraska Retirement Systems Committee hearing held on February 8, 2011. Senator Loudon detailed that LB 486 was to provide salary caps for the calculation of formula benefits, by increasing the annual cap from seven percent to nine percent, while eliminating all exemptions. Since 2006, exemption requests had risen from approximately six percent of retirement applications to over forty-seven percent.¹²⁸⁰ Jerry Hoffman of the NSEA further explained provisions of the bill, stating that in the last sixty months of compensation members' salaries for calculation of formula annuity would be capped at nine percent.¹²⁸¹ Phyllis Chambers of NPERS discussed the increased workload on her staff to have to calculate so many exemptions, and shared that salary spiking in the final years of employment resulted in additional unfunded liability, since for the majority of the career of such employees paid in at a lower rate, on a lower compensation amount, and were receiving benefits for higher compensation out of sync with the rest of their careers.¹²⁸²

Testimony regarding LB 509 revealed the provisions, as detailed by Kate Allen, legal counsel for the Committee, as eliminating the requirement that NPERS provide preretirement planning for Class V School plan members, with no impact, since Omaha Schools already provided their own, and eliminated the requirement that the Class V plan

¹²⁷⁹ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 642.

¹²⁸⁰ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 8, 2011, LB 486, LB 509* (Lincoln, NE: 2011), 1-2.

¹²⁸¹ O'Donnell, *Transcript, LB 486, LB 509*, 2.

¹²⁸² O'Donnell, *Transcript, LB 486, LB 509*, 3-5.

provide annual plan summaries to PERB. An actuarial report would be provided instead, again with no impact, since the plan conducted an actuarial valuation with report annually on their own.¹²⁸³

Jason Hayes offered testimony regarding language stating that employees would receive the higher of the cost-of-living adjustment calculations, just to eliminate ambiguity. Also, the COLA provisions would be stricken from current location in statute and reorganized under a new section in each act. Additionally, LB 509 provisions clarified that school members must make contributions on their entire compensation, not just the capped compensation increase amount, that would be used to calculate the formula annuity, introduced since one school had unilaterally made the decision to only contribute on a seven percent increase, rather than the actual increase amount.¹²⁸⁴

The amended bill was passed upon Final Reading with a vote of forty-four affirmative and five members not voting.¹²⁸⁵ Governor Heineman approved the bill on April 14.¹²⁸⁶

The Class V School Employees Retirement System was amended to remove the requirement of an annual report with PERB in §79-987, (2).¹²⁸⁷ Added was the provision that such Class V systems would provide their own preretirement planning program, and

¹²⁸³ O'Donnell, *Transcript, LB 486, LB 509*, 5-6.

¹²⁸⁴ O'Donnell, *Transcript, LB 486, LB 509*, 6-7.

¹²⁸⁵ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1119-1120.

¹²⁸⁶ O'Donnell, *Legislative Journal, One Hundred Second Legislature, First Session*, 1199.

¹²⁸⁷ O'Donnell, *Session Laws, 2011, LB 509*, 22-23.

that only United States citizens or qualified aliens under the federal Immigration and Nationality Act could participate in the plan.¹²⁸⁸

Actuarial report of the Omaha Public School plan indicated a net increase of eight percent in assets due to increased contributions and market recoveries. While this resulted in overall gain for the plan, greater deductions were made from the system due to greater than normal member withdrawals because of increased numbers of retirees.¹²⁸⁹

2012. Two bills made modifications to both the School Employees Retirement Act and the Class V School Employees Retirement Act during the second session of the One Hundred Second Legislature.

LB 782 was introduced by McCoy (39) to simply require reports to be submitted electronically, and to eliminate obsolete reports, plans, a task force, and a program.¹²⁹⁰ The bill passed with a vote of forty-two affirmative and seven not voting.¹²⁹¹

The bill amended §79-987 of the Class V School act, to require electronic submission of reports.¹²⁹²

The Nebraska Retirement Systems Committee, members Nordquist (7), Heidemann (1), Karpisek (32), Lambert (2), Loudon (49), and Mello (5), introduced LB 916. There were many provisions in the bill, including to exempt per diem from compensation, to require employers to submit termination information to PERB, to

¹²⁸⁸ O'Donnell, *Session Laws, 2011, LB 509*, 25.

¹²⁸⁹ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2011* (Omaha, NE: Seim Johnson, 2011), 2.

¹²⁹⁰ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 98.

¹²⁹¹ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1259-1260.

¹²⁹² Patrick J. O'Donnell, *Session Laws, 2012, LB 509*, 68-69.

require repayment of benefits, to clarify provisions relating to tax-qualification requirements, provisions relating to rollover distributions and death benefits, and to exempt those under the age of eighteen from definition of school employee, with emergency clause.¹²⁹³ This bill was designated as a priority bill for the Retirement committee.¹²⁹⁴ Amendment AM1739 brought in provisions from LB 973, regarding the use of retirement benefits to pay for civil damages, and LB 1036 to authorize the creation of sub-funds.¹²⁹⁵ A Nebraska Retirement Systems Committee Hearing was held on January 26 to discuss LB 916 and LB 1036.

Kate Allen, legal counsel to the committee, revealed that LB 916 was introduced at the request of NPERS. Testimony from Ms. Allen, and from Jason Hayes revealed that the bill would make mainly technical changes and clerical changes to the acts. No one spoke as a proponent, neutral, or opponent of the bill.¹²⁹⁶

The bill passed with a vote of forty-six affirmative, none negative, and three members not voting, with emergency.¹²⁹⁷ Governor Heineman signed the bill on April 16.¹²⁹⁸

The Class V system was amended in §79-980, to clarify an Internal Revenue Code. §79-998 was re-numerated, and sections seven and eight were added to detail how a non-designated spouse or payee under a domestic relations order could elect to take an

¹²⁹³ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 192.

¹²⁹⁴ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 501.

¹²⁹⁵ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 522.

¹²⁹⁶ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, January 26, 2012, LB 916, LB 1036* (Lincoln, NE: 2012), 1-4.

¹²⁹⁷ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1297-1298.

¹²⁹⁸ O'Donnell, *Legislative Journal, One Hundred Second Legislature, Second Session*, 1512.

eligible rollover distribution into another retirement plan, as per Internal Revenue Code.¹²⁹⁹

The same provision regarding criminal activity resulting in damages to be taken from a member's retirement account that was added to the School Employees Act was added to §79-9,104, and the same provision relating to military service was added to §79-9,106.¹³⁰⁰

Net assets of the OSERS plan increased by \$62 million, due to employee and employer contributions and a continued recovery in the market value of investments. Omaha staff members voted to contribute funds from a one-month premium holiday offered by their health insurance plan into the retirement system to help it continue to grow in strength.¹³⁰¹

2013. During the first session of the One Hundred Third Legislature, several resolutions were introduced to conduct interim studies that may have had an impact on legislation regarding the retirement systems. LR 246 called for a comparison between the School Employees Retirement Act and the Class V School Employees Retirement Act, comparing benefits, plan assets, funding obligations, and administrative costs. LR 247 asked for a study to examine the purchase of service credits, and LR 248 asked to examine service requirements of the School Employees Retirement Act, regarding

¹²⁹⁹ O'Donnell, *Session Laws, 2012, LB 916*, 27-28.

¹³⁰⁰ O'Donnell, *Session Laws, 2012, LB 916*, 28-29.

¹³⁰¹ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2012* (Omaha, NE: Seim Johnson, 2012), 2.

temporary service, and service following termination of employment.¹³⁰² In debate regarding LB 553, Senator Krist also referred to LR 191 as a study that may impact the retirement systems. LR 191 is recorded as a study of all the state plans administered by PERB.¹³⁰³ This resolution topic of study was requested regularly.

The Unicameral passed two bills that made changes to both systems. Those were LB 263 and LB 553.

LB 263 was introduced by the Nebraska Retirement Systems Committee, Senators Nordquist (7), Conrad (46), Davis (43), Karpisek (32), Kolowski (31), and Mello (5), with the intent of changing membership provisions, changing provisions pertaining to interest and compliance with federal laws, annual benefit adjustments, repayment of benefits, application deadlines, termination of employment, contract requirements, actuarial and audit services, and administering retirement system and plans.¹³⁰⁴ In committee hearing, Kate Allen, legal counsel to the Retirement Committee, went into further detail regarding the proposed changes.

The Class V system statutes needed to be updated to reflect the practice of conducting an annual audit, as statute at the time only required an audit once every three years. Qualifications of the actuary to be employed by the board were updated as well, and the board was to determine the interest rate on purchase of service credits. These

¹³⁰² Patrick J. O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session* (Lincoln, NE: 2013), 1434-1435, accessed on June 23, 2015, <http://nebraskalegislature.gov/FloorDocs/103/PDF/Journal/r1journal.pdf>.

¹³⁰³ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1591.

¹³⁰⁴ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 164.

updates were in response to state tax laws. A fee was waived for preretirement planning sessions, and “retirement date” and “retirement application” were added to definitions.¹³⁰⁵

School plan members were asked to apply for retirement benefits one hundred twenty days prior, rather than ninety days prior, to the effective date of initial benefit. Termination would be determined by the end of the contractual agreement, or by the employer. They asked to allow retired members to work intermittently as a sub sixty days after termination, to not accumulate more than one hundred twenty hours with any district, until the one hundred eighty day period had passed. Originally the bill called for language that regular employment, with the requirement to pay into the system, would commence at fifteen hours,¹³⁰⁶ but Mike Dulaney later expressed during the hearing that there was discussion, which was supported, of redefining that amount as twenty hours per week.¹³⁰⁷ Also clarified was the definition of “compensation base” when discussing the salary cap, for calculation of the formula annuity during the last five years prior to retirement.¹³⁰⁸

Phyllis Chambers of NPERS spoke from a neutral stance, asking that purchase of service years be based on an actuarially generated figure rather than a calculation of what the years would have cost, plus interest, which would increase the assets of the system.

¹³⁰⁵ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, February 20, 2013, LB 263* (Lincoln, NE: 2013), 24.

¹³⁰⁶ O’Donnell, *Transcript, LB 263*, 25.

¹³⁰⁷ O’Donnell, *Transcript, LB 263*, 26.

¹³⁰⁸ O’Donnell, *Transcript, LB 263*, 25.

She was not, as a representative of NPERS, in support of allowing intermittent substitute teaching during the one hundred eighty day waiting period.¹³⁰⁹

The bill was designated as a priority bill for the Retirement Committee,¹³¹⁰ and underwent amendment, AM835,¹³¹¹ which included provisions from LB 321, regarding the police, and LB 594, regarding veterans, in the final version of LB 263. The bill was voted upon at Final Reading, with forty-five in favor, and four members not voting.¹³¹² Governor Heineman signed the bill on April 24.¹³¹³

The Class V School Employees Act was amended by LB 263 to clarify actuary qualifications, the board would determine the interest rate for repayment of purchase of service years, and maximum benefits for cost-of-living adjustments would be made in accordance with section 415 of the Internal Revenue Code.¹³¹⁴

LB 553 was introduced by Senator Nordquist (7) to change provisions relating to retirement allowances, change state, employer, and employee deposits, to change provisions related to retirement plan funding, and to change provisions relating to the state aid calculation, with emergency.¹³¹⁵ The bill was designated as a priority of the Retirement Committee¹³¹⁶ and through amendment, portions of LB 554 regarding the

¹³⁰⁹ O'Donnell, *Transcript, LB 263*, 29-31.

¹³¹⁰ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 675.

¹³¹¹ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 846.

¹³¹² O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1025.

¹³¹³ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1143.

¹³¹⁴ O'Donnell, *Session Laws, LB 263*, 26-31.

¹³¹⁵ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 262.

¹³¹⁶ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 675.

Class V retirement system, LB 306 regarding Judges system, and LB 305 regarding the State Patrol system were rolled into LB 553.¹³¹⁷

Senator Nordquist stated in Committee Hearing that LB 553 was developed in partnership with various school organizations to address both short and long-term funding obligations in the School Employees Retirement System. The bill created a new tier of benefits for new school employees beginning July 1, 2013. For these employees, the cost-of-living adjustment would cap at one percent upon retirement, and the formula calculation would be based on the five highest years of compensation, rather than three. The bill would increase the state obligation to contribute from one percent of total compensation of all members, to two percent, with no sunset on that increase. The contribution rate, scheduled to lower for employees and employers as of August 31, 2013, would be set to an unspecified amount with no sunset. Without passage of the bill, the system would become more unfunded, and the obligations of the state to fund the system would be irresponsibly ignored. Nordquist shared that Governor Heineman did not include a provision to fund this plan in his budget, nor did he propose another bill with a solution, so if the bill did not pass, the funds would need to come from the general fund budget, which would detract from other obligations.¹³¹⁸

Jason Hayes, as a representative of NSEA, supported the passage of LB 553. He stated the funding needs, based on actuarial reports, of the system as it were, would climb up to \$138 million by 2018, and the state would be required to fund that amount by

¹³¹⁷ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 939.

¹³¹⁸ Patrick J. O'Donnell, *Transcript, Nebraska Retirement Systems Committee, February 6, 2013, LB 553, LB 554* (Lincoln, NE: 2013), 2-3.

statute. He stated the contribution rate for employees would remain at nine and seventy-eight hundredths percent, with no sunset, the employer would match that amount by one hundred one percent, and the state would need to contribute two percent of total compensation to the plan, an increase from one percent. An adjusted benefit schedule would be added for new employees. This plan required that each funding source would marginally contribute additional amounts, making it a balanced solution.¹³¹⁹

Mike Dulaney, Executive Director of NCSA, spoke in favor of the bill. He added that it was his belief that all working together had done their due diligence to the Executive Branch, meeting with the Governor and his staff, and preparing the potential Speaker, Senator Adams, that the bill's introduction was impending. He also was able to clarify that members who had a bona fide separation from the plan, were receiving retirement benefits, and then were rehired by a school district, would be subject to a new plan under the new provisions. Any member who had a lapse in employment, but had not retired or taken a retirement annuity, and became rehired, would continue under the old plan.¹³²⁰

John Spatz of the NASB, spoke in favor of the bill as well, and acknowledged that much proactive work had been done among the organizations representing those with vested interest in the plan. He spoke of the director of the plan for Kansas educators, who informed him their unfunded liability was in the billions, not millions, sharing it made him proud to be from Nebraska because "we keep up with stuff like this."¹³²¹

¹³¹⁹ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 9-10.

¹³²⁰ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 13-16.

¹³²¹ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 18-22.

Phyllis Chambers of NPERS also spoke, in a neutral stance. She believed the bill to be good, however, the switch from three highest years of service to five, to calculate the formula annuity for new employees, would create a lot of additional work for her staff, and she would prefer that the adjustment be made to the formula multiplier rather than the compensation factor.¹³²² Coby Mach, of the Lincoln Independent Business Association, took a neutral stance as well, and made a suggestion that perhaps the definition of regular employee could be adjusted to mean those with twenty hours or more per week, rather than fifteen.¹³²³

Testimony continued with consideration of LB 554, which would ultimately become provisions in LB 553. Senator Nordquist detailed that most of the provisions of LB 554 were aligned with LB 553, but applied to the Class V School Employees retirement plan. Michael Smith further explained that historically the Omaha system had “worked” according to its formula, until the dot-com bubble burst and Omaha suffered from the sub-prime mortgage crisis. His projections demonstrated that if no changes were made to the plan, it would be seventy-three percent funded (in 2013), and would only be able to reach the level of seventy-seven percent funded in thirty years, which was not acceptable. He proposed also a change to the rule of eighty-five, adjusting that to age ninety, suggesting that members should retire at a later age, as he believed social security

¹³²² O’Donnell, *Transcript, February 6, 2013, LB 553, LB 554, 22-25.*

¹³²³ O’Donnell, *Transcript, February 6, 2013, LB 553, LB 554, 28-29.*

had indicated would happen.¹³²⁴ Chris Proulx of the Omaha Education Association, and Jason Hayes, also both supported LB 554.¹³²⁵

Upon first Final Reading, the LB 553 failed to gain the necessary votes, recorded as twenty-seven affirmative, eight negative, and fourteen not voting.¹³²⁶ Senator Nordquist immediately moved to reconsider the vote. Later the same day, a second vote was cast, and thirty-four members voted affirmative, gaining a two-thirds majority to pass the bill.¹³²⁷ However, the fight was far from over.

Governor Heineman refused to sign the bill, returning it with his specific objections to the increase of the state contribution from one percent to two percent of total compensation, and to the district matching the employee contribution at one hundred one percent, which cost the taxpayers too much. He also stated he believed the assumed rate of return was estimated too high at eight percent, even though based on actuarial reviews, and that there ought to be an interim study conducted on the rate of return on investments of the retirement systems.¹³²⁸

Senator Nordquist made a motion, MO69, that LB 553 become law notwithstanding the objections of the Governor, and the motion was presented to override the veto.¹³²⁹ The floor debate following yielded many opinions regarding the passage of the bill.

¹³²⁴ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 34-38.

¹³²⁵ O'Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 38-39.

¹³²⁶ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1259.

¹³²⁷ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1261.

¹³²⁸ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1329-1331.

¹³²⁹ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1345; 1348-49.

Senator Larson asked for more time, and an interim study, to come up with a better solution, stating that contributions for all were remaining the same, except the state contribution was asked to double. Senator McCoy suggested the actuarial report may not be all that accurate, and then proposed that Senator Nordquist and the Retirement Committee consider a cash-balance plan. Senator Nordquist responded by stating [Nebraska] courts had ruled that a change could not be made to the benefits of current members, so there was indeed a need to address the unfunded liability of the current system.¹³³⁰

Senator Mello spoke up in favor of the bill, and Senator Krist detailed how the state was statutorily obligated to fund the amount that was being requested, but maybe there was another way, which is why he introduced LR 191 to request a study.

Senator Harr spoke of the legal implications of not passing the bill, and how teachers, judges, and state patrol deserve better. Senator Lathrop was in favor of overriding the veto of Governor Heineman as well, stating that such a move by the leader of our state should be indicative that he (the Governor) has a better plan. But that was not the case; there were no other plans presented for consideration. Without passing the bill, the state obligation to fund the retirement systems would have to come out of the general fund, and that would leave many other revenue bills without funding.¹³³¹ Senators Sullivan, Karpisek and Harms voiced support for the override of the veto. Speaker Adams detailed how it was a bit of a double-edged sword for him, since he was benefiting from the system as a retired teacher, but, whether the attempt was right or

¹³³⁰ Patrick J. O'Donnell, *Transcript, Floor Debate, May 14, 2013* (Lincoln, NE: 2013), 38-43.

¹³³¹ O'Donnell, *Floor Debate, May 14, 2013*, 43-46.

wrong, it was an attempt to fix the system and to make it work for years, and that is what needed to be done.¹³³²

Senator Carlson spoke of the possibility of introducing a shell bill, suspending the rules to do so, to incorporate the \$48 million shortfall for the year into the budget, and then request an amortization change and not accept the other provisions of the bill.

Senator Kolowski spoke of losing teachers to other states, like Wyoming, where the pay and the benefits are better; losing our most talented teachers.¹³³³

Senator Krist again referred to LR 191 as part of the solution, but reiterated that we cannot break contracts with our citizens. The debate went on for quite some time, with many Senators reiterating the state obligation in statute to fund the system, and how in Nebraska, we meet our obligations and work together to see to it that solutions are found to problems. One request to suspend debate failed, before a second finally passed. Eventually, with the Unicameral under call, meaning all were required to be present in chambers and accounted for, for the purpose of a vote, a vote was cast. Thirty-two voted affirmative, meeting the three-fifths majority necessary to override a veto of the Governor. The bill was passed, notwithstanding the objections of Governor Heineman.¹³³⁴

The Class V School Employees Retirement Act was amended as follows:¹³³⁵

¹³³² O'Donnell, *Floor Debate, May 14, 2013*, 46-53.

¹³³³ O'Donnell, *Floor Debate, May 14, 2013*, 53-58.

¹³³⁴ O'Donnell, *Floor Debate, May 14, 2013*, 58-77.

¹³³⁵ O'Donnell, *Session Laws, 2013, LB 553*, 13-18.

- Final average compensation was defined for new employees after July 1, 2013, to be the average of the five highest years. Subsections were renumbered.
- §79-9,103 regarding cost-of-living adjustments, had section nine added to detail that new members as of July 1, 2013 would only receive the lesser of a one percent adjustment or the increase in the consumer price index. Subsequent sections were renumbered.
- Regarding employee contributions, the rate of deposit was set at nine and seventy-eight hundredths percent of the compensation of members commencing September 1, 2013.

Seim Johnson reported that the Class V retirement plan grew by six percent in net position, and more than ten percent in total additions, due to the premium holiday money added the prior school year, and continued increased contributions.¹³³⁶

2014. During the Second Session of the One Hundred Third Legislature, two bills were introduced, which became one through amendment, to make changes to the School Employees Retirement Act and the Class V School Employees Retirement Act.

Senator Nordquist (7) introduced both bills, LB 1041 and LB 1042. LB 1041 intended to provide for changes regarding purchase of service credits for school employees, change provisions relating to Class V school plan, change provisions related to an annual report, and define a term, with emergency. LB 1042 was introduced to

¹³³⁶ *Omaha School Employees' Retirement System: Financial Statements, August 31, 2013* (Omaha, NE: Seim Johnson, 2013), 3.

define a term, and provide for repayments upon rejoining the School Employees Retirement Act, with emergency.¹³³⁷

In committee hearing on February 12, Senator Nordquist explained that LB 553 the previous year had really gotten members of the Unicameral to think about the retirement systems for the first time, and in doing so the purchase of “air time,” a provision of both systems, was brought into question. “Air time” is time purchased by employees after being members of the system for five years to increase their years of creditable service, and the desire was to increase the period of time an employee must be a member before allowing such purchase, up to ten years. Also included in the bill, for Class V Schools, was the clarification of liabilities and responsibilities for retirement board members and trustees according to Internal Revenue Code, and also to provide the requirement that the Class V system present an annual actuarial valuation report to the PERB on March 1.¹³³⁸ David Kramer of Omaha Public Schools, outside counsel, spoke in favor of the bill, but wanted it detailed that the school board was responsible for the management of the system, and also questioned the timing of the report to the PERB.¹³³⁹

Presented for discussion in the same hearing was LB 1042, which detailed a new manner in which the committee hoped to have legislated to purchase years. The bill proposed to base the price of years on an actuarially determined amount, rather than what the years would have cost, plus interest. Phyllis Chambers supported the measure, stating that the system was taking on unfunded liability when years were purchased, but going

¹³³⁷ O’Donnell, *Legislative Journal, One Hundred Third, Second Session*, 306.

¹³³⁸ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, February 12, 2014, LB 1041, LB 1042* (Lincoln, NE: 2014). 1-3.

¹³³⁹ O’Donnell, *Transcript, LB 1041, LB 1042*, 3-6.

forward from an unspecified date, if the cost of years were based on the actuarial data, the purchases would essentially be “neutral” to the system, or wouldn’t increase the unfunded-ness, nor add to the strength. Mike Dulaney and Jason Hayes added their comments in support of the bill.¹³⁴⁰

Provisions of the legislative bills were merged by amendment AM2132, and passed upon Final Reading with emergency, with a vote of forty-eight affirmative, and one member not voting.¹³⁴¹ Governor Heineman approved the bill on April 16.

Changes made to the Class V School Employees Retirement System indicated the appropriate reference to Internal Revenue Code for the administration of the system, and the absolution from liability as long as such individuals follow proper tax-qualification requirements without being willfully dishonest, grossly negligent, or intentionally violating the law. Also changed was the requirement that the board of education would annually submit their actuarial valuation report to the Nebraska Retirement Systems Committee at a public hearing.¹³⁴²

The annual audit of the Omaha plan revealed substantial growth, due to contribution increasing further to the legislated nine and seventy-eight hundredths percent for employee, matched at one hundred one percent by the school, and the state contribution increasing from one percent of all contributions to two percent. These changes yielded thirty-two and six-tenths percent total additions to the plan.¹³⁴³

¹³⁴⁰ O’Donnell, *Transcript, LB 1041, LB 1042*, 7-11.

¹³⁴¹ O’Donnell, *Legislative Journal, One Hundred Third Legislature, Second Session*, 1560.

¹³⁴² O’Donnell, *Session Laws, 2014, LB 1042*, 8-9.

¹³⁴³ *Omaha School Employees’ Retirement System: Financial Statements, August 31, 2014* (Omaha, NE: Seim Johnson, 2014), 3.

2015. In 2015, LB 446 was introduced by the Nebraska Retirement Systems Committee chairperson, Nordquist (7), with the intention of redefining compensation and changing provisions related to the calculation of final average compensation for formula annuities.¹³⁴⁴

Senator Nordquist further stated the purpose of LB 446 in Committee Hearing on January 29. The intent was to add a salary cap to prevent “spiking” or intentional inflating salaries in various ways, for members of the Class V plan, or OSERS. The provision to prevent salary increases of greater than eight percent to be included in the calculation of final average compensation mirrored language that was in the School Employees Retirement plan administered by NPERS, which would also be modified slightly so both plans had matching language in the reflective sections. He clarified that members could make more than eight percent more than they did the preceding year, but only eight percent or less growth would be included in the calculation of final average compensation during the five highest years. Questions were fielded from committee members concerned about the ability of plan members to move easily between the OPS system and other state schools and receive retirement benefits from both plans, and Nordquist and committee legal counsel Kate Allen explained the provisions regarding purchase of years of service between plans, which was not truly a provision of LB 446, but obviously was a concern of senators. Nordquist interjected that he was also introducing a bill to bring the two plans together, which would eliminate that possibility,

¹³⁴⁴ Patrick J. O’Donnell, *Legislative Journal, One Hundred Fourth Legislature, First Session* (Lincoln, NE: 2015), 218. Accessed on October 10, 2015 at <http://nebraskalegislature.gov/FloorDocs/104/PDF/Journal/r1journal.pdf>.

but also alluded to the difficulty that might be experienced in bringing the plans together.¹³⁴⁵

Orron Hill of PERB spoke from a neutral point, essentially stating that PERB was not opposed to the passage of this bill for OSERS, but had concerns with the provision of the bill allowing for an exemption language for unpaid absences being added to the School Employees Retirement Act. He detailed how exemption requests to this particular rule had grown substantially over the past five years, to the point where they felt as if the exemptions were “swallowing” the rule.¹³⁴⁶

Michael Smith, Director of OSERS, while not on testimony at the committee hearing, expressed his feelings in an interview, regarding the measures to prevent spiking of salaries. “In a single employer plan, we do not have issues with salary spiking in the way the statewide plans have experienced them.” He estimated that five hundred calculations would have to be manually rechecked for compliance with the unique provisions of the law, costing their organization about fifteen hundred dollars per year, making them less efficient.¹³⁴⁷ However, when John Lindsay spoke on behalf of the OPS Board during the committee hearing, he did take a favorable position, and noted they appreciated the work of Senator Nordquist to more closely align the plans specifically in definitions.

¹³⁴⁵ Patrick J. O’Donnell, *Transcript, Nebraska Retirement Systems Committee, January 29, 2015, LB 446, LB 484* (Lincoln, NE: 2015), 1-7.

¹³⁴⁶ O’Donnell, *Transcript, LB 446*, 8-9.

¹³⁴⁷ Michael Smith, interviewed by Dawn Lewis, Omaha, NE, August 12, 2015.

LB 446 in its final form was passed on March 6 with a nod of forty-seven affirmative votes, and two members not voting.¹³⁴⁸ Governor Ricketts signed the bill into law on March 12, 2015.¹³⁴⁹

Of the Class V plan, §79-978 was revised to define compensation as gross wages including overtime, contributions to the retirement system, retroactive salary payments pursuant to court order, amount contributed to plans under sections 125, 403(b), and 457 of the IRS Code, but does not include fraudulently obtained amounts, amounts paid for unused sick leave or vacation leave converted to cash, insurance premiums converted into cash, expense reimbursement, fringe benefits or per diems, bonuses for services not actually rendered like severance pay or early retirement inducements, or employer contributions made for separation payments.¹³⁵⁰

Also added to OSERS plan was the provision for those retiring after July 1, 2016, the member's compensation could not exceed eight percent for the plan year preceding the next, or the amount over eight percent would be excluded, with an exception for those who took part of a year unpaid. The capping period was determined to be the five years preceding the later of a member's retirement date or member's final compensation date, just as in the School Employees plan.¹³⁵¹

¹³⁴⁸ O'Donnell, *Legislative Journal, One Hundred Fourth, First Session*, 744.

¹³⁴⁹ O'Donnell, *Legislative Journal, One Hundred Fourth, First Session*, 857.

¹³⁵⁰ O'Donnell, *Slip Law, LB 446*, 7.

¹³⁵¹ O'Donnell, *Slip Law, LB 46*, 9.

Chapter VI

Interviews

Upon review of a tremendous amount of documents pertaining to the School Employees Retirement Act and the Class V School Employees Retirement Act, several persons were revealed who had a great deal of knowledge of or involvement in the retirement systems, or were recommended by those with knowledge of the plans. Of those persons, the following agreed to be interviewed to assist in this dissertation work:

- Kate Allen, current legal counsel to the Nebraska Retirement Systems Committee;
- Jeremy Nordquist, former research analyst and legislative aid, former Senator from District 7 and Chairperson of the Nebraska Retirement Systems Committee, current Chief of Staff to Representative Brad Ashford;
- Jason Hayes, former legal counsel to Nebraska Retirement Systems Committee and Nebraska Public Employee Retirement Systems (NPERS), and current Director of Public Policy for Nebraska State Education Association (NSEA);
- Phyllis Chambers, current director of NPERS;
- Michael Smith, current director of Omaha School Employees Retirement System (OSERS);
- Craig Christensen, former Omaha Education Association President and current director of NSEA; and

- Mike Dulaney, current Executive Director of Nebraska Council of School Administrators and registered lobbyist for twenty-four years.

Analysis of transcripts from interviews pertaining to the retirement system, revealed the overwhelming belief that these plans are strong because of the commitments that the State of Nebraska has followed through, in funding the plans, and the teamwork efforts of the organizations.

It was ruled by the Nebraska Supreme Court that once a plan is established and contribution rates and benefit calculations are set, changes cannot be made unless another benefit is being given.¹³⁵² Indeed, Nebraska courts have agreed that pension plans are contractual rights, protected under the federal and state constitutions, and therefore defined benefit plans may not be reduced or eliminated.¹³⁵³ Public pension plans are not gratuitous, but rather give rise to binding contractual rights and obligations, and legislative and administrative action cutting back public pensions would be constitutionally suspect.¹³⁵⁴ This interpretation may not have always been appreciated by leaders of our state, as when Governor Heineman attempted to veto the passage of LB 553 in 2013 due to objections to the contribution rate of the state and employers,¹³⁵⁵ or when Governor Mike Johanns asked for the state contribution to the plan to be

¹³⁵² Jeremy Nordquist, phone conversation with Dawn Lewis, Callaway, NE, August 7, 2015.

¹³⁵³ Dave Pankonin and Kate Allen, *Nebraska Retirement Systems Committee Addendum to Legislative Resolution 542 Interim Study Report on Public Pension Obligations* (Lincoln, NE: 2010), 5.

¹³⁵⁴ Steven E. Achelpohl, *Public Pensions in Nebraska: Good News for the Public Employee*, Creighton Law Review, Vol. 16, 1982. 63-72.

¹³⁵⁵ O'Donnell, *Legislative Journal, One Hundred Third Legislature, First Session*, 1329-1331.

eliminated, in his “State of the State” address in 1999, with the statement that the “responsibility for the system should be placed directly on those who benefit from it.”¹³⁵⁶

Even so, there has nearly always been support for bills that improve the benefits and strength of the systems, and other leaders have indicated their willingness to keep the plans strong. In her 1988 “State of the State” address, Governor Kay Orr included a request for three and one half million dollars for the retirement plan for teachers, sharing her belief that in Nebraska we “stand by the commitments made.”¹³⁵⁷ In a 2013 Retirement Committee hearing regarding LB 553, John Spatz, representing the Nebraska Association of School Boards, shared his pride in being from Nebraska, as at the time Nebraska retirement system liabilities were lower than other states because we “keep up with stuff like this.”¹³⁵⁸ It appears to be the consensus of the interviewed experts that Nebraska organizations which stand to benefit from having strong retirement plans for their members have worked well together to compromise and make plan changes to keep the systems strong.

Phyllis Chambers indicated her level of comfort with contributions that were legislated, including the employee and employer contributions, but also additional contributions from the legislature, funding the plan in a way that some around the country are not. “It takes commitment of the state and the legislature to provide a benefit, this

¹³⁵⁶ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninety-Sixth Legislature, First Session* (Lincoln, NE: 1999), 362, accessed on June 16, 2015, <http://nebraskalegislature.gov/FloorDocs/96/PDF/Journal/r1journal.pdf>.

¹³⁵⁷ Patrick J. O’Donnell, *Legislative Journal of the State of Nebraska, Volume I, Ninetieth Legislature, Second Session* (Lincoln, NE: 1988), 239, accessed on June 6, 2015, <http://nebraskalegislature.gov/FloorDocs/90/PDF/Journal/r2journal.pdf>.

¹³⁵⁸ O’Donnell, *Transcript, February 6, 2013, LB 553, LB 554*, 18-22.

type of benefit.”¹³⁵⁹ Jason Hayes expressed belief that everyone working together to create a good plan contributes to the strength and longevity of these plans. “it takes lawmakers, it takes the Governor, all working together to say we want to create a strong plan. Now we didn’t have that in 2013 because the bill had to get passed over the Governor’s veto...but at least you had a sufficient number of lawmakers saying we want to have a strong fund.”¹³⁶⁰

In agreement, Michael Smith, representing OSERS, shared that the strength of the system always has been understanding on the part of the members, school board, and legislators that this is the most cost effective way to provide our members with the security that they need after having invested 30 or 35 years of their lives to teaching kids. “When that unravels, when members take it too much for granted, when school boards look at it as nothing more than a cost component, or legislators tend to think that there’s something inappropriate about retiring with dignity, then I think we start to unravel what’s really the strength of this structure.”¹³⁶¹ Craig Christensen agrees that having a non-partisan legislature that has generally regarded itself as steward of a well-run system that is a decent, non-lavish system, is a strength. “You have people that are both advocating for and making decisions for a system for all the right reasons.”¹³⁶² Former Senator Nordquist reflected on coming to an agreement with everyone around the table, the three groups were all varying, to get to an agreement that would make the changes

¹³⁵⁹ Phyllis Chambers, interviewed by Dawn Lewis, Lincoln, NE, August 12, 2015.

¹³⁶⁰ Jason Hayes, interviewed by Dawn Lewis, Lincoln, NE, August 12, 2015.

¹³⁶¹ Michael Smith, interviewed by Dawn Lewis, Omaha, NE, August 12, 2015.

¹³⁶² Craig Christensen, phone conversation with Dawn Lewis, Arnold, NE, August 14, 2015.

that were needed, which was significant, when he was asked about the strength of the system.¹³⁶³

Kate Allen also spoke of her observations on the partnership between the legislature and the interest groups and organizations, a partnership that has been really strong, and communication that has been strong. “There’s a real commitment from everyone to try to work together to keep this plan sustainable.”¹³⁶⁴

“We worked together. NSEA, NCSA, NPERS, retirement committee, we’re all working together. I’m not saying there’s always agreement, but we try...we almost always, come to the table, the hearing room, with an agreement,” stated Mike Dulaney.¹³⁶⁵

As far back as 1952, Glenn I. Anderson, Director of the Nebraska School Retirement System, discussed the use of a retirement plan as a mechanism for recruiting and retaining teachers. “A retirement plan makes the occupation of teaching more attractive to qualified persons...and rewards faithful and continued service.”¹³⁶⁶ Four of the experts directly discussed the use of the retirement plan as a tool for recruiting and retaining quality teachers, and one alluded to the fact that there is a tremendous amount of turnover among younger teachers, who may later come back to the profession. Neb. Rev. Stat. §79-9,103 section thirteen currently states that there is a pressing need to attract and retain qualified and dedicated public school employees, and that one of the

¹³⁶³ Nordquist, phone conversation.

¹³⁶⁴ Kate Allen, phone conversation with Dawn Lewis, Arnold, NE, September 16, 2015.

¹³⁶⁵ Michael Dulaney, interviewed by Dawn Lewis, Lincoln, NE, September 9, 2015.

¹³⁶⁶ A. M. Haight and S. W. Dale, *Seventh Annual Report of the Nebraska School Retirement System*, (Omaha, NE: 1952)

factors prospective public school employees consider when seeking employment is the retirement system.

Jason Hayes indicated that in order to attract talent into Nebraska, in the teaching profession, we've got to have a strong plan to keep teachers from choosing other states. Jeremy Nordquist also suggested using the retirement plan as a retention tool, as many young teachers leave within a few years, but as Mike Dulaney indicated, young teachers might not know that they get one heck of a good deal with a defined benefit plan. "We feel that the DB plan is good for recruitment," he states, of the stand NCSA has taken with regard to teacher retirement. Ms. Chambers believes the retirement plan to be an important benefit, part of the benefit package for retention of school employees.

Christensen reiterates that a lot of people who leave the plan young eventually come back. This affirms the purpose for the legislature addressing the purchase of prior service years approximately forty times in the years between 1945 and 2015 collectively between the School Employees Retirement Act and the Class V School Employees Retirement Act, as indicated in this research.

With regard to the idea, which was introduced in 2015 as LB 448, of merging the Class V Employees plan with the School Employees plan as one under the authority and governance of NPERS, there were mixed feelings among those interviewed. While Dr. Dulaney sees a great benefit from the two plans merging, indicating his advocacy for such legislation, he admits there would be challenges. "There's lots of problems, one is that the OSERS plan...has a medical COLA as well as a regular COLA. We don't have the medical COLA, so it's not apples to apples...and we've come a long way to mirror

[the plans], but that medical COLA still sticks out there.” But, with the difference in funded levels, according to the latest actuarial reports from 2014, and the OSERS plan showing a lesser level of funded-ness, the Omaha Public School board might be interested in merging them, while the NPERS plan for teachers may not benefit as much from such a merger.

Phyllis indicated that it would be more work for her staff members if the plans were to merge, as every time a change is made, there is more work that they simply absorb. However, she stated that it has been done in other states, and while merging could create issues for a while, because of the funding levels, with a transition period, it could be done. “There are some financial gains to be made, I would think, for Omaha if we merged,” she states. However, Michael Smith voiced concern over the structure of NPERS plan for teachers, versus OSERS.

Smith states OSERS’ plans, liabilities and assets, are managed by the same set of people, and he feels strongly that OSERS is able to offer better customer service to the plan members, citing a sixty day turnaround from initial retirement request to first receiving a benefit. He believes the NPERS plan to be less efficient due to the bifurcation of liabilities from assets. “For years you had member groups driving benefits improvement on the liability side without giving consideration to the fact that the assets had to be there in order to support that benefit increase.”

On the other hand, Craig Christensen, drawing from his background as a member of the OSERS plan, and as an advocate for the NPERS plan for school employees, in his position with NSEA, shares a slightly different point of view. “I have some real concern

about the structure of the Omaha system...I had some concern that the local politics of, it is too enmeshed and too close to that board to allow it to make decisions and recommendations that are relatively free of politics, relatively free of influence...and based upon trusteeship, rather than political influence.” For this reason, he feels it would be good to give serious consideration to a merger in some way of these two systems.

Jason Hayes feels like the benefit of a merger would be that any up and down, any negative fluctuations to the plan would be handled by the entire state. “Right now if there was a dramatic decline in the OSERS plan it would have to be born by the taxpayers of the [city] of Omaha...and the OPS district...the larger the pool the more that pool is able to handle somebody getting, you know, a long-term illness.” He does also feel that the plans would both need to be very healthy, one hundred percent funded, so perhaps in five to ten years it would make some sense to do it.

He also points out a bit of a benefit to teachers to keeping them separate, as currently, teachers can retire from one system to begin working immediately, without delay, in the other system. This was discussed in committee hearing regarding LB 446 in 2015 as well, with senators asking questions about the concept of “double-dipping.” Senators Kolowski and Groene questioned Nordquist and Allen about a particular situation, and the practice of leaving the state plan, joining the OSERS plan, and completing a purchase of years to bump up a retirement plan with OPS after having been there ten years.¹³⁶⁷ Merging the systems would prevent this from happening. However, there are other ways to “double-dip” that not all are opposed to.

¹³⁶⁷ O'Donnell, *Transcript, LB 446*, 8-9

Dulaney indicates his belief that retired members who are rehired and begin a new account while drawing a benefit from their first account actually makes the system stronger. He sees administrators, who in their retirement, are asked to take a school position, mostly administrators, and agree to do so for a limited number of years. When this happens, it may only be for two to three years, and when the second retirement occurs, the member simply takes a refund of the employee contributions deposited during the second tenure, leaving the employer contributions in the system, because five years have not accumulated. “What we’ve been arguing with those policy makers that have talked to us, the plan actually makes money when that happens. We’re not losing money, we’re making money. And I think that’s a good thing.”

All agreed there is no better plan than a defined benefit retirement plan, while some allude to the possibility, by means of legislation in the future, for yet another tier of new employees, seeing a hybrid or cash balance plan, if the economy plummets. Defined benefit plans are expensive. “When the economy goes south, it’s not as though...Bob the retired principal down the street is not going to get his benefit check, he’s going to get the benefit check...they’re going to come to the realization that they can’t afford to do this...at some point I have a feeling that law makers are going to say this is not realistic any more,” states Dulaney. He will fight such action if it comes to that.

Says Christensen, “I’m not an absolute opponent of the defined contribution system, but it’s like the old saying that is ‘it’s a lot easier to be there than to get there.’ Once that structure is set, it becomes very, very difficult in a reasonable way that does not negatively effect huge numbers of people for decades of their lives,” when discussing

changing plan types from defined benefit to defined contribution. “Now that many people have worked toward their entire working life and have counted on and have designed the rest of their finances . . . based upon that system. I’m very reticent to entertain any changes in that part of the design.”

Finally, discussion regarding lessons to take from the past yielded a variety of different thoughts. For Nordquist, utmost importance was to build triggers in place; to know that we need to be careful so we are not always going through build and bust cycles. A trigger he believes might be useful would be to commit to not changing or adding benefits until the funded level is back to one hundred percent. In agreement, Jason Hayes spoke of making certain there is a cushion before committing to increase benefits. “You almost have to have a couple of cushions to make sure that, or contingencies, to make sure that you are covered.”

Along these same lines of thought, Smith indicates we should not be over zealous when investment markets provide unusually outsized returns. “When times are good we should be more willing to put together a rainy-day fund, much as the state has done, knowing that there will be times, like 2001 and 2008, where we are going to need that rainy-day fund. . . . Being patient is the appropriate way to go about things.”

Phyllis Chambers would concur, stating that we don’t know what the markets are going to do. She also discussed the multiple different contracts that her organization deals with. “There are some things being done with benefits and fringe benefits and flat salaries and all these different variations of the contract. . . . we struggle with the definition of compensation, but I think there are a lot of people. . . . who try to work the system to

improve their benefit...So that's a concern that I have, is that we keep a perspective, if we want this plan then we don't want people...to get some bad publicity. Frankly it's the administrators we have the most problem with...So that's my caution is that we cannot come up with the perfect definition of compensation.”

Ms. Allen believes the commitment to funding, communication, partnership, monitoring, basically just continuing to have strong oversight, is what we need to continue to build upon. Christensen expressed many thoughts, but among those, if we are to encourage teachers to come back, “Are we being too restrictive when we say that people can retire once, or when we put some kind of penalty of coming back, or when we prohibit people from coming back, not only to the retirement system, but what are we doing to the education system?”

Mike Dulaney muses over the lessons he's learned from the past:

“We join hands and we say yes, this is what we want to do. And what it does is the policymakers, they're sitting there thinking, wow this could be easy. Because everybody agrees. If we did not do that, and I mean make an extraordinary effort to work together...it just wouldn't be a very good deal.”

Chapter VII

Discussion of Findings for

Nebraska Public Employees Retirement System (NPER)

The changes made to the *School Employees Retirement Act*, through the years, a synopsis of which was presented in the “Findings” section of Chapter IV, were organized into the following themes: (a) membership, (b) benefits, (c) compensation, (d) contribution rates, (e) prior service (purchase of ~ or~ application for credit), (f) formula annuity, and (g) audit/actuary requirements. An overview of each is provided for by years.

1945 School Employees Retirement Act

Membership.

- Senior School employees over the age of twenty-one automatically became members.
- Junior School employees, not yet twenty-one, could elect to become members.
- Employees had the option to elect non-membership by October 1, 1945.
- Any employee under another regularly established retirement system would not fall under this act.
- Membership would cease only by withdrawal of accumulated contributions, retirement, or death.
- Members could only contribute until the age of sixty-five, the mandatory retirement age.

- After the enactment of the bill, every contract for employment made was subject to the provisions in the act.

Benefits.

- Retirement Allowance was the total of:
 - “Service Annuity” paid for life by appropriations made by the State of Nebraska
 - One dollar per month for each year of service, multiplied by twelve
 - Not to exceed three hundred sixty dollars
 - “Savings Annuity” paid in equal payments for life from the accumulated contributions of the member
 - Actuarial equivalent of member’s accumulated contributions at the date of retirement
- Benefits would commence after thirty-five years of service.
- Allowances for disability retirement, upon physical examination to verify, were included.
- Contributions would be paid to an estate if member died before retirement.

Applying for and purchase of prior service.

- Within two years, members were to file their own report of prior service, to receive credit, must have consisted of:
 - Four of the preceding five years of at least halftime service; or,
 - Eighteen of the preceding twenty-five years, with at least two of those years in the preceding five.

- Exceptions to these requirements were made for military service
- Retirement Board was to verify each report of prior service and issue a prior service certificate
- Could purchase up to ten years of teaching service out of state if paid in an amount equal to the required deposits had he been employed in Nebraska within three years after membership began

Contribution rates.

- Five percent of all compensation not in excess of twenty-four hundred dollars would be contributed to the individual savings annuity.
- Schools were required to withhold this amount from payroll and submit it the State Treasurer.
- The State of Nebraska was required to contribute a sum sufficient to pay the service annuity to each person who would retire, was retired, or the estate or beneficiary of deceased members.
 - An actuary would determine this amount annually.
- The state was initially legislated to appropriate eighty-five thousand dollars to cover the cost of annuities.

Compensation was not originally defined in 1945, and the Formula Annuity did not yet exist.

An initial statement was made regarding schools with a previously existing pension system, Omaha Public School in particular, that if the majority of their members

requested to participate in the state system, the retirement board would prepare plans and recommendations to submit to the Legislature.

Changes to the Plan in Ten-Year Increments

Enactment-1955.

Membership.

- Those who were sixty-five before employment began could not become members (1951).
- Those not required to hold a certificate could elect non-membership (1951).
- Members were required to have five years of service to be eligible for retirement (1951).
- Emeritus Member was added; a member who had retired and was thereafter rehired and applied to board for emeritus membership (1953).

Benefits.

- Members could not work more than fifty days as a sub without suspending benefits (1951).
- Reduced benefits could be taken to ensure payments continue to spouse or beneficiary after death (1951).
- Benefit for Service Annuity was raised to one and one half dollar per month per year not to exceed five hundred forty dollars (1951).

Prior service.

- Employers were required to become members before July 1, 1951 to qualify for prior service credits (1951).

- Members could not receive more credit for out of state service than in state (1951).

Contributions.

- Members could not make contributions after age sixty-five (1951).
- Members could elect to raise their contributions to their Savings Annuity to five percent of all compensation up to thirty-six hundred dollars for service rendered after becoming a member of the retirement system (1951).

1956-1965.

Membership

- Included emeritus members in the system (1959).
- Substitute Teachers that were retired could waive retirement payments and return to regular employment if the retirement board was notified in advance (1963).
- Members who terminated employment for any reason other than death or retirement could make an election within ninety days to have contributions refunded if they became a member of any other state or school retirement system authorized by the Legislature (1965).

Benefits

- Service Annuity would only be paid at one and one half dollar per month for each year of service up to, but not more than, thirty-five years of creditable service (1959).

- Disability benefits would be allowed for members with one full year of service, preceded by one full year of college attendance earning credits toward a degree, as long as the disability did not occur while pursuing another career (1963).
- Service Annuity was increased to two dollars and twenty-five cents per month for each year of service for those not qualifying for Social Security, and would remain one dollar and fifty cents per month for each year for those who did not qualify or apply for Social Security benefits (1965).

Contributions.

- Members could elect, within sixty days of being first employed, to contribute to the service annuity at the higher rate of five percent of all compensation up to thirty-six hundred dollars, but would have five years to decide to contribute at the lower rate originally established of five percent of salary up to twenty-four hundred dollars (1959).

1966-1975.

Membership.

- Any member ceasing employment could request a refund of contributions (1967).
- Members could continue to work beyond the age of sixty-five, with board approval, up to age seventy-two, but could make no deposits or accumulate service beyond the age of sixty-five (1975).

- Members must have one half year of service to be eligible for increased provisions in formula annuity (1975).

Benefits.

- Service Annuity would be paid at a rate of three dollars per month for each year of service credited after July 1, 1968 (1967).
- Benefits would be reduced by fifty percent for retirees working more than ninety days (1967).
- The Service Annuity was raised to three dollars per month per year of service for those retiring after July 1, 1973 (1973).
- Members who retired prior to July 1, 1973 receiving the Service Annuity would be granted a Cost of Living Increase from the commencement of benefits until July 1, 1973, not to exceed three dollars per month per year of service (1973).
- Changes were made to eliminate the years of service requirement for disability benefits to commence, as well as the requirement to prove the disability was not the result of pursuit of another occupation (1975).
- Death benefits paid to spouse or survivor of non-retired members would be paid, under specific circumstances, as if the member elected a joint survivorship annuity (1975).
- An actuarially reduced benefit could be requested after age sixty but before sixty five (1975).

Prior service.

- Prior service credit for a state service annuity would only be granted for those employed by a retirement system school prior to September 30, 1951, or by OPS between July 1, 1945 until September 30, 1951 (1975).

Contributions.

- Of the formula annuity, the employer would be required to deposit a uniform percentage of the employee contribution, originally set to be twenty percent (1967).
- Employees would contribute three and one half percent, with no limit on the amount of salary(1967).
- Members could make no further deposits after age sixty-five, although they could work with board approval until age seventy-two (1975).

Formula annuity.

- Members could elect to receive a benefit based on a formula, rather than the originally legislated pension, to be based on one half percent of final average compensation, at the age of sixty-five:
 - Final average compensation would be based on the ten highest years' compensation divided by one hundred twenty (1967).
- Formula multiplier was increased to one percent of final average compensation (1969).
- Formula multiplier was increased to one and one quarter percent (1975).

- Final average compensation formula was changed to five highest years (1975).

Audit/Actuary requirements.

- Upon certification from OPS of retirement and creditable years, the actuarial value of the service annuity from the state would be transferred to the Omaha system to pay to the entitled member's benefit (1967).
- Director of Insurance was to make an annual audit, and report such to the Legislature biennially (1967).
- Actuary would determine the percentage of employer contribution annually (1967).
- Nebraska Investment Council (NIC) was created (1969).
- Plan was to be fully funded by, state required to fund the unfunded liabilities accrued for all service annuities by level payments up to January 1, 1994 (1969).
- Public Employees Retirement Board (PERB) was created (1971).
- Interest would be credited on June 30 each year, beginning with July 1, 1974 (1974).

1976-1985.

Membership

- Process for election for non-membership for not-certificated staff members eliminated (1976).

- Junior and Senior members who became county school or state school officials were required to be members (1976).
- Members who received senior employee status at age sixty-five, within five years of retirement, could elect to not become a member, but could also choose to become a member (1976).
- All employees who achieved senior employee status would automatically become members (1977).
- Non-certificated employees that had previously opted for non-membership could elect to become members by July 1, 1978 (1977).
- All non-certificated employees who began after July 1, 1978 would automatically be members and could not elect out (1977).
- Employees who were sixty-one on or before July 1 last preceding the date of employment could not become members (1977).
- Reference from 1976 regarding new senior employees sixty-five years of age was removed (1979).
- Mandatory retirement age increased from sixty-five to seventy, with the option to continue until seventy-two with board permission, but deposits could not be made after age seventy (1979).
- State officials could opt out of the retirement system in writing for a limited time, and if they did so would be members of the state employees retirement system, but their accumulation contributions would remain and they would

receive creditable years of service and vestment toward the state employees system based on their school employees retirement years (1980).

- Members would be allowed to make deposits and receive creditable service after age seventy, until seventy-two (1981).
- Members would be allowed to make deposits and receive creditable service with no limit (1982).
- The issue of retire/rehire was first addressed (1985).

Benefits

- Members who terminated employment could become eligible for a retirement allowance at age sixty-five based on salary at the time employment ceased, as if retirement occurred on cessation date (1976)
- If a member died, and no legal representative applied for benefits within five years of the sixty-fifth birthday, or five years from date of death if member was sixty-five, then member contributions would be forfeited to the system (1976).
- Supplemental Benefit to be determined by PERB for certificated members with at least twenty-five years of service as of July 1, 1980:
 - Computed as if the member had retired at sixty-five, or actual retirement age, whichever was older;
 - Subtract member's total monthly benefit from one hundred fifty-five dollars, and the positive difference was to be the amount of the supplemental benefit;

- If this amount was less than five dollars, the benefit amount would be five dollars (1980).
- Eliminated the provision that only certificated members would be eligible for the supplemental benefit, and back pay would be given up to January 1, 1981 as long as they were entitled (1981).
- Retirees receiving the Service Annuity would have their benefit based on three dollars and fifty cents per month per year, an increase from three dollars (1981).
- Until July 1, 1985, members who were rehired after retirement would receive original annuity upon re-retirement, and a second annuity (1985):
 - Second retirement benefit calculation would be based on:
 - Benefit based on total service and compensation record, not reduced for early retirement, based on the life-only option (component 1);
 - Original retirement benefit calculated under the life-only option without adjustments for early retirement (component 2);
 - Additional benefit would be the excess of the benefit calculated by component 1, divided by the benefit calculated by component 2, adjusted to reflect early retirement or an optional form other than life-only.
- After July 1, 1985, members who were rehired and re-retired would be eligible for any form of the annuity options, to commence at any time after the member become sixty-five (1985).

Compensation.

- Creditable service calculation was re-defined to specifically exclude lump sum payments to the employee upon termination for unused leave days (1984).
- Creditable service would include working days, sick days, vacation days, and other leave days an employee is paid a wage as part of employment agreement (1984).

Prior service.

- Within one year of the end of a board-approved leave of absence, a member who regained employment in a school district in Nebraska could take three years to purchase the years lost due to the approved leave, at a price the years would have cost, and the employer contribution, prior to the leave, not to exceed a leave of more than four years (1981).

Contributions.

- The employer contribution rate of twenty percent was eliminated, and was left to be determined by the actuary annually (1984).
- Employee contribution rate was increased from to four and eight tenths percent (1984).
- State of Nebraska contribution would be seven tenths of a percent of compensation of all members each fiscal year (1984).

- All member contributions would be required to be picked up by the employer and submitted by the employer on behalf of the employee after January 1, 1986, and would be subject to federal tax according to IRS codes (1985).

Formula annuity

- Formula multiplier was increased to one and one half percent for those with six months or more of creditable service after July 1, 1982 (1982).
- Formula multiplier was increased to one and sixty-five hundredths percent for those with six months of service or more after July 1, 1984 (1984).
- Final Average Compensation calculation based on three highest years salaries, divided by 36 (1981).

Audit/Actuary requirements.

- Any school employee, board member, or agent who refused to provide requested information to the retirement board would be guilty of a Class V misdemeanor (1977).
- Retired Teachers Supplementary Benefits fund is created (1980).
- Actuary would be required to annually determine the employer rate of contribution (1984).

1986-1995.

Membership.

- Definition of school employee was changed to mean regularly contracted teachers and administrators, regular non-certificated employees with not less

than thirty hours per week, and part-time employees working not less than fifteen hours per week (1986).

- Members could not delay payments later than sixty days after the year the member reached the age of seventy and one half and employment had been terminated (1986).
- Substitute teachers could not work more than seventy-five percent of the instructional hours in a year without experiencing a reduction in benefits (1986).
- Mandatory retirement age was removed (1987).
- Members would include all who became employees after September 1, 1945 (senior employee language removed) (1987).
- Current employees who initially chose to not be members in 1945 could choose to purchase those years, so long as they were not yet retired (1987).
- Members with thirty-five years of service could retire at any age (1987).
- School employees would be members with five hundred sixteen hours or more of service (1988).
- Members age sixty with at least five years of service could retire at any time (1989).
- New DOE employees or state school officials who had been employees of a public school, out of state school, or the OPS plan, could elect to be members of either the school employees retirement system or the state employees retirement system (1989).

- Retired members could work for a state college without experiencing a reduction in benefits or having to notify the board (1993).
- Withdrawing members would receive a refund of the amount contributed to the COLA reserve fund if the request was made after July 1, 1993 and if the amount was more than two dollars (1994).

Benefits.

- Members who passed away prior to the age of fifty-five only had to have twenty years of service for their beneficiaries to receive benefits (1986).
- Annual benefits payable would not exceed the lesser of ninety thousand dollars, adjusted for the cost of living according to the IRS, reduced is before the age of sixty-two, or one hundred percent of the member's average compensation for the three highest paid years of active service, but not reduced lower than seventy five thousand dollars (1986, 1994).
- Benefits would be subject to judgment or decree (1986).
- Members would not receive a retirement benefit covering the years for which he is being paid a Class V school plan benefit (1987).
- Beneficiaries had ninety days to request to receive an annuity as if the member had retired on their date of death if at least sixty-five, or as if they had retired at age sixty-five if member died before reaching this age (1987).
- If member was at least sixty with thirty-five years of service, there would be no percentage reduction in benefits (1988).

- If a member was vested with five years, but had less than thirty-five years of creditable service, benefits would be reduced by three percent for each year of service fewer than thirty-five, or by three percent for each year the member was younger than sixty-five (1988).
- PERB determined COLA would be subtracted from two hundred fifty dollars, and that positive amount would be paid as a supplemental benefit, to be not less than five dollars, for life (1988).
- Payments would only be tax free or not subject to garnishment to the extent that the benefit was subject to a qualified domestic relations order according to IRS code (1989).
- If no election were made by beneficiary within ninety days of the death of a member after the age of sixty-five, the estate of deceased member would receive a lump sum of the contributions with interest of the member (1990).
- If a member retired after age sixty, but before sixty-five, and had at least five but less than thirty years of service, annuity amount would be reduced by three percent for each year by which the members age and years of service combined was less than ninety (1993).

Compensation.

- References to “salary” were changed to compensation (1991).
- Compensation was charged to be defined by the PERB, but would include base salary or wages, including overtime, and any amounts determined to appropriately constitute compensation (1991).

Prior service.

- Members who returned to employment, but had withdrawn contributions, would be able to purchase the amount of years they withdrew, and would have membership restored to the same status had they not withdrawn contributions. Employees had from January 1, 1987 to July 1, 1988 to make such election (1986).
- Members employed by a public school who were educational service unit employees before July 10, 1976 would have between January 1, 1987 and July 1, 1988 to elect to purchase credit for years employed by an ESU (1986).
- Members would have between January 1, 1987 and July 1, 1988 to elect to purchase up to ten years of creditable service from years working in a school in another state (1986).
- Members could purchase up to ten years, but not more than actually served, in a Class V district (1986).
- Those members who were drafted or entered into military service while under school contract could buy up to four years of creditable service after honorable discharge when returning to school employment, or five if the fifth year was served at the request of the government (1992).
- New employees could apply for vesting credit for years in another government retirement plan; these years would not be used to calculate benefit, only for the purpose of determining vestment (1995).

Contributions.

- Employee contribution rate was raised to five and four-tenths percent (1986).
- Part-time members would contribute an amount in proportion to the ratio of part-time to full-time service, as long as at least half-time (1986).
- Members would contribute forty-nine and seventy-five hundredths percent of the contribution rate determined by the PERB (1988).
- Employers would contribute one hundred one percent of the member contribution (1988).
- Members would be required three-tenths percent of compensation, matched by the employer, to the School Employee Reserve Fund to provide a COLA for retired members (1993).

Formula annuity.

- Members electing to take the formula form of the annuity could take benefits prior at age sixty with a three percent reduction of benefits for each year they were younger than sixty-five (1986).
- Members who had ceased employment earlier, but left their contributions in the system could also request retirement benefits at age sixty with a three percent reduction in benefits for each year younger than sixty-five (1986).
- Part-time employees final average compensation would be adjusted according to the ratio of hours they worked compared to full-time employees (1986).
- Multiplier was increased for those still actively employed as of June 1, 1993 to be one and seventy-three hundredths percent (1993).

Audit/Actuary requirement.

- Definition of actuarial equivalent was added (1986).
- Actuarial equivalent calculations would be based on the 1971 Group Annuity Mortality Tables (1987).
- The PERB would be responsible for determining the rate of contributions required, by deducting from the then actuarial present value of all future liabilities to be funded by transfers from the school employer's deposit account and the school employees' saving account the amount then credited to such accounts and dividing the remainder of the actuarial present value of one percent of future compensation for current active members (1988).
- PERB would be responsible for calculating the supplemental benefit COLA (1988).
- The director would be responsible to keep track of all records (1991).
- Funds available for investment would be invested by the Nebraska Investment Council (NIC) (1991).
- The PERB would determine the amount of funds required in the School Employees Retirement System Reserve Fund to provide a COLA for all qualifying members based on cost of living and wage increases (1993).
- Late reports will result in a charge of the amount of interest that would have accrued during the period of time which a report was late, to the school district (1994).

1996-2005.***Membership.***

- Re-employment after military service after December 12, 1994 would be treated as if there were no break in service and the school would be liable for funding obligations of the plan (1996).
- Employees of the Board of Trustees of the State Colleges or Community College Board of Governor are not a part of the system (1996).
- Members who had retired could not work more than seventy-five percent of the hours in any school year without reduction in retirement benefits, but could waive payments and return to work fulltime by filling out the proper form (1996).
- Service was redefined as employment as a school employee without certain interruptions, and termination was added as a definition to be determined by the school district (1997).
- Substitute teacher could be an employee providing compensated service on a regular basis in any capacity, but should not be considered a school employee (1999).
- Substitute definition had added that service would be intermittent to assume the duties of regular employees (2002).
- Employee was changed to mean all certificated or non-certificated employees (2000).

- Termination of Employment was detailed to state that after termination, a member could not return to employment within the first one hundred eighty days after termination occurred, or within the same plan year, whichever period was longer (2000).
- Senior and Junior employee definitions were completely removed (2002).
- Termination was defined as a bona fide separation from service with member's current employer (2002).
- Substitute definition had "regular employee" removed (2002).
- Regular employee defined to mean at least fifteen hours per week (2002).
- Membership qualifications would include all persons who had an account in the system, all employees who must participate, and emeritus members, but not members specifically excluded (2002).
- All employees except substitute teachers would participate in the system (2002).
- Retirement date would be the first day of the month following the termination request, or the first day of the month following the date on which the member terminated employment, to be filed no more than ninety days before the effective date of retirement benefits (2003).

Benefits.

- Definition of Current Benefit added, to mean the initial amount before increased by adjustments, and Initial Benefit to mean the benefit calculated at the time of retirement (1996).

- Purchasing Power Stabilization Fund created to reflect changes in cost of living and wage levels that would have reduced the purchasing power of benefits (1996):
 - Would be contributed by the state as determined by PERB, initially eighty-one and seven thousand eight hundred seventy-three ten-thousandths percent of six million eight hundred ninety-five thousand dollars;
 - From the first benefit payment of the sixth year receiving benefits, the amount would be increased by thirty-hundredths of one percent from this fund (1996).
- If a member chose an allowance (non-formula annuity) and the annuity commenced upon retirement after May 19, 1981 but prior to the member's sixty-fifth birthday, it was to be paid on an actuarially reduced basis (1996).
- Maximum benefit payable was increased from ninety thousand to one hundred twenty-five thousand per IRS Code (1997).
- Returning to employment after retirement would no longer result in the cessation of retirement payments, but rather a new account would be established for the member with future contributions made to the new account (1997).
- Qualifying members would receive a COLA of the lesser of three percent or the cumulative change in the CPI, and the benefit would never be less than

this newly adjusted amount, but could become eligible for further adjustments (1998).

- Rule of Eighty-Five was added, entitling members who reached at least the age of fifty-five, whose years of service plus age totaled eighty-five to a non-reduced retirement benefit (1998).
- Stabilization fund created in 1996 would be eliminated on July 1, 2000, and the possible COLA was reduced to the lesser of two percent, or change in the CPI (1999).
- In the event of a disability, if the disability was school-related, the member would have five years to apply for benefits, but if not, the member would have only one year upon termination to apply (2000).
- COLA limit was increased to the lesser of two and one half percent or increase in CPI (2001).
- Upon death of a member with at least five years of service, but less than twenty, a beneficiary could request a lump sum of all of the member's contributions, plus an additional one hundred one percent of the contribution account balance within ninety days (2001).
- Beneficiaries would have one hundred twenty days to elect to receive an annuity if the member were deceased (2003).

Compensation.

- Definition of compensation modified to mean gross wages, not including unused sick leave, vacation, insurance premiums, expenses, fringe benefits, early retirement bonuses, inducements, cash awards and severance pay (1996).
- Salaries paid less than minimum wage in an effort to defraud the system into crediting service years would not be included (1998).
- Compensation could not increase more than ten percent of what it was the previous year, or would be excluded from the average final compensation calculation, unless the member experienced a substantial position change (1999).
- Increase of ten percent or more in a year would be used to calculate final average compensation three highest years if the spike were the result of a collective bargaining agreement (2000).
- Compensation defined to exclude contributions made for the purpose of separation made at retirement, and early retirement inducements (2005).
- Compensation could not increase more than seven percent from one year to the next, unless the result of a substantial change in position or as the result of collective bargaining, or the result of a district-wide permanent benefit change for a particular category of employees (2005).
- School boards must verify that collective bargaining resulted in a more than seven percent increase, and that the following year would result in less than seven percent (2005).

Contributions.

- Employee contribution rate was raised to seven and twenty-five hundredths percent, of which three-tenths of one percent would go to the Reserve Fund (1996).
- Rollover contributions into eligible retirement plans according to IRS Code would be accepted, not in excess of the cost of years of service available to purchase (1996).
- Funds from the OPS system could be rolled over into the state system providing that purchasing service years could be accomplished in doing so (1997).
- Contribution rate was set at seven and twenty-five hundredths percent of total compensation (2002).
- Contribution rate was increased to seven and ninety-eight hundredths for the fiscal year of September 1, 2005, to August 31, 2006, and would return to seven and eighty-three hundredths for the September 1, 2006 to August 31, 2007 year (2005).

Prior service.

- Members could decide within three years of employment or re-employment if they wished to purchase up to ten years from out-of-state or OPS teaching, and would have five years from re-employment to complete the purchase (1996).

- Members could purchase not more than ten years for leaves of absence under the same conditions, and payments would need to include the employer share and interest, and made based upon salary at reinstatement (1996).
- Creditable service purchase would not be included in the final average compensation calculation of three highest years (1996).
- Members within twelve months of retirement could purchase up to five additional years of service credit, payment of which could be worked out between employer and employee, but would not count toward three highest years of service final average compensation calculation (1997).
- Members purchasing years for creditable service from out-of-state or OPS had to provide proof that they had forfeited benefits of those years from the other district or state (1998).
- Employees that had previously withdrawn contributions from the retirement system could decide within three years of employment, but before terminating employment again, to purchase all or part of the withdrawal that was made to regain creditable service, and full payment must be made within five years of such election, or before termination occurred again, by paying the full amount of required contributions plus the annual return that was earned on assets of the system during the time of non-membership (2001).
- Purchase of creditable service would be based on the actuarial assumed rate of return for the period (2004).

Formula annuity.

- For members with one-half year of service after July 1, 1995, the formula multiplier would be one and eight-tenths percent (1996).
- Rule of Eighty-Five was added, entitling members who reached at least the age of fifty-five, whose years of service plus age totaled eighty-five to a non-reduced retirement benefit (1998).
- Multiplier was increased to one and nine-tenths percent for those with at least one half year of service after July 1, 1998 (1999).
- Multiplier was increased to two percent for those with at least one half year of service after July 1, 2000 (2001).

Audit/Actuary requirements.

- PERB would determine when there were enough funds in the Reserve Fund to provide a one-time three percent benefit to all entitled; at this time collection of this contribution would cease and remaining funds would transfer to the Stabilization fund (1996).
- Actuarial equivalent definition had added that when a lump sum settlement was made the interest rate would be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded up to the next highest quarter percent (1996).
- Interest was defined to mean a fixed rate equal to the daily treasury yield curve for one-year treasury securities on July 1 of each year (2001).

- The PERB would receive certification of the qualified participants from the OPS plan annually, and determine the actuarial equivalent amount to transfer to the Class V school plan (2002).
- Annual actuarial valuation would be performed using entry age actuarial cost method (2002):
 - If valuation determined unfunded liabilities, the amount would be amortized over a twenty-five year period;
 - If valuation determined liabilities of zero or less, the system would be considered fully funded;
 - If the required contribution rate exceeded the rate of contributions, the actuary would determine the state contribution required.
- A member would receive a statement of creditable service one time every two years by first class mail (2003).
- Ninety day limit for reporting inaccuracies to the NPERS staff for correction was removed (2005).
- Changes in reported compensation over seven percent must be verified by the employer within thirty days (2005).

2006-2015.***Membership.***

- State School Official was defined to be the Commissioner of Education or any DOE employee whose role required certification (2010).

- State Officials could elect to become members of either the school retirement system or the state retirement system (2010).
- Retired members could work for the DOE before one hundred eighty days had passed and become members of the state system without penalty (2010).
- Termination was clarified to state that, if within one hundred eighty days, the member provided service to any employer, unless voluntary or intermittently substitute, a bona fide separation would have not occurred (2010).
- Members had to be legal citizens of the United States (2010).
- Members had to be eighteen years of age to make contributions (2012).
- The employer would be responsible for determining termination, and reporting a bona fide separation to the PERB (2012).
- Regular employee was changed to mean employees with not less than twenty hours per week (2013).
- Employee contracts were required to have a start date and an end date (2013).

Benefits.

- Beneficiaries of deceased members would be given twelve months to elect how to receive benefits (2007).
- COLA granted would be the greater of current statute entitling members to a benefit of at least seventy-five percent of the purchasing power of the original benefit, or eighty-five percent of the annuity that was paid to the member adjusted by the increase in the CPI from first payment until June 30, 2007 (2007).

- Clarification was offered for those members yet electing to take the retirement allowance consisting of a saving annuity and service annuity (2008).
- Members receiving a disability annuity would be able to work not more than fifteen hours per week without loss or reduction in disability payments (2009).
- Disabled members had to become disabled after they became members to be eligible for the disability annuity (2010).
- Non-spousal beneficiary process for receiving benefits was clarified (2012).
- Members would need to apply for benefits one hundred twenty days prior to benefits commencing (2013).

Compensation.

- Categories of employees were clarified as administrators or certificated employee, or not administrators or certificated employees, for determination of recognized collective bargaining to prevent compensation spiking (2006).
- During the last five years of employment, members could not experience more than a nine percent increase between contract years for 2012-13 fiscal year, and not more than eight percent after July 1, 2013 (2011).
- Compensation definition excluded per diem pay (2012).
- Definition of compensation rewritten for clarity (2013).

Contributions.

- Employee Contribution rate was lowered to seven and eighty-three hundredths percent of compensation (2007).

- Employee Contribution rate was raised to eight and twenty-eight hundredths percent of compensation, effective until August 31, 2014 (2009).
- State contribution was increased to one percent of total compensation of all members until August 21, 2014 (2009).
- State contribution to the Annuity Reserve Fund, in the amount certified by PERB, was extended through the 2012-13 fiscal year (2010).
- Employee Contribution rate was increased to eighty and eighty-eight hundredths percent for the 2011-2012 year, and nine and seventy-eight hundredths percent from 2013-2017 (2011).
- State contribution rate of one percent of all compensation of all members was extended until 2017 (2011).
- State contribution was increased to two percent of all compensation of all members beginning July 1, 2014 (2013).
- Sunset on employer contribution rate of nine and seventy-eight hundredths percent was eliminated (2013).

Prior service.

- Relinquished creditable service added as a definition (2014).
- A formula reflecting actuarial equivalent for purchase of creditable service years, rather than interest (2014).

Formula annuity.

- A new tier for those becoming members after July 1, 2013 was added (2013):
 - Rate of contribution would be the same as first tier;

- Annuity would be calculated on five highest years compensation rather than three highest years compensation;
- COLA would be limited to the lesser of one percent or increase in CPI.

Audit/Actuary.

- Unfunded liabilities were to be amortized over a thirty-year period (2006).
- COLA granted would be the greater of current statute entitling members to a benefit of at least seventy-five percent of the purchasing power of the original benefit, or eighty-five percent of the annuity that was paid to the member adjusted by the increase in the CPI from first payment until June 30, 2007 (2007).
- Further explanation was offered in precisely how COLA would be applied (2008).
- Actuarial accrued liability would be based on a level percentage of salary, amortized over a thirty-year period (2013).

Chapter VIII

Discussion of Findings for

Class V (Omaha) Employees Retirement System (OPER)

The changes made to the *Class V School Employees Retirement Act* through the years, a synopsis of which was presented in the “Findings” section of Chapter IV, were organized into the following themes: (a) membership, (b) benefits, (c) compensation, (d) contribution rates, (e) prior service (purchase of ~ or~ application for credit), (f) formula annuity, and (g) audit/actuary requirements. An overview is provided for by decade.

1951 Original Class V School Employees Retirement System

Membership.

- Each employee hired after the effective date of the law, unless younger than twenty-five or older than sixty years of age.
- All existing employees automatically became members, unless within sixty days they elected to receive benefits under the previously existing plan.
- Twenty-five years of service were required to receive a retirement allowance.
- Mandatory retirement age was seventy.

Benefits.

- Annuity based on the previous plan—and-annuity of an amount equal to one and one half percent of the salary earned not in excess of five thousand dollars.
 - These two annuities constituted the retirement allowance.

- If a member died, the member's beneficiary or estate would receive a lump sum of the accumulated contributions.
- Total disability payment would be made to members with more than ten years of service at seventy-five percent of full retirement allowance
- Members of the Class V plan were eligible for the state service annuity component of the School Employees Retirement plan.

Compensation.

- Salary or wages payable by the district, not including bonuses or overtime, and not in excess of five thousand dollars per year.

Contributions.

- Employees would contribute five percent of salary not in excess of five thousand dollars.
- District would levy, based on trustee recommendation, up to two mills per dollar of taxable property in the district to cover plan liabilities.
- District would match the employee contribution of five percent of compensation.
- If three consecutive annual valuations showed liabilities to exceed assets by not less than ten percent of the accrued liabilities, contributions from the district and members would be increased by one half of one percent.
- If three consecutive annual valuations showed assets to exceed the total liabilities of the system by not less than ten percent, the contributions of the district and members would be lowered by one half one percent.

- If the members became eligible for Social Security at any point in time, contributions to the system would be reduced by the amount required to be contributed to social security.
- Members and the district were to at all times contribute equal amounts.

Prior service.

- Members who severed employment and withdrew funds, then returned to work within five years could pay back the amount of refund and again receive credit for those service years.
 - Funds required to be paid back within two years of election.
- Members who were drafted or elected military service, when returning from active duty, could pay for up to three years of creditable service.
- New members with prior service in another school could purchase up to five years of creditable service, to be paid in full within two years from the date of membership.

Audit/Actuary requirements.

- Trustees would determine required amount to certify to the county clerk to levy to cover plan liabilities.
- Special levy would be in addition to the aggregate school tax for all other purposes.
- If three consecutive annual valuations showed liabilities to exceed assets by not less than ten percent of the accrued liabilities, contributions from the district and members would be increased by one half of one percent.

- If three consecutive annual valuations showed assets to exceed the total liabilities of the system by not less than ten percent, the contributions of the district and members would be lowered by one half one percent.
- Trustees would be five members, including the superintendent, a plan member, a board member, and two business men qualified in financial affairs.
- The country treasurer would be the treasurer of the system.

Changes to the Plan in Ten-Year Increments

1952-1955.

Membership.

- Minimum age requirement of twenty-five years was eliminated (1953).
- A majority of members would need to vote to join Social Security (1955).

Benefits.

- If members joined social security, the monthly payment received upon retirement would be such portion of the maximum annuity of seventy-five dollars per month, as per the previous plan applicable to teacher (1955).
- Non-teaching members under the previous plan were entitled to a max of fifty dollars per month under the previous plan (1955).

Contributions.

- Combined contribution rate to the retirement plan and social security was not to exceed five percent of compensation, in excess of five thousand dollars, collectively, annually (1953).

- If a majority vote was cast and the members joined social security, then the contribution rate would decrease to three percent of compensation not in excess of six thousand dollars (1955).
- Non-teaching members who elected to not join the plan would have their contribution rate reduced to three percent not in excess of three thousand dollars (1955).

Prior service.

- Members who elected to remain under the previous plan who retired before the age of social security benefits could pay into the system an amount equal to the amount that would have been contributed, as would the district on their behalf, to be entitled to service credits as if there had been no reduction (1955).

1956-1965.

Benefits.

- Disability benefits paid at a rate of seventy-five percent of full benefits would begin as soon as two physicians verified the disability (1957).
- Time restrictions on the amount of years of membership required to request a refund of contributions if membership ceased for any reason other than retirement were eliminated (1963).
- A member with twenty-five years of service could elect to have a named survivor receive an annuity, rather than a lump sum, if the member would pass away before retirement (1965).

Audit/Actuary requirement.

- Number of trustees required was increased to seven (1963).

1966-1975.***Membership.***

- Permissive retirement date was added to mean any date after which the member had thirty-five years of service, or any date after sixty with twenty-five years of service (1967).
- Members could leave contributions in the plan if severance occurred for any reason other than retirement with twenty years of creditable service (1967).
- Members could leave their contributions in the plan if severance occurred for any reason other than retirement if member had fifteen years of creditable service (1972).

Benefits.

- Members with twenty-years of service could elect to have a survivor receive an annuity in an amount to be determined as if the member retired at the age of sixty-five (1967).
- Retirement annual credit was increased to one and sixty-five hundredths percent of salary or wage not in excess of five thousand dollars (1969).
- Those who retired after August 31, 1969 would receive one percent of salary or wage covered by old age and survivors insurance, and one and sixty-five hundredths percent of salary or wages above that amount for services performed after September 1, 1963 (1969).

- Benefits were increased for those who remained members of the previous plan, to eighty-two dollars and fifty cents per month; Non-teaching plan members who remained members of the previous system were also increased proportionally (1969).
- Members would have accounts credited with two percent of their salary from 1951-1955 not in excess of five thousand dollars, and one and two-tenths percent not in excess of six thousand dollars from 1955-1963, one and two-tenths of salary up to social security wage base plus two percent in excess from 1963-1969, and from 1969 forward with one and two-tenths percent of salary up to seventy-eight hundred dollars, and two percent of salary in excess of that amount (1972).
- Maximum retirement allowance for members who retired after 1972 was increased to ninety dollars per month (1972).

Contributions.

- Beginning Sept 1, 1969, members were to contribute two and three-fourths percent of the first seventy-eight hundred dollars of salary, and five percent of salary over that amount (1969).

Audit/Actuary requirement.

- Requirements for investments for trustees were defined, and the trustees were given the authority to hire an investment manager, collect on defaulted investments, and make adjustments to future payments of interest or principal (1967).

- Audit responsibility was moved from the Department of Insurance of Nebraska to the board governing the system, who were instructed to hire a CPA or the Auditor of Public Accounts at the expense of the system (1973).

1976-1985.

Membership.

- Permissive retirement date would be the month and year at which a member attained thirty-five years of service (1976).
- Members could continue employment after the compulsory retirement date with annual approval from the board (1982).
- “Permissive” was changed to “early” retirement date, and meant a member with ten years of service and having reached the age of fifty-five (1982).
- All members would retire at the compulsory age, but could continue employment with approval of the board (1982).

Benefits.

- For members retiring after August 31, 1976, the benefits would be credited as follows (1976):
 - From service years 1951-1955, two and four-tenths of wage not in excess of five thousand dollars;
 - 1955-1963, one and forty-four hundredths percent of wage not in excess of six-thousand dollars;

- 1963-1969, one and forty-four hundredths of salary up to the social security base, and two and four-tenths percent of salary in excess of the base;
- 1969 going forward, one and forty-four hundredths percent of the first seventy-eight hundred dollars of salary, and two and four-tenths percent over that amount.
- Maximum retirement allowance was raised to one hundred eighteen dollars and eighty cent for members who retired after September 1, 1976 (1976).
- Non-teaching retirement allowance was raised to a max of seventy-two dollars and twenty cents per month (1976).
- A supplemental benefit was legislated for each certificated member with at least twenty-five years of service as of July 1, 1980, to be computed as if the member had retired at sixty-five, or the actual age of retirement, whichever was later (1980):
 - Subtract the members total monthly benefit from one hundred fifty-five dollars, and the positive difference was the amount of the supplemental benefit, unless the difference was less than five dollars, at which time the minimum benefit paid would be five dollars.
- Disability benefits would begin after the first of two required physical examinations to verify (1982).

- Members with ten years of service, who severed employment for any reason other than retirement, could leave their contributions in the plan and take regular or early retirement in accordance with the act (1982).
- Cost of Living Adjustment (COLA) for members who retired prior to February 21, 1982, not to exceed the amount of one dollar and fifty cents per month for each year of service, and one dollar per month for each year of completed retirement from the effective date of retirement through June 30, 1983 (1983).
- Limit of thirty years of creditable service when calculating maximum retirement allowance was removed; benefits would reflect the full amount of creditable service years (1985).
- Disability benefits would be available to employees with five years of creditable service, lowered from ten (1985).
- Members could leave contributions in the system with only five years of service if membership ceased for any reason other than retirement (1985).
- Based on IRS Code, the max benefit allowable would be ninety-thousand dollars per year, or one hundred percent of the average compensation paid in the three years immediately prior to retirement (1985).

Compensation.

- Reimbursable expenses incurred by the board of trustees would be paid according to §84-306.01 through §84-306.05 (1981).

- Definition of compensation changed to include all compensation, including bonuses and overtime (1982).

Contribution rates.

- Members would contribute two and nine-tenths percent of salary up to seventy-eight hundred dollars, and five and twenty-five hundredths percent of wages above that amount (1976).
- Employee contribution rate was increased to four and nine-tenths percent of salary (1982).
- School would pick up employee contributions through salary deduction, and federal taxes were to be withheld from the amount, but would not be included in gross income (1984).

Prior service.

- The manner in which military leave members purchased creditable years was adjusted in the manner in which interest would be calculated (1982).

Formula annuity.

- Formula based annuity option was added (1982):
 - Based on final average compensation (highest three years divided by thirty-six), multiplied by one and one half percent, multiplied by the number of years of creditable service up to a max of thirty years;
 - Would be paid to any member retiring after the effective date, unless the benefit due would be greater under the initially legislated annuity.

Audit/Actuary requirements.

- Reference to “number of mills” was changed to “tax rate” in statute referring to the tax request certified by the board to collect from the district, and specified that the tax would be based on the actual valuation, not the adjusted valuation (1979).
- Retired Teachers supplementary Benefits Fund was established (1980).
- Changes in amortization tables for early and joint and survivorship annuities were legislated (1985).

1986-1995.***Membership.***

- Compulsory retirement age definition was removed completely (1987).
- Those new employees over age sixty-five would be eligible to participate in the plan (1987).
- Members who left the plan would be able to rejoin upon reemployment regardless of how many years had passed (1987).
- School employee was redefined as a member with at least five hundred sixteen hours of service each year, which would earn credit for one half year (1988).

Benefits.

- Annuities first paid before September 1, 1985 were given a COLA based on the increase of cost of living or wage levels from the time of retirement until June 30, 1986, not to exceed (1986):

- Three and one half percent for those first paid on or after September 1, 1984;
- Seven percent for those first paid on September 1, 1983; and
- Ten and one half percent for all others.
- Formula annuity would be reduced to the actuarial equivalent if a member was sixty-two years of age and did not have thirty-five creditable years of service upon retirement (1989).
- Annuity payments made upon death of a member would be paid to the beneficiary or estate until sixty payments had been made if the member chose the normal form of the annuity (1989).
- By choosing a joint survivorship annuity, beneficiaries would receive seventy-five percent of the member benefit for life so long as the beneficiary was fifty-five at the time of such election, and if that beneficiary passed away before receiving one hundred twenty payments, they would continue to the estate until one hundred twenty payments were made (1989).
- If a member elected a joint survivor annuity, but the beneficiary passed away before the member, then the annuity would be increased to the full amount of the normal form (1989).
- COLA granted as follows (1989):
 - If first payment was received between June 30, 1989 and September 1, 1989, not to exceed three percent;

- If first payment received between September 1, 1987 and before June 30, 1989, not to exceed six percent, and;
- Not to exceed nine percent for all other annuities.
- Actuary equivalent annuities would be paid out over a minimum of sixty months and would be paid to the spouse or beneficiary of the member passed away before receiving sixty payments (1991).
- Members retiring with a disability before the age of sixty two would not have benefits reduced, except for workman's compensation as specified (1991).
- Benefits would be subject to garnishment, attachment, or execution if subject to a qualified domestic relations order (1991).
- If members passed away before retirement with twenty or more years of service the beneficiary would receive a survivorship annuity if age fifty-five, based on the actuarial equivalent of the member and beneficiary (1992):
 - Beneficiary could request a lump sum within sixty days of the member's death;
 - Member could elect to have beneficiary receive a lump sum;
 - Members with less than twenty years service, or whose beneficiary does not meet these requirements shall receive a lump sum to the beneficiary, or estate if none exists.
- If the first payment a member received was on or before October 1, 1991, any amount between the first payments and June 30, 1992 would see an increase of not more than three percent if paid on or after September 1, 1990 (1992):

- Six percent first paid on or after September 1, 1989;
- Nine percent for all other annuities.
- Estate would receive remainder of payments if both member and beneficiary passed away before receiving the specified months of payments, unless the member or beneficiary designated in writing who would get those payments (1993).
- Members taking a disability retirement before age sixty-two with at least five years of creditable service would receive no reduction in benefits (1993).
- If member annuity began prior to reaching the age of sixty-two, it would be reduced by twenty-five hundredths percent for each month or partial month between the date of annuity and member's sixty-second birthday (1995).
- If members age and years of creditable service equaled eighty-five, annuity would not be reduced; if eighty-four, reduced by not greater than three percent; if eighty three, by not greater than six percent; if eighty-two, by not greater than nine percent (1995).
- Member could have beneficiary elect to receive a lump sum rather than an annuity of the remaining payments (1995).
- If the first payment a member received was on or before October 1, 1994, any amount between the first payments and June 30, 1995 would see an increase of not more than three percent if paid on or after October 1, 1993 (1995):
 - Six percent first paid on or after October 1, 1992;
 - Nine percent for all other annuities;

- Or the greater of the annuity adjusted to ninety percent of its original annuity when adjusted for cost of living.

Compensation.

- Defined as salary or wages payable before reduction for contributions picked up under section 414(h) of the IRS Code or elective contributions made pursuant to 125 or 403(b) of the IRS Code (1995).

Contributions.

- Member contributions increased to five and eight-tenths percent of total compensation (1989).
- Member contributions increased to six and three-tenths percent of compensation (1995).

Prior service.

- Years of service, up to ten years, purchased from other schools would be purchased at the wage or salary level at the other school if verified, or if not, based on the salary at the time of joining the Class V plan (1987).
- Years must be purchased in equal installments over a period not longer than two years for teaching service credits, or three years for military service years (1987).
- Years purchased would be credited in six month increments only (1987).
- Members who had taken a refund of contributions could rejoin the system by paying those years back and becoming reemployed, no matter how many years passed (1987).

- Employees who had years of service at an Educational Service Unit previously could purchase up to ten years based on the rate of their pay with the ESU, plus accrued interest (1988).
- Ten years could also be purchased for teacher-exchange programs, Indian School years, overseas teaching, or teaching in the District of Columbia (1988).
- Members could purchase for years prior to turning twenty-one that they were not previously eligible for (1988).
- Military members, upon reemployment could buy years without a limit on the amount, and could take three years to pay for them (1991).
- Cash rollovers could be made into the retirement system from any portion of a former employer's plan, or the contributions represented a qualified total distributions as defined in the IRS code as a tax-free rollover (1992).
- Prior years for military or other service could only be purchased in half-year increments (1993).
- Military members would get five years to complete the purchase of creditable service years (1995).
- Years may be paid for in direct payment to the system, or as installments as a binding irrevocable payroll deduction over no more than five years (1995).

Formula annuity.

- After June 1, 1989, formula annuity multiplier would increase to one and sixty-five hundredths of final average compensation (1989).

- Formula annuity multiplier was increased to one and seventy hundredths (1992).
- Formula annuity multiplier was increased to one and eighty-hundredths percent (1995).

Audit/Actuary requirements.

- Investments were to be made pursuant to §72-1270 to §72-1276, which were repealed in 1994 (1986).
- Investments would be made with prudence, discretion and intelligence, and not made upon speculation, not buy on margin; basically invest wisely (1989).
- School Board would appoint an administrator of the system (1991)
- Eligible cash rollovers, according to IRS code, could be made from the retirement system into another eligible plan, and tax laws would apply (1993).
- Different actuarial tables would not be used any further when differentiating between full age retirement and early retirement (1995).
- Provisions for the treasurer regarding international and other investing were added (1995).

1996-2005

Membership.

- Five years of service were required to meet “normal retirement” and language regarding compensation limitation for retirees with less than five years was removed (1997).

- Members would not be disqualified from this system because of qualifying for another system (1997).
- Members who retired, then returned to work, would not have their benefits increased, but would start a new account, and receive a second benefit when they re-retired, as they were vested with five years (1997).
- Any member working more than one thousand hours would be considered fulltime, and less than fulltime, creditable service would be granted in increments of one-tenth years for every one hundred compensated hours (2005).

Benefits.

- A spouse could receive a lump sum payment under a domestic relations order, and the member's account would be reduced by the amount of the settlement to such spouse (1997).
- Annual COLA after January 1, 2000 to be the lesser of one and one half percent or the increase in the CPI (1998).
- The board would annually determine, if there were enough funds, what the percentage of COLA would be (1998).
- Deferred disability addressed (2000):
 - Disability payments would begin if member requested deferral to end;
 - Members would accumulate creditable years during deferred years;
 - Payments would end if the board determined the disability had ceased prior to turning sixty-two;

- Payments when deferral ended would only be reduced by payments received for workman's comp.
- Age limitation on spouse or beneficiary were determined for joint survivorship benefits (2001):
 - If beneficiary or spouse was ten or fewer years younger, there would be no penalty;
 - Ten to nineteen years younger would be paid at seventy-five percent of annuity amount.
- Medical COLA introduced in the form of a supplemental annuity (2001):
 - Equal to the amount resulting when the fraction (not greater than one) of members creditable service years at the time of retirement, divided by twenty, is multiplied by the product of ten dollars times the number of years, including half years, that such annuitant has received annuity payments from the system through the October 3 adjusted date;
 - Increased ten dollars annually on October 3;
 - Never to exceed two hundred fifty dollars;
 - Ceasing upon death.
- Adjusted age, or the actual age of the beneficiary in the year payments began, plus the number of years by which the member's attained age in the calendar year that payments began was less than seventy, would be used for payments made for a joint survivorship annuity (2005).

Contributions.

- Funds from Class V plan could roll directly over into the school employees plan, providing that service years could be accomplished through direct payment, installment, or irrevocable payroll deduction (1997).
- School contribution would be the greater amount of one hundred percent of employee contribution, or whatever was determined necessary to maintain solvency (2000).

Prior service.

- Members with at least five years of creditable service could purchase up to five more years, and would have the same status as if they worked those years (1997).
- Payments could be made through direct payments to the system, or installment payments through irrevocable agreement between member and district (1997).
- Members who had taken years off prior to September 1, 1979 for the purpose of maternity leave could purchase those years, and receive creditable service for them (2001).
- Cash rollovers from other plans, for purchase of service credits, would be accepted as long as they did not exceed the amount required to be paid for service years in compliance with IRS codes (2002).
- If elected within the first five years of membership, a member could purchase the lesser of ten years, or the amount of years in another district, as long as the

years were verified to not be part of another defined benefit system or program, not to exceed the amount of years in the Class V system (2005):

- The district would match the funds contributed by the member for prior service credit at the time payments were made.

Formula annuity.

- Formula annuity multiplier was increased to one and eighty-five hundredths percent (1998).
- Formula annuity multiplier was increased to two percent (2000).

Audit/Actuary requirements.

- Annual audit to PERB would be required, including (1998):
 - Number of persons in the Class V plan
 - Contribution rates
 - Assets and liabilities
 - Name and position of administrators and investors of the plan
 - The form and nature of investments
 - Reports of defined benefit and defined contribution plans
- Every four years a full financial audit and actuarial analysis by reputable organization must be filed with PERB (1998).
- Requirement of report on defined contribution was eliminated (1999).
- Actuarial tables from 1994 would be used (2000).
- Trustees and Actuary no longer delegated the responsibility of ascertaining the certified tax amount to be collected (2001).

2006-2015.***Membership.***

- Any new Class V district established as a result of the Learning Community Reorganization Act, which was formed in part by a territory that had previously been part of the Class V Employees Retirement System would continue to participate in the plan (2006).
- If the retirement system would ever consist of two or more qualifying districts because of the passage of the Learning Community (2006):
 - Trustees would be appointed from each district
 - Expenses of trustees would be reimbursed from the retirement system
 - Member trustees would cease to be trustees upon retirement
 - Six trustees would comprise a quorum
 - Trustees would serve three year terms if not board members or plan members, and would be appointed annually if board or plan members

Benefits.

- Non-designated spouse or payee under a domestic relations order could elect to take an eligible rollover distribution into an other retirement plan per IRS Code (2012).
- Civil damages awarded as the result of a member being found guilty or no contest to certain crimes could be taken from the member's retirement account (2012).

- If a member's death occurred on or after January 1, 2007 while performing military service, the beneficiary would be entitled to any additional death benefit that would have been provided, determined as if the member had returned to employment and employment terminated on the date of death (2012).

Compensation.

- Compensation defined (2015).
- Compensation capped at no more than eight percent annually with exceptions for those retiring after July 1, 2016 during the five years prior to retirement, or member's final compensation date (2015).

Contributions.

- If a member was entitled to more than one thousand dollars as a refund of contributions, and no election was made as to how those funds should be refunded, the trustees would roll the funds into an IRA for the member (2006).
- Contribution rate was increased to seven and three-tenths percent of compensation (2007).
- Employee would match the member contribution at a rate of one hundred one percent (2007).
- Contribution rate was increased to eight and three-tenths percent of compensation for the time period of September 1, 2009 through August 31, 2014, when they would return to seven and three-tenths percent (2009).

- Contribution rate was increased to nine and three-tenths percent of compensation (2011).
- Contribution rate was set at nine and seventy-eight hundredths percent of compensation (2013).

Formula annuity.

- Second set of benefits for new employees as of July 1, 2013 was added (2013):
 - Final average compensation would be the five highest years average;
 - COLA would be lesser of one percent or the CPI increase;
 - Contribution rate was set at nine and seventy-eight hundredths percent.

Audit/Actuary requirements.

- Report must be made to PERB by March 15 annually (2006).
- Removal of certain requirements in the an annual report to PERB (2011).
- Preretirement planning program required (2011).
- Only legal citizens or qualified aliens under the federal Immigration and Nationality Act could be plan members (2011).
- Actuaries would need to meet the qualification standards of the American Academy of Actuaries to render a statement of actuarial opinion (2013).
- The board would determine the interest rate for repayment of purchase of service years (2013).
- Maximum COLA benefits would be made in accordance with section 415 of the IRS Code (2013).

- Corrected reference to Internal Revenue Code for the administration of the system, and absolution from liability as long as code was followed (2014).
- Actuarial report was to be presented to the Nebraska Retirement Systems Committee at public hearing (2014).

Chapter IX

Conclusion

While this research is a comprehensive overview of the laws that have impacted both the School Employees Retirement Act and the Class V School Employees Retirement Act, there are additional studies that could continue this work. A suggestion could be made to study only the actuarial reports from each year one was issued regarding both plans. Furthermore, detailing the financial impact of the economy, benefit increases, and cost of living adjustments could aid lawmakers in making wise decisions regarding the future legislation of these plans. This research is light on the financials, and this type of study could be an excellent companion to this work.

A zealous researcher could also choose a significant point in history of either of these plans, and provide a more in-depth analysis of the behind the scenes work that took place in creating such legislation. Possible points for further study may include the 1967 addition of the formula annuity for members of the School Employees Retirement Act. Another possible study might be the 2013 legislation referred to as LB 553, which had a major impact on the structure of the School Employees Retirement Act, and also impacted the Class V Employees Retirement Act.

As we look to the future of our system, with members of the legislature discussing and pushing for a change to a less expensive retirement plan, it is important to look back through the years. Historically, the School Employees Retirement Act was legislated as what we might today refer to as a hybrid plan, with components of a formula-based service annuity, and components of a cash balance savings annuity. The plan was phased

out over time to the more attractive, but also more expensive, defined-benefit plan that members rely on today. Organizations and Legislators have collectively decided to commit to funding this plan as a means of retaining and attracting strong school employees for our young people in the State of Nebraska, and to provide a comfortable benefit to reward years of service and allow members to retire with dignity. Keeping these important thoughts in the forefront of the discussion will be imperative in shaping and passing sound legislation to impact the future of the teacher-leaders of our state.

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Appendix A

District Numbers and Coordinating Territories by Year

Legislative Districts
1945, 1962
Nebraska Blue Book, 1944
Nebraska Blue Book, 1962

District Number	Counties Represented
1	Johnson, Pawnee, Richardson
2	Nemaha, Otoe
3	Cass, Sarpy
4-10	Douglas
11	Dodge, Washington
12	Cuming, Burt
13	Dixon, Dakota, Thurston
14	Knox, Cedar
15	Pierce, Madison
16	Wayne, Stanton, Colfax
17	Saunders, Butler
18-20	Lancaster
21	Gage
22	Jefferson, Thayer
23	Fillmore, Saline
24	Seward, York
25	Polk, Hamilton, Clay
26	Platte, Nance
27	Antelope, Boone
28	Holt, Boyd, Keya Paha, Rock
29	Wheeler, Valley, Greeley, Howard
30	Hall, Merrick
31	Adams, Kearney
32	Franklin, Webster, Nuckolls
33	Red Willow, Furnas, Harlan
34	Buffalo, Sherman
35	Custer, Loup, Garfield
36	Dawson, Gosper, Phelps
37	Hitchcock, Dundy, Chase, Hayes, Perkins
38	Lincoln, Frontier
39	Deuel, Keith, Garden, Arthur, McPherson, Logan, Blaine, Thomas, Hooker, Grant

District Number	Counties Represented
40	Sheridan, Cherry, Brown
41	Sioux, Box Butte, Dawes
42	Scott's Bluff
43	Banner, Kimball, Morrill, Cheyenne

**Legislative Districts
1964
Nebraska Blue Book, 1964**

District Number	Counties Represented
1	Johnson, Nemaha, Pawnee, Richardson
2	Cass, Otoe
3	Sarpy
4-13	Douglas
14	Burt, Washington
15	Dodge
16	Cuming, Colfax
17	Dixon, Dakota, Thurston
18	Wayne, Pierce, Stanton
19	Knox, Cedar
20	Garfield, Wheeler, Antelope, Boone
21	Madison
22	Platte, Nance
23	Butler, Saunders
24	York, Seward
25-29	Lancaster
30	Gage
31	Saline, Jefferson
32	Clay, Fillmore, Thayer
33	Adams
34	Merrick, Polk, Hamilton
35	Hall
36	Buffalo
37	Kearney, Franklin, Webster
38	Harlan, Furnas, Red Willow
39	Dawson, Gosper, Phelps
40	Custer, Logan, McPherson, Hooker, Thomas, Blaine, Loup
41	Valley, Greeley, Sherman, Howard
42	Keya Paha, Boyd, Rock, Holt
43	Cherry, Sheridan
44	Garden, Morrill, Deuel

District Number	Counties Represented
45	Lincoln
46	Hitchcock, Dundy, Chase, Hayes, Frontier, Perkins
47	Banner, Kimball, Cheyenne
48	Scott's Bluff
49	Sioux, Dawes, Box Butte

**Legislative Districts
1966-1970 Nebraska Blue Book**

District Number	Counties Represented
1	Nemaha, Johnson, Richardson
2	Cass, Otoe
3	Sarpy
4-14	Douglas
15	Dodge
16	Washington, Burt, Thurston
17	Dakota, Dixon, Wayne
18	Stanton, Cuming, Colfax
19	Cedar, Knox, Pierce
20	Douglas
21	Pierce, Madison
22	Platte, Nance
23	Butler, Saunders
24	York, Seward
25-29	Lancaster, Cass, Otoe
30	Gage, Pawnee
31	Gage, Jefferson, Saline
32	Clay, Fillmore, Thayer
33	Adams
34	Hall, Hamilton, Polk, Merrick
35	Hall
36	Buffalo, Hall
37	Harlan, Franklin, Webster, Nuckolls
38	Red Willow, Furnas, Harlan, Gosper, Frontier
39	Dawson, Phelps
40	Boyd, Holt, Antelope, Wheeler
41	Valley, Greeley, Sherman, Howard
42	Garden, Arthur, McPherson, Logan, Custer, Garfield, Loup, Blaine, Thomas, Hooker
43	Grant, Sheridan, Cherry, Brown, Rock, Keya Paha
44	Deuel, Keith, Perkins, Chase, Hayes, Dundy, Hitchcock
45	Lincoln
46	Lancaster

District Number	Counties Represented
47	Cheyenne, Kimball, Banner, Scotts Bluff
48	Scott's Bluff
49	Dawes, Sioux, Box Butte, Morrill

**Legislative Districts
1972 Nebraska Blue Book**

District Number	Counties Represented
1	Richardson, Pawnee, Gage, Nemaha
2	Cass, Otoe, Johnson
3-14	Sarpy, Douglas
15	Dodge
16	Burt, Thurston, Washington
17	Dixon, Dakota, Wayne
18	Stanton, Cuming, Colfax, Dodge
19	Knox, Cedar, Wayne, Pierce
20	Douglas, Sarpy
21	Pierce, Madison
22	Boone, Nance, Platte
23	Butler, Polk, Saunders
24	York, Seward, Polk
25-29	Saunders, Cass, Otoe, Johnson, Lancaster
30	Jefferson, Gage, Saline
31	Douglas, Sarpy
32	Fillmore, Saline, Thayer, Jefferson
33	Adams
34	Merrick, Polk, Hamilton, Clay, Nuckolls
35	City of Grand Island
36	Buffalo, Hall
37	Franklin, Webster, Kearney, Buffalo
38	Harlan, Furnas, Red Willow, Gosper, Frontier, Hayes
39	Dawson, Phelps, Buffalo
40	Boyd, Holt, Antelope, Boone
41	Garfield, Loup, Wheeler, Valley, Custer, Greeley, Sherman, Howard, Hall
42	Lincoln, Custer
43	Cherry, Brown, Keya Paha, Rock, Hooker, Thomas, Blaine, McPherson, Logan, Custer
44	Arthur, Garden, Deuel, Keith, Perkins, Chase, Hayes, Dundy, Hitchcock
45	Douglas, Sarpy
46	Lancaster
47	Morrill, Banner, Kimball, Cheyenne, Scott's Bluff

District Number	Counties Represented
48	Scott's Bluff
49	Dawes, Sioux, Box Butte, Sheridan

**Nebraska Legislative Districts
1982: Established by LB 406 in 1981**

District Number	County Represented
1	Richardson, Pawnee, Johnson, Nemaha, Otoe
2	Cass, Otoe
3-14, 20, 31, 45	Douglas, Sarpy
15	Dodge
16	Washington, Burt, Thurston
17	Dakota, Dixon, Wayne
18	Cuming, Colfax, Dodge, Stanton
19	Cedar, Knox, Pierce, Wayne
21	Madison
22	Platte, Nance, Boone
23	Butler, Saunders
24	York, Seward
25	Lancaster
26-29, 46	City of Lincoln
30	Gage, Jefferson
32	Jefferson, Thayer, Fillmore, Saline
33	Adams
34	Clay, Hamilton, Merrick, Polk
35	City of Grand Island
36	Buffalo, Hall
37	Kearney, Franklin, Webster, Nuckolls
38	Red Willow, Furnas, Harlan, Gosper, Frontier, Lincoln
39	Phelps, Dawson
40	Boyd, Holt, Antelope, Boone
41	Wheeler, Garfield, Loup, Custer, Valley, Greeley, Howard, Hall, Sherman
42	Lincoln
43	Cherry, Keya Paha, Brown, Rock, Blaine, Thomas, Hooker, McPherson, Logan, Custer
44	Grant, Arthur, Keith, Deuel, Perkins, Chase, Hayes, Dundy, Hitchcock, Lincoln
47	Kimball, Cheyenne, Garden, Morrill, Banner, Scott's Bluff
48	Scott's Bluff
49	Sioux, Dawes, Sheridan, Box Butte

Nebraska Legislative Districts
Established by LB 614 in 1991, and LB 7, second special session, 1992
1992

District Number	Counties Represented
1	Richardson, Pawnee, Gage, Johnson, Nemaha, Otoe
2	Otoe, Cass
3-14, 20, 31, 39, 45	Douglas, Sarpy
15	Dodge
16	Burt, Cuming, Washington
17	Thurston, Cuming, Wayne, Dakota, Dixon
18	Cedar, Dixon, Knox, Pierce, Wayne, Stanton
19	Madison
21	Saunders, Douglas, Lancaster
22	Platte, Nance, Boone
23	Butler, Polk, Saunders, Colfax, Platte, Dodge, Cuming
24	Seward, York, Polk
25	Lancaster
26-29, 46	City of Lincoln
30	Gage, Jefferson, Saline
32	Fillmore, Saline, Jefferson, Thayer, Nuckolls
33	Adams, Hall
34	Clay, Hamilton, Hall, Merrick
35	City of Grand Island
36	Dawson, Buffalo, Sherman
37	Kearney, Buffalo
38	Nuckolls, Webster, Franklin, Harlan, Furnas, Gosper, Phelps
40	Boyd, Holt, Knox, Antelope
41	Garfield, Wheeler, Valley, Custer, Greeley, Sherman, Howard, Hall
42	Lincoln
43	Cherry, Grant, Hooker, Thomas, Blaine, Loup, Custer, Logan, McPherson, Brown, Keya Paha, Rock, Sheridan
44	Perkins, Chase, Hayes, Frontier, Dundy, Hitchcock, Red Willow, Furnas
47	Keith, Arthur, Deuel, Garden, Morrill, Cheyenne, Kimball
48	Scott's Bluff
49	Sioux, Dawes, Sheridan, Box Butte, Scott's Bluff, Banner

**Nebraska Legislative Districts: 2002
Established by LB 852 in 2001
Nebraska Blue Book**

District Numbers	Counties Represented
1	Pawnee, Richardson, Johnson, Nemaha, Otoe, Cass
2	Cass, Sarpy, Otoe
3-14, 18, 20, 31, 39, 45	Douglas, Sarpy, Washington
15	Dodge
16	Washington, Burt, Cuming, Stanton, Thurston
17	Dakota, Dixon, Wayne
19	Madison
21	Lancaster, Saunders
22	Platte, Colfax
23	Colfax, Butler, Saunders, Douglas
24	York, Seward, Polk
25	Lancaster
26-29, 46	City of Lincoln
30	Gage, Lancaster
32	Thayer, Jefferson, Fillmore, Saline
33	Adams, Hall
34	Hall, Hamilton, Merrick, Nance, Polk
35	City of Grand Island
36	Buffalo, Dawson
37	Kearney, Buffalo
38	Webster, Nuckolls, Clay, Franklin, Harlan, Phelps, Gosper
40	Knox, Cedar, Pierce, Holt
41	Antelope, Boone, Wheeler, Garfield, Valley, Greeley, Sherman, Howard, Hall
42	Lincoln
43	Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Loup, Blaine, Thomas, Hooker, McPherson, Logan, Custer
44	Dawson, Frontier, Red Willow, Furnas, Hitchcock, Dundy, Chase, Hayes, Perkins
47	Deuel, Cheyenne, Garden, Arthur, Morrill, Banner, Kimball, Keith
48	Scott's Bluff
49	Sioux, Dawes, Box Butte, Sheridan, Cherry, Scott's Bluff, Grant

**Nebraska Legislative Districts: Current
Established by LB 703 in 2011**

District Number	Counties Represented
1	Otoe, Johnson, Nemaha, Pawnee, Richardson
2	Cass, Sarpy
3-14, 18, 20, 31, 39, 45, 49	Douglas, Sarpy
15	Dodge
16	Cuming, Burt, Washington
17	Wayne, Thurston, Dakota
19	Madison, Stanton
21, 25-32, 46	Lancaster, City of Lincoln, Gage, Saline, Fillmore, Thayer, Jefferson
22	Platte, Stanton, Colfax
23	Colfax, Butler, Saunders
24	York, Seward, Polk
33	Adams, Hall
34	Nance, Merrick, Hamilton, Hall
35	City of Grand Island (Hall)
36	Custer, Dawson, Buffalo
37	Buffalo
38	Buffalo, Phelps, Kearney, Franklin, Webster, Nuckolls, Clay
40	Holt, Boyd, Rock, Knox, Cedar, Dixon
41	Pierce, Antelope, Boone, Wheeler, Greeley, Howard, Sherman, Valley, Garfield
42	Lincoln
43	Cherry, Keya Paha, Brown, Loup, Blaine, Thomas, Logan, McPherson, Hooker, Grant, Sheridan, Dawes, Box Butte
44	Perkins, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, Furnas, Harlan
47	Banner, Kimball, Cheyenne, Deuel, Keith, Arthur, Garden, Morrill, Box Butte, Sioux
48	Scott's Bluff

Appendix B

IRB Documents

From: nugrant-irb@unl.edu
 Subject: NUgrant Message - Official Approval Letter for IRB project #14946
 Date: December 9, 2014 at 12:12 PM
 To: jseinhagen3@unl.edu, dawnlewis@edu10.org

December 8, 2014

Dawn Lewis
 Department of Educational Administration

Jody Isernhagen
 Department of Educational Administration
 132 TEAC, UNL, 68588-0360

IRB Number: 20141214946EX
 Project ID: 14946
 Project Title: A Historical Organizational Case Study of the Nebraska Public Employees Retirement System and Omaha School Employees Retirement System

Dear Dawn:

This letter is to officially notify you of the certification of exemption of your project. Your proposal is in compliance with this institution's Federal Wide Assurance 00002258 and the DHHS Regulations for the Protection of Human Subjects (45 CFR 46) and has been classified as exempt, category 2.

You are authorized to implement this study as of the Date of Exemption Determination: 12/08/2014.

We wish to remind you that the principal investigator is responsible for reporting to this Board any of the following events within 48 hours of the event:

- * Any serious event (including on-site and off-site adverse events, injuries, side effects, deaths, or other problems) which in the opinion of the local investigator was unanticipated, involved risk to subjects or others, and was possibly related to the research procedures;
- * Any serious accidental or unintentional change to the IRB-approved protocol that involves risk or has the potential to recur;
- * Any publication in the literature, safety monitoring report, interim result or other finding that indicates an unexpected change to the risk/benefit ratio of the research;
- * Any breach in confidentiality or compromise in data privacy related to the subject or others; or
- * Any complaint of a subject that indicates an unanticipated risk or that cannot be resolved by the research staff.

This project should be conducted in full accordance with all applicable sections of the IRB Guidelines and you should notify the IRB immediately of any proposed changes that may affect the exempt status of your research project. You should report any unanticipated problems involving risks to the participants or others to the Board.

If you have any questions, please contact the IRB office at 472-6965.

Sincerely,



Becky R. Freeman, CIP
 for the IRB



UNIVERSITY OF

From: **IRB NUgrant System** nugrant-irb@UNL.EDU
 Subject: NUgrant Message - Official Approval Letter for IRB project #14946
 Date: August 6, 2015 at 9:18 AM
 To: jserrnhagen3@UNL.EDU, dawnlewis@esu10.org



August 5, 2015

Dawn Lewis
 Department of Educational Administration

Jody Isernhagen
 Department of Educational Administration
 132 TEAC, UNL, 68588-0360

IRB Number:
 Project ID: 14946
 Project Title: A Historical Organizational Case Study of the Nebraska Public Employees Retirement System and Omaha School Employees Retirement System

Dear Dawn:

The Institutional Review Board for the Protection of Human Subjects has completed its review of the Request for Change in Protocol submitted to the IRB.

1. It has been approved to conduct some of the interviews over the phone rather than face-to-face.

We wish to remind you that the principal investigator is responsible for reporting to this Board any of the following events within 48 hours of the event:

- * Any serious event (including on-site and off-site adverse events, injuries, side effects, deaths, or other problems) which in the opinion of the local investigator was unanticipated, involved risk to subjects or others, and was possibly related to the research procedures;
- * Any serious accidental or unintentional change to the IRB-approved protocol that involves risk or has the potential to recur;
- * Any publication in the literature, safety monitoring report, interim result or other finding that indicates an unexpected change to the risk/benefit ratio of the research;
- * Any breach in confidentiality or compromise in data privacy related to the subject or others; or
- * Any complaint of a subject that indicates an unanticipated risk or that cannot be resolved by the research staff.

This letter constitutes official notification of the approval of the protocol change. You are therefore authorized to implement this change accordingly.

If you have any questions, please contact the IRB office at 472-6965.

Sincerely,



Becky R. Freeman, CIP
 for the IRB



Appendix C

Informed Consent



COLLEGE OF EDUCATION AND HUMAN SCIENCES
Department of Educational Administration

A Historical Organizational Case Study of the Nebraska Public Employees Retirement System and the Omaha School Employees Retirement System

Informed Consent: Interview for Dissertation conducted by Dawn Lewis

Purpose

The purpose of this interview is research to gather information to create a historical organizational case study of Nebraska Public Employees Retirement System and Omaha School Employees Retirement System. This dissertation work may assist school administrators, lobbyists, and lawmakers when shaping laws that impact the future retirement of educators across Nebraska.

Selection for Interview

You have been chosen for an interview based on document review, including transcripts from legislative sessions from past years, which indicate you play or have played a vital role in the shaping of policy. (or) You have been selected to interview based on your position within an organization that has an interest in the laws that shape NPERS and/or OSERS, or upon recommendation by one of these persons.

The interview will take approximately one hour of your time.

If you would be willing to participate, but a face-to-face interview is not possible, a phone interview or email interview may be conducted, based on your preferences.

Benefits of Participating

Your highly respected opinion and expertise will be part of a comprehensive historical document, the first of its kind regarding the NPERS and OSERS. You will gain additional recognition for the excellent work you have done for Nebraska.

Known Risks

No effort will be made to hide your identity through this process, since you have proven to be a widely respected voice in the field of education and/or policy shaping in Nebraska. Your credentials add to the validity of this research.

If you are not comfortable with your name being mentioned in the history of these institutions, please be advised to not participate in this interview, although your name may already be connected through public record.



COLLEGE OF EDUCATION AND HUMAN SCIENCES
Department of Educational Administration

Your participation is voluntary, and refusal to participate or discontinue participation will involve no penalty or loss of benefits to which you are otherwise entitled.

Procedure

This interview is being conducted face-to-face, digitally recorded, and will be transcribed verbatim. You will be provided with a transcript of your interview to verify accuracy.

The only persons who will have access to the interview recordings and transcripts will be the researcher (myself) and Dr. Jody Isernhagen, doctoral advisor. They will be kept in the locked work office of the researcher.

Upon completion of the study and creation of the history of these institutions, the transcript of your interview and the digital recording will be destroyed. This will be approximately two years from now, or earlier.

If you have any further questions about this research, you may contact Dr. Jody Isernhagen at (402) 472-1088 or at jisernhagen3@unl.edu. Any concerns may also be directed to Dr. Isernhagen.

[Redacted signature area]

(signature)

September 16, 2015

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



COLLEGE OF EDUCATION AND HUMAN SCIENCES
Department of Educational Administration

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[Redacted signature area]

8-12-15

(signature)

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



COLLEGE OF EDUCATION AND HUMAN SCIENCES
Department of Educational Administration

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[Redacted signature area]

11 August 2015

(signature)

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



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[Redacted signature area]

(signature)

9-9-15

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



COLLEGE OF EDUCATION AND HUMAN SCIENCES
Department of Educational Administration

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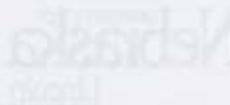
[Redacted signature area]

(signature)

8-12-15

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



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Department of Educational Administration

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[Redacted signature area]

(signature)

8/7/15
(date)

I agree to participate in an interview regarding the NPERs and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.



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Department of Educational Administration

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[Redacted signature area]

(signature)

8/12/15

(date)

I agree to participate in an interview regarding the NPERS and the OSERS. I understand there are limited or no risks to participating in the interview, and that I can withdraw if I feel I must at any time.