NEBRASKA RETIREMENT SYSTEMS COMMITTEE

2022

Historical and Background Information on Retirement Systems & Investment Issues Under the Jurisdiction of the Retirement Committee

<u>Committee Members</u>
Senator Mark Kolterman, Chair
Senator Brett Lindstrom, Vice-Chair
Senator Robert Clements
Senator Mike McDonnell
Senator Julie Slama
Senator John Stinner

Kate Allen, Committee Legal Counsel
Katie Quintero, Committee Clerk

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Retirement Committee Background Information

Statutes Specific to the Retirement Committee

50-416.01. Nebraska Retirement Systems Committee; members.

The Legislature shall select five of its members who shall serve, together with the chairperson of the Appropriations Committee, as the Nebraska Retirement Systems Committee. The Nebraska Retirement Systems Committee shall be a standing committee of the Legislature. The chairperson and members shall be chosen in the same manner as chairpersons and members of the other standing committees of the Legislature.

50-417. Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.

The Nebraska Retirement Systems Committee shall study any legislative proposal, bill, or amendment, other than an amendment proposed by the Committee on Enrollment and Review, affecting any public retirement system, existing or proposed, established by the State of Nebraska or any political subdivision thereof and report electronically the results of such study to the Legislature, which report shall, when applicable, include an actuarial analysis and cost estimate and the recommendation of the Nebraska Retirement Systems Committee regarding passage of any bill or amendment. To assist the committee in the performance of such duties, the committee may consult with and utilize the services of any officer, department, or agency of the state and may from time to time engage the services of a qualified and experienced actuary. In the absence of any report from such committee, the Legislature shall consider requests from groups seeking to have retirement plans established for them and such other proposed legislation as is pertinent to existing retirement systems.

50-438. Legislative Council Retirement Study Fund; created; use; transfers; investment.

There is hereby created the Legislative Council Retirement Study Fund. The fund shall consist of money appropriated to it by the Legislature and transfers made pursuant to subdivision (2)(f) of section 84-1503. Money in the fund shall only be used for a comprehensive study of the retirement systems listed in subdivision (1)(a) of section 84-1503. Any money remaining in the fund eighteen months after the date of transfer shall be transferred by the State Treasurer back to the retirement systems for credit to the various retirement funds. Any money in the Legislative Council Retirement Study Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Legislative Rule Specific to the Retirement Committee

Legislative Rule 5, Subsection 15 -- Public Retirement Plans and Actuarial Studies. (a) Commencing with the 1997 legislative session, any bill proposing a structural change which impacts the benefits or funding status provided under a public retirement plan, or any bill proposing the creation of a new public retirement plan, shall be introduced only during the first ten days of a 90-day session.

(b) No bill for which an actuarial study is necessary to determine the cost of such proposed changes shall be enacted until an actuarial study has been conducted and the results reported to the Legislature.

(c) (i) The Nebraska Retirement Systems Committee may introduce amendments to an appropriations bill to fund actuarial studies for only those retirement systems which are or would be administered by the state. If such amendments are enacted, the results of the actuarial studies shall be reported to the Legislature by November 15 of that calendar year.

(ii) Actuarial studies required for changes to other public systems under the jurisdiction of the Nebraska Retirement Systems Committee but not administered by the state shall not be funded by the state.

Annual Retirement Committee Interim Studies

Each year, at a minimum, the Retirement Committee introduces two interim study resolutions. The first provides oversight and examination of all issues that may arise under any of the retirement systems administered by NPERS and includes oversight of the OSERS plan as well. It is under this resolution that the actuary presents the annual defined benefit valuation reports to the Committee. The second resolution is pursuant to Neb. Rev. Stat. 13-2402, which requires the Nebraska Retirement Systems Committee to monitor underfunded defined benefit plans administered by political subdivisions.

General Committee Oversight Interim Study Resolution

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

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

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

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

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Political Subdivisions with Underfunded Plans Interim Study Resolution

PURPOSE: The purpose of this study is to carry out the provisions of Neb. Rev. Stat. 13-2402, which requires the Nebraska Retirement Systems Committee to monitor underfunded defined benefit plans administered by political subdivisions.

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

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

2. That the committee shall conduct a public hearing for the presentation of reports by political subdivisions with underfunded defined benefit plans.

3. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Retirement, Investment and Related Statutes

Political Subdivision Underfunded DB Plan Reporting			13-2402
Primary City Police & Fire Retirement Fund & Pension	15-1026	--	15-1027
1st Class City Police Officers Retirement Act	16-1001	–	16-1019
1st Class City Firefighters Retirement Act	16-1020	–	1 6-1042
Lancaster County retirement & contribution rates			23-1118
County Employees Retirement Act	23-2301	–	23-2334
Judges Retirement Act	24-701	–	24-714
Court Fees [earmarked for Judges' Retirement]	33-103	–	33-126.06
Political Subdivision – deferred compensation			48-1401
Nebraska Retirement Systems Committee	50-416	–	50-438
Military (USERRA)			55-161
Social Security & Referendum Process	68-601	–	68-631
NIC & NE State Funds Investment Act	72-1237	–	72-1260
School Employees Retirement Act	79-901	–	79-977.03
Class V School Employees Retirement Act (OSERS)	79-978	–	79-9,124
Collective Bargaining (pensions)			81-1377(2)
Spousal Pension Rights Act	42-1101	--	42-1113
State Patrol Retirement Act	81-2014	–	81-2040
State Employees Retirement Act	84-1301	–	84-1333
Public Employees Retirement Board (PERB)	84-1501	–	84-1503

Description of State-Administered (NPERS) Retirement Plans

Three types of public retirement plans have been established in Nebraska for public employees: defined benefit, defined contribution and cash balance. The Schools, State Patrol, Judges, State and County plans are administered by the Nebraska Public Employees Retirement Board (PERB) under the Nebraska Public Employees Retirement Systems Agency (NPERS). [See NPERS website: https://npers.ne.gov/SelfService/] Membership in each of these plans is mandatory upon the employee meeting the plan's specific eligibility requirements.

Defined Benefit (DB) Plan: DB plans define the amount of the retirement income or benefit to be received based on a formula, typically related to age, length of service, compensation level (salary) and a formula multiplier. (e.g. Social Security is a defined benefit plan). The State General Fund is responsible for financing any unfunded liabilities in the defined benefit plans. The Schools, Judges and State Patrol plans are defined benefit plans.

Currently, the School Employees Retirement Plan is 97.4% funded and has approximately 96,000 members. All school districts, except Omaha Public Schools, and all educational service units (ESUs) participate in the School Plan.

Currently, the Nebraska State Patrol Retirement Plan is 90.5% funded and has about 930 members. Nebraska State Patrol members do not participate in Social Security.

Currently, the Judges Retirement Plan is 100.7% funded and has approximately 345 members. All judges in Nebraska participate in the Plan.

Defined Contribution (DC) Plan: DC plans provide an individual account for each participant which includes both employee and employer contributions plus investment earnings. The individual DC plan participant makes all of the investment option choices. The plan provides benefits solely based upon the value of the employee/plan member's account at termination or retirement. DC is similar to a 401(k) plan). The state does not guarantee any specific funding amount upon retirement so the employee/plan member bears the full risk for investment decisions and earnings. State and county DC plans were closed to new employees in 2003 when the state and cash balance plans were created. Currently, approximately 10% of state employees and 11% of county employees remain in the DC plans.

Cash Balance (CB) Plan: CB plans are "hybrid" defined benefit plans with individual accounts which contain both employee and employer contributions. The plan guarantees an annual minimum investment return of 5%. The State bears the funding obligation to state and county employees if there is an unfunded liability as determined by the actuary, though to date, there have been no ARCs. All state and county employees hired after 2003 are enrolled in CB plans. In 2003 and again for a brief period in 2007 and 2012, DC state and county plan members were given the option to join the CB plans. Currently, approximately 90% of state employees and 89% of county employees are enrolled in CB plans. New state and county employees hired or rehired on or after January 1, 2018 are in tier 2 which calculates annuities using the mortality table recommended by the actuary and approved by the PERB.

Voluntary 457 Deferred Compensation Plan: In addition to the mandatory retirement plans, the state offers a 457 deferred compensation plan to state employees and county employees if their county does not offer a deferred compensation plan and been granted authority by NPERS to participate in the state's plan. Membership in this plan is voluntary and there are no employer contributions.

<u>**School Plan**</u>: In 2008 the employee contribution rate was 7.28%. Since 2009, it has been increased several times to the current rate of 9.78%. The employer contributes a 101% match of the employee contribution rate. The state-scheduled annual contribution to the plan has increased since 2009 from .7% to 2% of total employee compensation.

In 2013, a second tier of reduced benefits was enacted for new employees. For tier 2 members, the maximum cost-of-living-adjustment (COLA) was reduced from 2.5% to 1% and salary was averaged over 5 years rather than 3 years for purposes of calculating the final benefit. Also in 2013, the capping exemptions were eliminated and the cap was raised from 7% to 8%. Capping limits compensation increases to 8% above the previous year's salary in each of the 5 years preceding retirement in order to address spiking of final salaries.

In 2017, the ability to vest at age 65 with six months of service was eliminated, and for new school employees hired or rehired on or after July 1, 2017, annuities are calculated using the mortality table recommended by the actuary and approved by the PERB.

For new members beginning July 1, 2018, the fourth tier of benefits was enacted changing the Rule of 85 to a minimum age to 60.

<u>**State Patrol Plan**</u>: For patrol members hired prior to July 1, 2016, the contribution rates are 16% for both the member and the state/employer. State patrol members do not pay into social security.

In 2016 the legislature created a second tier of reduced benefits for new troopers hired on or after July 1, 2016 – similar to the tier two benefits and capping changes made in the school plan. The maximum COLA was reduced from 2.5% to 1%, salary is averaged over 5 years rather than 3 years for purposes of calculating the final benefit, and patrol and state contributions rates are 17%. In addition, DROP was eliminated for tier 2 members and in order to eliminate spiking, a capping provision was enacted to limit compensation increases to 8% above the previous year's salary in each of the 5 years preceding retirement.

<u>**Judges Plan**</u>: Contribution rates differ for judges. Judges hired on or after July 1, 2004 or judges who elected joint survivor benefits contribute 9% if the judge has less than 20 years of service, or contributes 5% once the judge has served 20 years. If the judge was hired prior to July 1, 2004 or did not elect joint survivor benefits and has less than 20 years of service, then the judge contributes 7% or contributes 1% after 20 years of service. Judges in tier 2 who became members on or after July 1, 2015 and judges in tier 3 who became members on or after July 1, 2017 contribute 10% of compensation.

In 2015, a second tier of reduced benefits for judges was enacted. For tier 2 members (new judges hired on or after July 1, 2015), the maximum cost-of-living-adjustment (COLA) was reduced from 2.5% to 1%, salary was averaged over 5 years rather than 3 years for purposes of calculating the final benefit, and, as noted above, the contribution rate for new members was set at 10%. In addition, new judges will continue to contribute to the plan throughout his or her entire service.

In 2017, a third tier of benefits was enacted for new judges hired on or after July 1, 2017. For this tier of benefits annuities will be calculated using the mortality table recommended by the actuary and approved by the PERB.

The employer/state contributions are funded by fees assessed on causes of action filed in district and county courts. These fees have been increased multiple times since 2009 – most recently, increases were enacted in 2021 which are phased in through 2025. In addition, in 2021, an annual contribution from the State was enacted which is equal to 5% of the total compensation of judges.

NPERS Administered Plans and Tiers

Prior to 2013, NPERS administered 6 retirement systems and each retirement system had only one "tier" of benefits, except the judges' plan, which had two tiers. A tier within a retirement plan represents a different set of benefits. Since 2013, ten additional tiers have been enacted. Each tier designates a different or diminished set of benefits. Below is a listing of current tiers & effective dates within NPERS administered plans. "Before" and "on and after" dates refer to members' date of hire/joining the plan.

Judges Plan has 3 or 4 Tiers

1. Prior to 7/1/2015.
    a. Those who **did not** take part in the enhanced Joint and Survivor Benefit effective 7/1/2004, and
    b. Those who **did** take part in the enhanced Joint and Survivor Benefit effective 7/1/2004.
2. On or after 7/1/2015 and before 7/1/2017.
3. On or after 7/1/2017.

Patrol Plan has 2 Tiers

1. Prior to 7/1/2016.
2. On or after 7/1/2016.

School Plan has 4 Tiers

1. Prior to 7/1/2013.
2. On or after 7/1/2013 and prior to 7/1/2017.
3. On or after 7/1/2017 and prior to 7/1/2018.
4. On or after 7/1/2018.

State Plan has the DC Plan and 2 Tiers in the CB Plan for a total of 3 "Tiers"

1. DC Plan prior to 1/1/2003.
2. CB Plan Tier 1 on or after 1/1/2003 and prior to 1/1/2018.
3. CB Plan Tier 2 on or after 1/1/2018.

County Plan has the DC Plan and 2 Tiers in the CB Plan for a total of 3 "Tiers"

1. DC Plan prior to 1/1/2003.
2. CB Plan Tier 1 on or after 1/1/2003 and prior to 1/1/2018.
3. CB Plan Tier 2 on or after 1/1/2018.

Deferred Compensation Plan has 1 "Tier."

[SEE -- Chart – Comparison of State-Administered and OSERS Plans, page 60 of this Report]

Year Retirement Plan Established, Type of Plan & Membership

Employee Plan	Year Plan Established	Type of Plan	Number of Members 2022 Plan Year^
Schools	1945	Defined Benefit	98,874
State Patrol*	1947	Defined Benefit	967
Judges	1955	Defined Benefit	351
State Employees	1964 2003	Defined Contribution Cash Balance	2,919 28,466
County Employees**	1973 2003	Defined Contribution Cash Balance	1,244 11,984
Members Administered by NPERS			144,805
Class V School (OSERS)+	1909	Defined Benefit	14,837
TOTAL MEMBERS			159,642

* State Patrol Members do not pay into social security

** County Plan does not include Lancaster and Douglas counties

\+ OSERS is currently managed by OPS, however under LB 147 passed in 2021, management of the OSERS Plan transfers to NPERS effective September 1, 2024

^ Membership data is taken from 2022 School, Patrol & Judges' Actuarial Valuation Reports; County & State Employees data is from 2022 Annual Report to the Retirement Committee; OSERS data is from the 2022 Actuarial Valuation Report

History of School, Patrol & Judges' Plan Member & Employer Contribution Rates

School Plan Contribution Rates
1945-Present

YEAR	EMPLOYEE	EMPLOYER
1945 -1950	5% of first $2,400, max = $120/year	None
1951 -1966	5% of first $2,400 or $3,600 max = $120/ or $180/year	None
1967-1976	3.50% (all compensation)	20% of employee = .70%
1977	3.50%	45% =1.57%
1978 - 1979	3.50%	55% = 1.92%
1980	3.50%	58% = 2.03%
1981	3.50%	41% = 1.43%
1982	3.50%	45% = 1.57%
1983	3.50%	53% = 1.85%
1984* - 1985	4.80%	100% = 4.80%
1986 -1987	5.40%	101% = 5.45%
1988**	49.75% of actuarially determined funding rate = 5.40%	101% = 5.45%
1989	49.75% of actuarially determined funding rate = 5.90%	101% = 5.96%
1990	49.75% of actuarially determined funding rate = 6.18%	101% = 6.24%
1991 - 1993	49.75% of actuarially determined funding rate = 6.52%	101% = 6.58%
1994	49.75% of actuarially determined funding rate = 7.73%	101% = 7.81%
1995	49.75% of actuarially determined funding rate = 7.26%	101% = 7.33%
1996 - 2004	7.25%	101% = 7.32%
2005	7.98%	101% = 8.06%
2006	7.83%	101% = 7.91%
2007	7.25%	101% = 7.32%
2008	7.28%	101% = 7.36%
2009 - 2010	8.28%	101% = 8.36%
2011	8.88%	101% = 8.97%
2012	9.78%	101% = 9.88%
2013-present***	9.78%	101% = 9.88%

* Under LB 457 the State began contributing .7% of total compensation to the School & Class V School Employees Plans
** Under LB 1170 the State contribution increased to 1% of total compensation for the School & Class V Plans
*** Under LB 553 the State contribution increased to 2% of total compensation for the School & Class V Plans

Nebraska State Patrol Plan Contribution Rates
1947 to Present

	1947	1971	1975	1995	1996	2004	2005	2009	2010	2011	2013	2016
Patrol	5%	7%	8%	10%	11%	12%	13%	15%	16%	19%	16%	17%*
State	5%	7%	8%	10%	11%	12%	15%	15%	16%	19%	16%	17%

* 17% contribution rate applies only to patrol officers hired on and after July 1, 2016

Judges' Plan Contribution Rates
1955 to Present

	1955	1957	1969	2004	2009	2015	2021	2022	2023	2024	2025
Judge	5%		6%*	8%**		10%***					
Court Fees^		$1 fee		$5 fee	$6 fee		$8 fee	$9 fee	$10 fee	$11 fee	$12 fee
State+									5%+	5%+	N.A.

* Judges hired prior to 2004 who did not select Joint & Survivor Benefit contribute 7% during first 20 years and 1% thereafter

** Judges hired after 2004 and judges hired before 2004 who select Joint & Survivor Benefit contribute 9% first 20 years then 5%

*** Judges hired after 2015 contribute 10%, with no decrease in contribution rate after 20 years (under LB 468)

^ Fee listed is specified in 24-703(3)(a) which also includes citations to other court fees assessed on specific causes of action

+ Beginning FY23/24 the State contributes 5% of compensation. If the plan funding status is 100% or above for 2 consecutive years, the actuary may recommend reducing the contribution percentage. If, after the percentage has been reduced and the plan's funding status is 100% or above for 2 consecutive years, the actuary may recommend increasing the percentage, however, the percentage may not exceed 5%. (LB 17 passed in 2021)

Actuarial Investment Return Assumptions for State-Administered Defined Benefit & Cash Balance Plans 1956-2024

2024	7.0%
2023	7.1%
2022	7.2%
2021*	7.3%
2017- 2020	7.5%
1997 – 2016	8.0%
1993 – 1996	7.5%
1989 – 1992	8.5%
1985 – 1988	7.5%
1984 -- 1984	7.596%
1979 – 1983	6.3%
1968 – 1978	5.0%
1964 – 1967	3.3%
1958 – 1963	2.5%
1956 – 1957	2.0%

*The investment return assumption is being reduced incrementally from 7.5% to 7.0% beginning in 2021 through 2024.

FY 23/24 General Fund Expenditures*
per Retirement Plan Member

Retirement Plan	Total Members Active & Inactive	FY23/24 State General Funds	State GF Expenditure per Plan Member
State Patrol	967	$4,240,000	$4,385
Judges	351	$1,296,000	$3,692
OSERS	14,837	$9,900,000	$667
Schools	98,874	$48,500,000	$491

*Figures are taken from Cavanaugh Macdonald Actuarial Consulting Presentation of 2022 Actuarial Valuation Reports

Funding of Judges' Retirement System

Court Fees

Most retirement systems collect employee contributions and employer contributions, which are tied to the compensation of the employees. As compensation increases each year, the revenue from the employee and employer contributions increases each year. The actuary has specific assumptions regarding salary increases and is able to then project future contribution funding revenue.

The Judges' Retirement System includes member/judge contributions but has never included an employer contribution. Instead, the retirement system has historically used court fees in place of an employer contribution. Court fees were first earmarked for the Judges Retirement Fund in 1957. The original $1 fee established in section 24-703, was increased to $5 in 2003.

In 2005, a number of additional court filings were earmarked to generate more revenue for the Judges' Retirement Fund. In 2009, in response to the -27% investment loss due to the Great Recession, the $5 court fee was increased to $6. In response to continuing annual decreases in court fee revenue, various court fee earmarks were increased in 2015. In 2021, under LB 17, the following increases to the annual fee dedicated to the Judges Retirement Fund were scheduled: in 2021, the fee increased to $8, in 2022 to $9, in 2023 to $10, in 2024 to $11 and in 2025 to $12. Also under LB 17, annual increases over 5 years were adopted for various other earmarked court fees.

This funding method has presented challenges for several reasons. Each court fee earmarked for funding the Judges' Retirement System is set at a specific dollar amount. It is difficult to project revenue from earmarked court fees because the number of cases on which court fees are assessed varies from year to year, and some court fees are waived by the court. Year after year, revenue from court fees has declined, which has required periodic statutory changes to increase the dollar amounts of the earmarked court fees. This volatility has made it difficult for the actuary to project future funding, which the actuary notes in each annual valuation report on the Judge Retirement System. The chart on the following page lists the court fees that are earmarked to provide funding for the Judges Retirement System:

Chart - Court Fees Assessed & Amounts Of Earmarked Court Fees for Judges' Retirement Fund

SECTION	TOTAL FEE ASSESSED	EARMARKED FOR JUDGES' FUND	COURT, CAUSE OF ACTION DOCKET FEE
24-703	2022 $10 2023 $11 2024 $12	2022 $10 2023 $11 2024 $12	District, County, Supreme, Appeals, & Workers Comp
25-2804	$6.25	$2.00	Small Claims
33-103	$100.00	$50.00	Supreme
33-103.01	$50.00	$50.00	Appeals
33-106.02	$42.00 $27.00	$7.00 $2.00	District (docket fees) District (appeal criminal case)
33-123	$20.00	2022 $9 2023 $10 2024 $11 2025 $12	District (civil docket fees)
33-124	$20.00	2022 $9 2023 $10 2024 $11 2025 $12	County (criminal)
33-125	$22.00	2022 $9 2023 $10 2024 $11 2025 $12	County (probate)
33-126.02	$22.00	$4.00	County (guardianship/conservatorship)
33-126.03	$22.00	$4.00	County (inheritance tax)
33-126.06	$22.00	$4.00	County (trust)

State Contribution of 5% of Judges' Compensation

In 2021, the legislature enacted LB 17 to provide long-term funding stability for the Judges' Plan. This language was originally introduced in LB 16, then was amended and incorporated into LB 17. The bill, in part, created an annual State contribution equal to 5% of total judges' compensation unless adjusted. [See Neb. Rev. Stat. 24-703(6)(a)].

If the funding ratio of the Judges' Plan as determined by the actuary is at or above 100% for two consecutive years, or if the rate has been adjusted below 5% and the funding ratio is below 100% for two consecutive years, then the actuary makes a recommendation to the PERB regarding adjustment of the rate based on specific analysis as described in statute. The actuary's recommendation is included as part of the judges' annual actuarial valuation report. [See Neb. Rev. Stat. 24-703(6)(b)(c)].

Within 7 days after the PERB has approved the valuation report, if the actuary has made a recommendation to adjust the State contribution rate, then the PERB is required to provide written notice to the Retirement Committee, Governor and Supreme Court which includes the actuary's analysis and recommended adjustment. After receipt of the notification, the Retirement Committee determines the amount of adjustment to the contribution rate and introduces legislation to adjust the rate. [See Neb. Rev. Stat. 24-703(6)(d)(e)].

Below is the relevant portion of section 24-703 which addresses the 5% contribution, possible adjustments, and roles and responsibilities.

> **24-703. Judges; contributions; deductions; fees taxed as costs; payment; late fees; funding of retirement system; actuarial valuation; transfer of funds; adjustments.**
>
> (6)(a) In addition to the contributions otherwise required by this section, beginning July 1, 2023, and on July 1 of each year thereafter, or as soon thereafter as administratively possible, the State Treasurer shall transfer from the General Fund to the Nebraska Retirement Fund for Judges an amount equal to five percent of the total annual compensation of all members of the retirement system except as otherwise provided in this subsection and as such rate shall be adjusted or terminated by the Legislature. No adjustment may cause the total contribution rate established in this subsection to exceed five percent. For purposes of this subsection, (i) total annual compensation is based on the total member compensation reported in the most recent annual actuarial valuation report for the retirement system produced for the board pursuant to section 84-1503 and (ii) the contribution described in this subsection shall be considered as a contribution for the plan year ending the prior June 30.
>
> (b) If the funded ratio on the actuarial value of assets is at or above one hundred percent for two consecutive years as reported in the annual actuarial valuation report, the actuary shall assess whether the percentage of the state contribution rate should be adjusted based on projected annual actuarial valuation report results including the funded ratio, actuarial contribution, and expected revenue sources using several assumed investment return scenarios that the actuary deems to be reasonable, and shall make a recommendation to the board as part of the annual actuarial valuation report.

(c) If the state contribution rate has been adjusted to less than five percent and the funded ratio on the actuarial value of assets is below one hundred percent for two consecutive years as reported in the annual actuarial valuation report, the actuary shall assess whether the percentage of the state contribution rate should be adjusted based on projected annual actuarial valuation report results including the funded ratio, actuarial contribution, and expected revenue sources using several assumed investment return scenarios that the actuary deems to be reasonable, and shall make a recommendation to the board as part of the annual actuarial valuation report.

(d) If an annual actuarial valuation report includes a recommendation from the actuary to adjust the contribution rate as described in subdivision (b) or (c) of this subsection, the board shall provide written notice electronically to the Nebraska Retirement Systems Committee of the Legislature, to the Governor, and to the Supreme Court of such recommendation within seven business days after voting to approve an annual actuarial valuation report. The notice shall include the actuary's recommendation and analysis regarding such adjustment.

(e) Following receipt of the actuary's recommendation and analysis pursuant to this subsection, the Nebraska Retirement Systems Committee of the Legislature shall determine the amount of any adjustment of the contribution rate and, if necessary, shall propose any such adjustment to the Legislature.

1996 – 2022 History of the Judges' Retirement Plan Funding Status

PLAN YEAR	FUNDING STATUS
2022	101.3%
2021	100.7%
2020	97.3%
2019	98.0%
2018	96.0%
2017	94.0%
2016	98.0%
2015	97.0%
2014	93.0%
2013	87.7%
2012	91.6%
2011	97.6%
2010	100.1%
2009	99.7%
2008	102.5%
2007	104.2%
2006	96.2%
2005	93.0%
2004	93.5%
2003	102.7%
2002	109.2%
2001	*121.2%
2000	*122.9%
1999	*114.8%
1998	*135.0%
1997	*130.0%
1996	*116.0%

*Funding status levels listed for valuation years 1996 through 2001 <u>cannot</u> be directly compared to funding levels beginning in 2002 to present because the actuarial cost method used <u>prior</u> to 2002 has no direct comparable number for the funding level.

Description of State and County Cash Balance Plans

The State and County Cash Balance (CB) Plans went into effect January 1, 2003; membership is mandatory for all new hires on and after that date. State and County employees hired prior to 2003 are members of Defined Contribution (DC) Plans and had the option to transfer into the new CB Plan in 2003. Additional opportunities to opt into the Cash Balance Plans were offered to State and County DC members in 2007 and again in 2012.

The Cash Balance option pays a credit rate, which is the greater of 5% or the applicable federal mid-term rate as published by the IRS as of the first day of the calendar quarter, plus 1.5%, compounded annually. The credited rate is adjusted quarterly and credited daily.

State employees contribute 4.8% of the employee's compensation and the state contributes 7.48% for a total of 12.28%; County employees contribute 4.5% of the employee's compensation and the counties contribute 6.75% for a total of 11.25%. In addition, commissioned law enforcement officers in counties with population over 85,000 contribute an additional 2% and the county contributes an equal 2% match. Commissioned law enforcement officers in counties under 85,000 population contribute an additional 1% with an equal 1% contribution by the county.

The CB plan is considered by the IRS to be a hybrid defined benefit plan because of the guaranteed credited rate. Each employee has an individual nominal account which consists of employee and employer contributions, interest credits and dividends. The member account value never goes down. State and County CB members vest after 3 years of service which means if the member terminates after 3 years, the member also collects the employer contributions. If the member terminates prior to vesting, the employer contributions remain in the plan. The forfeited employer contributions may be used for plan administrative expenses.

The pooled assets are managed by professional investment managers under the direction of the Nebraska Investment Council. An annual actuarial valuation is conducted on each CB Plan based on a 25-year amortization period with 5-year smoothing.

The account accumulates until the member files an application for retirement, at which time the member may choose an annuity, a lump sum refund or rollover the account balance (or any combination of the three options). An optional 2.5% COLA is available to the employee, however, the cost of the COLA is paid by the employee. Because the CB plan is considered a defined benefit plan, there is a one-time distribution – the account balance may not be withdrawn over time.

The annuity rate is based on the member's age and account balance and set at 7.75% statutorily for members hired prior to January 1, 2018 (Tier 1 members). For Tier 2 members hired after January 1, 2018, the annuity is determined by the PERB. Beginning January 1, 2021, Tier 2 members' annuity rate matches the current investment return rate which was 7.30% in 2021, decreasing by .10% each year until it reaches 7.0% in 2024. The account is liquidated within the CB trust and transferred to a subset annuity account that pays the benefit. The money stays in the plan and continues to be invested.

The PERB may grant a dividend if the actuarial contribution rate is at least 90% of the actual contribution rate and the actuarial funded ratio is 100%. The dividend is based on the member's account value at the end of the previous calendar year, December 31st, since the CB Plan is based on the calendar year. Once the account is paid out, members are no longer eligible for the dividend.

2003 – 2022 State & County Cash Balance Chart

Plan Year	Investment Return	Actuarial Funding Status	MAX Dividend as Determined by Actuary per Statute & PERB Policy	Dividend Amount Granted by PERB	ARC Paid by the State
2022	16.6%	State 105.73% County 106.06%	State 7.81% County 6.71%	State 7.5% County 6.5%	NONE
2021	12.5%	State 104.09% County 102.74%	State 5.50% County 2.80%	State 5.25% County 2.50%	NONE
2020	19.0%	State 102.6% County 103.0%	State 3.44% County 3.42%	State 3.00% County 3.00%	NONE
2019	-4.2%	State 100.6% County 100.8%	None	No Dividends	NONE
2018	16.5%	State 104.2% County 107.5%	State 5.46% County 8.42%	State 5.46% County 8.42%	NONE
2017	8.5%	State 105.3% County 105.3%	State 3.07% County 0.51%	State 3.07% County 0.51%	NONE
2016	1.1%	State 102.5% County 102.4%	None	No Dividends	NONE
2015	6.8%	State 103.9% County 105.4%	State 4.53% County 5.81%	State 4.53% County 5.81%	NONE
2014	18.1%	State 99.2% County 100.3%	State NONE County 0.29%	State NONE County 0.29%	NONE
2013	12.99%	State 93.6% County 96.3%	None	No Dividends	NONE
2012	.26%	State 91.5% County 93.0%	None	No Dividends	NONE
2011	12.99%	State 93.6% County 94.5%	None	No Dividends	NONE
2010	21.18%	State 93.9% County 94.7%	None	No Dividends	NONE
2009	-27.4%	State 99.0% County 97.8%	State (*as a rate of pay) .29% County (as a rate of pay) .66%	No Dividends	NONE
2008	7.87%	State 107.0% County 107.4%	State (as a rate of pay) 1.14% County (as a rate of pay) 5.34%	State 5.18% County 5.34%	NONE
2007	15.13%	State 104.0% County 103.5%	State (as a rate of pay) .66% County (as a rate of pay) 2.73%	State 2.73% County 2.73%	NONE
2006	6.38%	State 113.1% County 116.2%	State (as a rate of pay) 1.54% County (as a rate of pay) 1.92%	State 13.5% County 16.4%	NONE
2005	10.8%	State 114.6% County 117.9%	State (as a rate of pay) 1.07% County (as a rate of pay) 1.46%	State 2.8% County 2.8%	NONE
2004	20.5%	State 109.9% County 112.8%	State (as a rate of pay) .66% County (as a rate of pay) 1.22%	State 3.088% County 3.088%	NONE
2003	-----	State 104.3% County 105.9%	First Plan Year No Dividends	First Plan Year No Dividends	-----

*Buck Consultants -- actuary through 2013; calculated max allowable dividend as a rate of pay
Cavanaugh Macdonald -- actuary 2014 to present; calculates max allowable dividend as actual % that may be awarded

Blue - Investment returns that were below assumed rate in effect in that plan year.
Red – Investment return in Great Recession
Green – Lowest funding status for State and County plans

2021 – 2024	7.00% (assumed rate reduced incrementally over 4-year period)
2016 – 2020	7.50% (assumed rate reduced incrementally over 4-year period)
2003 -- 2015	7.75%

3-year average investment return	16.03%
5-year average investment return	12.08%
10-year average investment return	10.79%
Investment return over 19-year life of CB plans	9.24%

Cash Balance Dividend
Statutory & PERB Policy Language

LEGISLATIVE LANGUAGE

County Plan – section 23-2317(4)(c); State Plan – section 84-1319(4)(c)

> If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, <u>the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.</u>

PERB DIVIDEND POLICY

<u>**2018 – Present**</u>
<u>**Board Policy #5 -- Funding Criteria & Discretionary Benefit Applications – Cash Balance Benefit**</u>

The Public Employees Retirement Board administers the two hybrid defined benefit plans authorized by State Statute. In order to protect the benefits provided by the plans the Board endorses the statutory funding requirements, as follows:

> (a) The State Employees and the County Employees Retirement Plans include a Cash Balance benefit that must be actuarially sound. These plans cover state and county employees and are primarily funded by employee and employer contributions as well as any required contribution by the employers (the State of Nebraska or participating employers in the County Plan).
>
> (b) <u>It is recognized that the investment return on the assets is a vital part of the funding for the benefits.</u> In addition, the annual actuarial valuation is the source each year for determining any additional contributions needed for a given year.
>
> (c) Each year after the annual actuarial valuations results are received <u>the Board will determine, based on the recommendation of the actuary, if a benefit improvement can be made, such as a dividend payment to individual Cash Balance member accounts</u>, after allowing for the required ten percent funding reserve within the plan.
>
> If it is determined that the benefit improvement should be a dividend and that sufficient reserves exist, the dividend will be granted as follows:

i. The Board will determine if any dividend can be granted at the earliest possible date following the annual actuarial valuation, but in all cases the dividend will be retroactive to January 1st of that year.

ii. The long-term goal for the cash balance retirement plans is to provide long-term growth for member accounts equal to the long-term growth rate for the invested funds. However, in the short-run, some of the excess earnings may be held in reserve to serve as a buffer for short-term fluctuations in market return.

iii. Any dividend that is granted should conform with the following guidelines:

  (A) The plan must maintain the 90% Benefit Threshold Rate after granting any dividend.
  (B) There must be a minimum 100% Funded Ratio on both the Funded Basis and the Current Value Basis, both before and after the dividend is granted.
  (C) The dividend plus the annual interest credit during the year cannot exceed the assumed rate of return unless a majority of Board agrees.
  (D) No dividend will be granted for a year where the annual interest credit rate exceeds the actuarial assumed rate of return.

iv. The account balance used to determine the amount credited will be the balance as of December 31st of the previous year.

v. All accounts with an account balance as of December 31st of the previous year will be credited with the dividend amount, except that no dividend shall be paid to any account with a final account valuation made prior to December 31st of the year for which the dividend is granted.

vi. If a dividend is granted, the value of the dividend will be credited with interest between January 1st and the dividend distribution date, using the interest credit rate earned on regular contributions for the same period.

(d) The Board recognizes that granting dividends impacts the benefits of members and thus do not wish to be overly conservative or aggressive in granting dividends. Generally, the Board will seek to grant the largest dividend possible that is consistent with the specified policies and that is consistent with meeting the funding needs of the plans.

(e) The Board may also weigh the administrative complexities and costs versus the amount of dividend that may be granted in evaluating whether to grant the dividend.

Background of the Class V (Omaha) School Employees Retirement System (OSERS) & OPS Liability for OSERS Funding

Background

The Omaha Public School (OPS) retirement plan was established in 1909. In 1951, the OPS retirement plan was codified under the Class V School Employees Retirement Act, which applies to all Class V school districts. Currently, OPS is the only Class V school district. The OPS retirement plan is referred to as OSERS – Omaha School Employees Retirement System.

In 1945 the School Employees Retirement System (SERS) was established which included all Nebraska school districts except the Omaha Public School district. SERS is currently administered by the Nebraska Public Employees Retirement System.

OPS Is Liable for OSERS Funding Obligations

The Omaha school district is liable for payment of "any amount as may be necessary to maintain the solvency of the system – i.e. OSERS". [See Neb. Rev. Stat. 79-9,113(1)(c)]. The definition of "solvency" in the Class V School Employees Retirement Act (Act) states: "the rate of all contributions required pursuant to the Class V School Employees Retirement Act is equal to or greater than the actuarially required contribution rate as annotated in the most recent valuation report prepared by the actuary retained by the board of trustees as provided in section 79-984". [See Neb. Rev. Stat. 79-978(38)].

In 2021, the Legislature passed LB 147 which directs the transfer of management of the OSERS Plan to the Public Employees Retirement Board (PERB) effective September 1, 2024. LB 147 specifically states that the school district (OPS) remains at all times and in all circumstances liable for any funding obligations of the Class V School Employees Retirement System Plan known as OSERS.

History of State Scheduled Contributions to OSERS

State Scheduled Contributions to the Class V (OSERS) Plan

Laws have been enacted throughout the years directing the State of Nebraska to annually make a number of different contributions to the OSERS Plan. Currently, the State of Nebraska makes two separate annual contributions to the OSERS Plan: (1) a State Service Annuity, and (2) a percentage of total compensation of all members of the OSERS Plan.

<u>State Service Annuity</u>

Since the creation of the School Employees Retirement System (SERS) in 1945, the State of Nebraska has contributed a State Service Annuity to retiring OSERS members, which is a monthly payment to each OSERS retiree for life. The State Service Annuity is in addition to the retirement benefit earned under the Class V (Omaha) School Employees Retirement Plan.

State Service Annuity payments were $1.50 for each year of service prior to July 1, 1968. The State Service Annuity increased to $3.00 from July 1, 1968 to May 19, 1981 and increased again to $3.50 for all members hired prior July 1, 2016. Beginning July 1, 2016, under LB 447, OSERS members hired on and after July 1, 2016 are no longer entitled to receive the State Service Annuity. [See Neb. Rev. Stat. 79-966(3)].

<u>State Contribution -- Percentage of Total Compensation</u>

In 1984, the Legislature passed LB 457 which required the State to make payments to the only two retirement systems for public school employees in Nebraska – the School Employees Retirement System (SERS), and the Class V School Employees Retirement System (OSERS). The language of LB 457 stated:

> "[the State shall] transfer to the funds of any other regularly established retirement or pension system for public school employees an amount determined by multiplying the compensation of all members of the other regularly established retirement or pension system for public school employees by the per cent specified in section 79-1540 for determining the amount of the state's payment". . .

In 79-1540 (which was re-codified to section 79-966), the following language was included in LB 457:

> "[t]he state shall deposit in the School Employer's Deposit Fund an amount equal to seven-tenths of one per cent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984." This applied to both the SERS and OSERS Plans.

In 2009 under LB 187, the state contribution was increased from seven-tenths of one per cent to one percent of the compensation of all members of the retirement system. This change applied to both the OSERS and SERS Plans.

In 2013 under LB 553, the state contribution was increased from one per cent to two percent of the compensation of all members of the retirement system. This change applied to both the OSERS and SERS Plans. [See Neb. Rev. Stat. 79-966 (2)]. The two percent contribution remains in place for both the OSERS and SERS Plans.

Annual Purchasing Power COLA (this payment sunset in 2013/2014)

In 1996, LB 700 was passed which included a provision to establish a 50% purchasing power cost-of-living adjustment (COLA) for the three defined benefit plans administered by the State (Schools, Judges and State Patrol) and to the OSERS defined benefit plan. The COLA was activated automatically when the value of each member's retirement benefit dropped below 50% (as measured by the Consumer Price Index. Between 1996 and 2013 the State contributed a specified dollar amount to each plan. The specific annual contribution to the OSERS Plan was $973,301. The Purchasing Power COLA for all plans was sunset at the end of fiscal year 2013/2014.

State Contribution to the OSERS ARC Under Specific Statutorily Established Circumstances -- Neb. Rev. Stat. Section 79-966(1)(b)

In 2015, a new provision was enacted under LB 447, which provided that beginning July 1, 2016, the Omaha school district may request a public hearing before the Appropriations Committee to request additional state funding to pay the Omaha school district's ARC to the OSERS Plan <u>if all of the following conditions are in place:</u>

- School Employees Retirement Plan has an ARC according to the most recent actuarial valuation report
- State pays the School Plan ARC; and
- OSERS Plan has an ARC according to its most recent actuarial valuation report

The statute provides that following the public hearing, if the Appropriations Committee recommends payment of the OSERS Plan ARC and the Legislature approves such funding, then the State will provide funding to the Omaha school district to contribute to the OSERS Plan. The amount of such contribution is determined by multiplying the compensation of all members of the School Plan <u>by the lesser of</u> the percent of compensation transferred into the School Retirement Fund under this subsection or the percent of compensation of the members of the OSERS Plan needed to meet the actuarially required contribution rate for OSERS. Below is the specific relevant statutory language in Neb. Rev. Stat. section 79-966(1)(b):

> (b) Beginning July 1, 2016, the contingent state transfer described in this subsection shall be calculated as a percent of compensation of all members of the retirement system. For any year in which a deposit is made to the School Retirement Fund under this subsection, if the actuary for a retirement system provided for under the Class V School Employees Retirement Act determines that the actuarially required contribution rate, for the fiscal year of the retirement system that begins before the state deposit, exceeds the rate of all contributions required pursuant to the Class V School Employees Retirement Act, using the amortization period specified in section 79-966.01, the Class V district school board may request a public hearing of the Appropriations Committee of the Legislature to ask the state to transfer to the Class V school district for transfer to the funds of the retirement system provided for under the Class V School Employees Retirement Act an amount determined by multiplying the compensation of all members of such retirement system by the lesser of the percent of compensation transferred into the School Retirement Fund under this subsection or the percent of compensation of the members of the retirement system provided for under the Class V School Employees Retirement Act needed to meet the actuarially required contribution rate for such system, using the amortization period specified in section 79-966.01. Any additional amount of transfer so calculated, recommended by the Appropriations Committee of the Legislature, and approved by the Legislature, shall be added to the two percent specified in subsection (2) of this section for the amount required by subsection (2) of section 79-916 to be transferred to the Class V school district, which shall transfer such amount to the funds of the retirement system provided for under the Class V School Employees Retirement Act.

The School Plan has not had an ARC since the passage of this funding requirement in 2016, therefore this additional funding mechanism has never been triggered. (The last time the School Plan had a required ARC payment was in 2012.)

2004 – 2022 History of OPS Payment of OSERS' ARCs

Plan Year	ARC = OPS Liability Above 101% match	Amount of ARC Actually Paid by OPS	ARC Amount Not Paid by OPS	Amount Paid Above ARC by OPS
2022#	$21,800,000	$29,500,00		+$7,700,000
2021	$22,200,000	$24,100,000		+$1,900,000
2020	$19,800,000	$21,400,000		+$1,600,000
2019	$18,200,000	$18,200,00		
2018	$18,900,000	$18,900,000		
2017	$15,500,000	$12,750,000	-$2,275,000	
2016*	*	*	*	*
2015	0	0		
2014	0	0		
2013	$1,409,874	0	-$1,409,874	
2012	$178,547	$4,330,000^		+$4,151,453
2011	$3,925,566	0	-$3,925,566	
2010	$1,718,224	0	-$1,718,224	
2009	0	0		
2008	$3,171,000	$3,171,000		
2007	$8,229,388	$5,067,000	-$3,162,388	
2006	$5,979,628	$8,434,000		+$2,454,372
2005	$5,348,818	$3,100,000	-$2,248,818	
2004	$3,212,015	$2,804,300	-$407,715	

Beginning 1984, State Scheduled Contribution = .7% of total compensation. 2009 increased to 1%, and 2013 increased to 2%.

^ Bargaining units agreed to contribute their $4,330,000 health insurance premium holiday to the OSERS Plan

*The OSERS Plan year was changed from a September through August plan year to a January through December Plan year so 2016 was incorporated into the 2017 Plan Year Report and calculations.

The Auditor of Public Accounts (APA) July 1, 2022 OSERS audit report noted that $845,317 in OPS employer matching contributions had not been made since July, 2013 for employee purchase of service credit earned in other school districts. OPS immediately resolved this past oversight and paid the required $845,317 to the OSERS plan.

Amount of OPS District payments above ARC obligations 2020-2022 $11,200,000

Amount of OPS District ARC obligations not paid 2007-2017 $11,496,132

Statutory Language – Section 79-9,113:

Prior to 2016 -- OPS must pay greater of 101% of compensation or amount necessary to maintain solvency of system

Beginning 2018 -- Same language as above except "solvency" is defined as the amount annotated in the Most recent actuarial valuation report as prepared by the actuary retained pursuant to 79-984 (by OSERS)

2005 – 2022 Comparison of School and OSERS Investment Returns & Funding Levels

PLAN YEAR	SCHOOL* INVESTMENT RETURN	OSERS** INVESTMENT RETURN	SCHOOL* FUNDING LEVEL	OSERS** FUNDING LEVEL
2022^^	-8.3%	N.A.	97.4%	N.A.
2021^	30.0%	17.8%	97%	63%
2020^	2.40%	9.40%	92%	62%
2019	6.70%	13.8%	90%	63%
2018^^	8.30%	-2.40%	89%	63%
2017^	13.8%	13.5%	87%	64%
2016	1.60%	-0.70%	90%	65%
2015	3.90%	-4.10%	88%	73%
2014	18.00%	13.30%	83%	74%
2013	12.90%	9.70%	77%	73%
2012	0.80%	8.30%	77%	73%
2011	23.30%	11.70%	80%	73%
2010	14.17%	10.50%	82%	73%
2009	-18.89%	-13.30%	87%	75%
2008	-5.93%	-3.90%	90%	85%
2007	17.53%	16.90%	91%	89%
2006	10.87%	12.90%	87%	79%
2005	9.61%	17.10%	86%	79%

* The state-administered School Employees Retirement Plan year is based on fiscal year -- July 1 through June 30.

** Prior to 2016, the OSERS (Omaha School Employees Retirement) Plan year was September 1 through August 31.
In 2016 (under LB 447) the plan year was converted to the calendar year -- January 1 through December 31.
The 2016 plan year covers 16 months – September 1, 2015 through December 31, 2016.
Since 2017, the OSERS plan year is based on the calendar year – January 1 through December 31.

^ In 2017 new School actuarial assumptions went into effect, which included stepping down to 7.5% assumed rate and new mortality tables. In 2021 new School actuarial assumptions went into effect including stepping down to 7.0% assumed rate.

^^ In 2018 new OSERS actuarial assumptions went into effect, which included 7.5% assumed rate and new mortality tables. In 2022 new OSERS actuarial assumptions went into effect including stepping down to 7.0% assumed rate.

	SCHOOL Plan	OSERS Plan
Recent 3-year return average (2020- 2022)	8.03%	N.A*.
Recent 5-year return average	7.82%	N.A.*
Recent 10-year return average	8.93%	N.A.*

*Since the OSERS Plan is on a calendar year, the 2022 plan year investment return & funding status are not yet available

Comparison of OSERS & School Plans through 2022

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
System Founded	1909	1945
Final Average Salary Formula	1982	1968
Formula Multiplier Factor	1982 – 1.50% 1989 – 1.65% 1992 – 1.70% 1995 – 1.80% 1998 – 1.85% 2000 – 2.00%	1968 – 1.00% or Savings & Service, pay greater 1975 – 1.25% or Savings & Service, pay greater 1982 – 1.50% or Savings & Service, pay greater 1984 – 1.65% or Savings & Service, pay greater 1993 – 1.73% or Savings & Service, pay greater 1996 – 1.80% or Savings & Service, pay greater 1999 – 1.90% or Savings & Service, pay greater 2001 – 2.00% or Savings & Service, pay greater
Benefit Formula	2% of average salary of highest 3 years times years of service 2013 2% of average salary of highest 5 years for members hired after July 1, 2013 times years of service	2% of average salary of highest 3 years times years of service 2013 2% of average salary of highest 5 years for members hired after July 1, 2013 times years of service
State Service Annuity	$3.50 per month times years of service paid by the State in addition to the Omaha retirement benefit 2016 Service Annuity eliminated for employees hired after July 1, 2016	$3.50 per month times years of service paid by the State in addition to the Omaha retirement benefit 2002 Service Annuity Fund was merged into the School Retirement Fund to help reduce the Unfunded status of the School Retirement Fund. This merger eliminated the Service Annuity for NSERS members.
Cost of Living Adjustments to Retirement Annuities	Automatic annual COLA of 1.5% of the Omaha benefit. If inflation has been greater than 1.5% then the Board of Education can authorize additional payment no greater than the rate of inflation. 2013 Automatic annual COLA limited to 1.0% for members hired on or after July 1, 2013	Automatic annual COLA of 2.5% of the total benefit. Benefits will not be less than 75% of the purchasing power of the initial benefit. 2013 Automatic annual COLA limited to 1.0% for members hired on or after July 1, 2013
Medical Cost of Living Adjustment	A COLA to assist with medical inflation will be paid commencing after 10 years of retirement, beginning at $10 per month for each year of retirement and increasing by $10 each year of retirement to a maximum of $250 per month. For retirees with less than 20 years of service, the benefit is reduced proportionately. 2016 Medical COLA eliminated for employees hired After July 1, 2016	No medical COLA

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
State Contributions	1984 0.7% of payroll plus amount to pay State Service Annuities 1996 – purchasing power COLA added equals 14.11604% of $6,895,000 ($973,300) 2009 – State contribution increased to 1% of payroll 2014 -- purchasing power COLA of $973,300 ends 2014 -- State contribution increased to 2% of payroll	1984 0.7% of payroll plus amount to pay State Service Annuities 1996 – purchasing power COLA added equals 81.7873% of $6,895,000 ($5,638,937) Payment was dedicated to be paid into the Annuity Reserve Fund 2002 --Service Annuity Fund was merged into the School Retirement Fund to help reduce the unfunded status of the School Retirement Fund. This merger eliminated the Service Annuity for NSERS members 2007 – State contributed additional $12,847,537 for Annual Required Contribution (ARC) 2009 – State contribution increased to 1% of payroll 2013 – purchasing power COLA of $5,638,937 ends 2014 – State contribution increased to 2% of payroll
School District (Employer) Contributions	1951 Employer contributions must be sufficient to maintain the solvency of the system 1999 Employer must contribute the greater of 100% of employee contributions or the amount required to maintain the solvency of the system 2003 additional contribution of $2,316,040 2004 additional contribution of $2,804,300 2005 additional contribution of $3,100,000 2006 additional contribution of $8,434,000 2007 Employer must contribute greater of 101% of employee contributions or amount required to maintain solvency of the system additional contribution of $5,067,000 2008 additional contribution of $3,171,000 2012 OPS and bargaining units agreed to have health insurance premium holiday contribution of $4,330,000 paid to OSERS. 2016 Definition of "solvency" added	1945-1967 None 1967-1976 20% of employee = .70% 1977 45% of employee = 1.57% 1978-1979 55% of employee = 1.92% 1980 58% of employee = 2.03% 1981 41% of employee = 1.43% 1982 45% of employee = 1.57% 1983 53% of employee = 1.85% 1984-1985 100% of employee = 4.80% 1986-1987 101% of employee = 5.45% 1988 101% of employee = 5.45% 1989 101% of employee = 5.96% 1990 101% of employee = 6.24% 1991-1993 101% of employee = 6.58% 1994 101% of employee = 7.81% 1995 101% of employee = 7.33% 1996-2004 101% of employee = 7.32% 2005 101% of employee = 8.06% 2006 101% of employee = 7.91% 2007 101% of employee = 7.32% 2008 101% of employee = 7.36% 2009-2010 101% of employee = 8.36% 2011 101% of employee = 8.97% 2012-present 101% of employee = 9.88%

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
Employee Contributions	1909-1950 None 1951 5.00% of first $5,000 1955 3.00% of first $6,000 1962 2.75% of first $6,000 1963 2.75% of first $4,800 + 5% of remainder 1966 2.75% of first $6,600 + 5% of remainder 1968 2.75% of first $7,800 + 5% of remainder 1976 2.75% of first $7,800 + 5.25% of remainder 1982 4.90% of all pay 1989 5.80% 1995 6.30% 2007 7.30% 2009 8.30% 2011 9.30% 2013 9.78%	1945-1966 5% of first $2,400 mandatory with a voluntary ceiling of $3,600 1967-1983 3.50% of all pay 1984-1985 4.80% of all pay 1986-1987 5.40% of all pay 1988-1995 49.75% of actuarially determined funding rate 1988 5.40% 1989 5.90% 1990 6.18% 1991-1993 6.52% 1994 7.73% 1995 7.26% 1996-2004 7.25% 2005 7.98% 2006 7.83% 2007 7.25% 2008 7.28% 2009-2010 8.28% 2011 8.88% 2012 9.78%
Employer "Pick Up" Date	January 1, 1985	January 1, 1986
Unfunded Actuarial Liability (UAL)	Amortized over not more than 30 years. Employer has statutory duty to maintain OSERS solvency however, OSERS has been operated on the basis of approximately equal employee and employer contributions	Amortized over not more than 30 years, paid for by State of Nebraska
UAL of State Service Annuity	Amortized over not more than 30 years, paid for by State of Nebraska	
Membership	Mandatory. All regular full-time employees working a minimum of 30 hours per week and teachers employed on a written contract basis	Mandatory. All full and part-time employees working minimum of 15 hours per week. Effective July 1, 2013, part-time employees working minimum of 20 hours per week.
Service Years Counted	1/10 year increments, based on 1,000 hours per fiscal year	1/1000 year increments based on 1,000 hours per fiscal year
Vesting	5 years OPS service	5 years of service or at least age 65 with one-half year of service. 2016 Vesting with one-half year service eliminated for Employees hired after July 1, 2016.

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
Compensation Capping	There are no provisions governing compensation capping. 2015 LB 446 imposes 8% cap	1999 Annual increases in compensation taken into account for purposes of calculating retirement benefits capped at 10% per year in each of the 5 years preceding retirement, with certain exceptions. 2005 Cap on annual increases in compensation taken in account for purposes of calculating retirement benefits reduced from 10% to 7% with certain exceptions. 2012 Cap on annual increases in compensation taken in account for purposes of calculating retirement benefits increased from 7% to 9% with no exceptions. 2013 Cap on annual increases in compensation used in calculating retirement benefits was reduced from 9% to 8%.
Purchase of Service	For public school service outside of Omaha Public Schools, purchase limited to amount of service forfeited – up to 10 years. Member pays their contribution on salary earned at other public school, with accrued interest. Full payment must be received within 5 years of employment with OPS. For previously refunded OPS service, member may repurchase all previously forfeited time. Member pays the amount of the refund they received upon withdrawal, with accrued interest. Full payment must be received within 5 years of reemployment with OPS. After 10 years of OPS service, an additional 5 years of service may be purchased. Member pays actuarial cost of benefit attributable to additional service. Full payment must be received within 5 years of election to purchase additional service.	For public service outside of Nebraska or with OPS, purchase limited to amount of service forfeited – up to 10 years. Members pay actuarial cost for additional service credit. Full payment must be received within 5 years of election to purchase or prior to termination – whichever occurs first. For previously refunded service, the member pays the amount of the refund received plus the actuarial assumed rate of return. Timeframes for repayment vary between 5 or 6 years from re-employment or election to repay. An additional 5 years of service may be purchased if, at the time of purchase, agree in writing to retire within 12 months. If member does not retire within 12 months, purchase canceled and payments returned. Must pay actuarial cost for additional service credit.
Return-to-work Post Retirement	Board Policy 4.26 adopted 1/22/2014 The Board of Education shall not re-employ in any capacity individuals who have retired unless such employment is: 1) more than 180 days following retirement; 2) bona fide unpaid voluntary service; 3) temporary service following a bona fide separation from service of not less than 30 days; or 4) substitute service. 2021 May provide substitute or voluntary service up to 8 days in each calendar month during 180 days.	Member not deemed terminated if subsequently provide service to any employer in the NSERS within 180 calendar days after ceasing employment unless service is voluntary or substitute and provided on an intermittent basis. If return prior to 180 calendar days, benefit stops & member repays retirement benefits received with interest. After 180 calendar days, return as new employee. Contributions withheld and receive service credit. Will continue to receive retirement benefit. 2021 May provide substitute or voluntary service up to 8 days in each calendar month during 180 days.

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
Normal Retirement	Age 65 or greater with at least 5 years of service.	Age 65 or greater at termination with at least one-half year of service. 2016 Vesting with one-half year service eliminated for employees hired after July 1, 2016.
Early Retirement	Age 55 with 10 years of service (minimum of 5 years of service in OPS. Between ages 55 and 62 (or prior to when the sum of age and service equals 85) benefits are reduced 3% per year. With the rule of 84, the reduction is 3%; Rule of 83 it is 6%; Rule of 82, it is 9%. Unreduced at age 55 or greater when age plus service equals or exceeds 85 – Rule of 85. Unreduced Omaha benefits at age 62. 2016 Unreduced at age 65 for employees hired after July 1, 2016. 2018** Unreduced at age 60 or greater when age plus Service equals or exceeds 85 – New Rule of 85	Age 60 with 5 years of service. At any age with 35 years of service. Between ages 60 and 65 (or prior to when the sum of age and service equals 85) benefits are reduced 3% per year. If a member has 36 or more years of service and chooses to retirement prior to age 55, benefits are reduced according to normal actuarial tables. Unreduced benefits at age 65. 2018** Unreduced at age 60 or greater when age plus Service equals or exceeds 85 – New Rule of 85
Retention of Disability Benefits	To be eligible for disability retirement benefits a member must be totally and permanently disabled from continued employment. Therefore, a member who is found to be engaging in gainful employment would not be in compliance with the statutory definition of disabled and disability benefits would cease. When a member reaches age 65, the disability benefit changes to normal retirement and gainful employment is not an issue.	2009 Members receiving a disability retirement allowance permitted to retain benefits if working less than 15 hours per week. 2013 Members receiving a disability retirement allowance permitted to retain benefits if working less than 20 hours per week. 2016 Eliminated ability for members to work while receiving disability retirement benefit
Pre-retirement Joint and Survivorship	If an active member dies after 20 years of creditable service, that member's primary beneficiary (any age if spouse or for any other person if his/her adjusted age is no more than ten years less than the attained age of the member) will automatically receive a lifetime survivorship annuity. If the primary beneficiary does not qualify or if the primary beneficiary requests, a lump sum refund of the employee's contributions plus interest will be made. Adjusted age is the joint annuitant's attained age plus the number of years, if any, by which the member's attained age is younger than seventy (IRS regulations)	If an active member dies after age 65 or after acquiring 20 years of creditable service, that member's spouse (if sole primary beneficiary) may choose to receive a lifetime annuity (if NSERS is notified of the death within one year) or a refund of the members contributions plus accumulated interest, and the employer/school districts 101% contributions

FEATURE	OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM (OSERS)	NEBRASKA SCHOOL EMPLOYEES RETIREMENT SYSTEM (NSERS)
Retirement Options	Option "A" Lifetime annuity to the member with a guarantee of no fewer than 60 monthly payments if death occurs sooner Lifetime annuity to the member with a guarantee of no fewer than 120 monthly payments if death occurs sooner Lifetime annuity to the member with identical annuity continuing for the lifetime of the joint annuitant at death of the member Lifetime annuity to member with 75% of annuity continuing for the lifetime of the joint annuitant at death of the member Lifetime annuity to member with 50% of annuity continuing for the lifetime of the joint annuitant at death of the member Lifetime annuity during the life of the joint annuitant shifting at the death of the joint annuitant, to the Option "A" annuity benefit amount for the remaining lifetime of the member	Lifetime annuity to the member Lifetime annuity to the member with a refund of unpaid accumulated savings account at death Lifetime annuity to the member with a guarantee of no fewer than 60 monthly payments if death occurs sooner Lifetime annuity to the member with a guarantee of no fewer than 120 monthly payments if death occurs sooner Lifetime annuity to the member with a guarantee of no fewer than 180 monthly payments if death occurs sooner Lifetime annuity to the member with identical annuity continuing for the lifetime of the joint spouse annuitant at death of the member Lifetime annuity to member with 75% of annuity continuing for the lifetime of the joint spouse annuitant at death of the member Lifetime annuity to member with 50% of annuity continuing for the lifetime of the joint spouse annuitant at death of the member Lifetime annuity to member with 50% of annuity continuing for the life of the non-spouse annuitant at death of member
Benefit Administration	Ten member Board of Trustees appointed by the Omaha Public School Board of Education composed of: 1 Superintendent of Schools 3 Board of Education members 2 Certificated employees 1 Classified employee 1 Retiree 2 Business Community members 2016 Board membership reduced from 10 members to 7 members. The school board members were eliminated. Membership elects each of its board Members. Membership composed of: 1 Superintendent of Schools—ex officio voting 2 Certificated employees 1 Non-certificated employee 1 Retiree 2 Business Community members recommended by Trustees and approved by Board of Education	Eight member Board appointed by the Governor – system members may be active or retired: 1 School Administrator System member 1 School Teacher System member 1 Judge System member 1 State Patrol System member 1 County System member 1 State Employees System member 2 Public members, not employees of the State or any political subdivision 1 State Investment Officer – ex officio

	***2021 Effective July 1, 2021, OSERS Plan management returned to Omaha Public School Board until plan management transferred to the PERB effective September 1, 2024. Authority to appoint members of the Board of Trustees returned to OPS Board. Membership includes: 1 Superintendent of Schools – ex officio voting 2 OPS Board of Education members 2 Business community members 2 School employees, one must be a teacher; employees may be active or retired	
^2021 Membership	**Total – 14,411** Includes 7,182 active; 1,313 deferred vested and 5,074 retired/beneficiaries	**Total – 96,227** Includes 43,423 active; 25,910 inactive and 26,894 retired/beneficiaries
Investment Administration	The Board of Trustees contracts with numerous professional fund management firms to manage a broadly diversified investment portfolio. Effective January 1, 2017 investment authority was Transferred from the board of trustees and school board To the Nebraska Investment Council	The Nebraska Investment Council manages a diversified investment portfolio.

*2016 Updates are pursuant to passage of LB 447

**2018 Updates are pursuant to passage of LB 415

***2021 Updates are pursuant to passage of LB 147

^Membership data is from OSERS 2021 Valuation Report and 2021 NPERS Annual Report to the Retirement Committee

Social Security Coverage

Coverage Extended Through Section 218 Agreement

The original Social Security Act of 1935 did not extend Social Security coverage to State and local government employees because there was a legal question regarding the Federal government's authority to tax State and local governments. However, because many government employers did not have their own retirement system, Congress amended the Act in 1950 and created Section 218 of the Act which made Social Security coverage voluntary for State and local government employees who were not in a retirement system.

The Section 218 Agreement is a voluntary program between the State and the Social Security Administration. The State voluntarily enters into a Section 218 Agreement with the Social Security Administration on behalf of each political subdivision within the State that wishes to extend social security coverage to its public employees.

Nebraska enacted legislation in 1951 (codified at Neb. Rev. Stat. sections 68-601 through 68-620), which granted the State authority to execute a Section 218 Agreement to voluntarily extend social security coverage to governmental employees not covered under a retirement system. This coverage group is called an absolute coverage group and is composed of positions not under a retirement system. A Modification to the Section 218 Agreement which extends coverage to positions under an absolute coverage group refers to Section 218(d)(5).

The Section 218 Agreement was subsequently adopted by the State and approved by the Social Security Administration on June 20, 1951 with an effective date of January 1, 1951.

Under Nebraska' 218 Agreement adopted in 1951, firefighters were in a retirement system coverage group and were therefore, not eligible for coverage under the Section 218 Agreement. Federal law provides that if the State law requires a political entity to have a retirement system, it is considered established, even though no action has been taken to establish the system.

The Social Security Administration determination of whether firefighters and cities in Nebraska are covered or excluded from social security coverage as part of the absolute coverage group depends on the city's statutory classification on the applicable date.

In 1951, when the Nebraska Section 218 Agreement became effective, first-class cities were defined in State statute as cities with populations between 5,000 and 40,000. According to the 1950 census, the following cities met the population criteria of a first class city at that time: Alliance, Beatrice, Columbus, Fairbury, Falls City, Fremont, Grand Island. Hastings, Kearney, Lexington, McCook, Nebraska City, Norfolk, North Platte, Scottsbluff, South Sioux City and York.

Whether firefighter positions in a specific first class city were covered as part of the city's absolute coverage group requires a request from the State Social Security Administrator to the Social Security Administration to make a determination based on the specific facts and circumstances.

1954 Amendments to the Social Security Act

In 1954, Congress adopted amendments to the Act which expanded it to allow States to extend coverage to state and local government employees, except police officers and firefighters, who were members of a retirement system. This type of coverage group is called a retirement system coverage group. A modification to the Section 218 Agreement which extends coverage to positions under a retirement system coverage group refers to Section 218(d)(4).

In 1954, Nebraska executed Modification #18 to the State's Section 218 Agreement, which authorized the extension of coverage to positions under a retirement system, except police or firefighter positions.

Under the Section 218 Agreement, the two types of social security coverage groups have different rules. The key difference is whether positions were under a retirement system at the time coverage groups formed, i.e., the date the modifications were executed by the Social Security Administration. A State can extend coverage to an absolute coverage group without holding any type of vote.

Medicare Coverage

Medicare coverage is mandatory for State and local government employees hired or rehired on or after April 1, 1986. Any police officers or firefighters who were hired before this date and who are not covered by the State's Section 218 Agreement or subject to mandatory Social Security coverage under Section 210 of the Social Security Act would be exempt from mandatory Medicare. Mandatory Social Security coverage generally applies to workers who are not covered by a Section 218 Agreement and who do not participate in a retirement system that provides a retirement benefit comparable to Social Security retirement. [See POMS SL 50001.501 -- mandatory Social Security coverage and POMS SL 50001.510 -- mandatory Medicare coverage].

Social Security Referendum

Social security and Medicare coverage may be extended to employees in positions covered by a retirement system only if a majority of the eligible employees vote in favor of such coverage. A majority of all of the eligible employees under the system (not a majority of the eligible employees voting), must vote in favor of coverage. All states are authorized by Federal law to use the majority vote referendum procedures – Nebraska is a majority vote referendum state. Although the referendum itself is a State matter, Federal law requires that the following conditions are met to establish coverage:

- Eligible employees are given not less than 90 days-notice of the referendum
- An opportunity to vote is given and limited to eligible employees
- The referendum is held by secret ballot
- The referendum is supervised by the governor (or his/her designee), and
- A majority of the retirement system's eligible employees voted for coverage.

1994 Federal Social Security Act Amendments Authorizing States to Extend Coverage to Police & Firefighter Positions

On August 16, 1994, in response to pressure from many states interested in extending social security to police officers and firefighters covered by a retirement system, Congress authorized all states to extend social security coverage to those job positions by completing a multi-step process. Only those States that complete the following steps have the authority to extend social security coverage to police or firefighter positions covered by a retirement system:

- Repeal the state's statutes which forbid Section 218 Agreement coverage of police and firefighter positions already under retirement systems.

- Prepare and execute a modification removing the language from the State Section 218 Agreement which prohibits coverage of police and firefighter positions under retirement systems.

- Conduct social security coverage referendum for police or firefighter positions under a specific retirement system. If a majority of eligible voters in positions under the specific retirement system approve coverage, then the State can modify its Section 218 Agreement to extend coverage to those specific members of the retirement system group. [See the section on Social Security Referendum below for further details about this process.]

When Congress extended this authority to States in 1994, the Nebraska Governor did not pursue this option to authorize extending social security coverage to police officers and firefighters already in a covered retirement system group. All other states, at a minimum, amended their state's statutory language to change the definition of "eligible employees" so police officers and firefighter positions could participate in a social security coverage referendum. Currently, Nebraska is the only State with state statutory language that does not allow police officers or firefighters to participate in a referendum seeking social security coverage. The specific statutory language is located in Neb. Rev. Stat. section 68-621(3).

> (3) Eligible employees, as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.

First Class City Police Officers & Firefighters

Police Officer Retirement System Legislation 1963 – 1983

Legislation to establish a retirement system for police officers in first class cities was first introduced and enacted in 1963 under LB 727. Under this legislation, in order for the police officer retirement system to be available in a specific first class city, the mayor and city council had to adopt the retirement system by ordinance or resolution after publishing and posting a 30 day notice about the intent to adopt the police officer retirement system. If a referendum petition signed by at least 20% of the electors was filed, then the proposition to adopt the police officer pension system was not effective unless approved by a majority of the voters at the next special or general election. If no petition was received within the 30 days of posting the notice, then the pension system became effective at the end of the 30 days. [section 16-329]

In 1965, under LB 344, the above provision was stricken and every city of the first class was required to pension police officers. Police officers who had served in that position for at least 21 years in 1963 were eligible for a pension after they reached age 60. However, anyone hired after 1963 must have served as a police officer for at least 25 years and attained the age of 60 to be eligible for a pension. The pension was a defined benefit plan with a retirement benefit of fifty percent of the police officer's regular salary. [section 16-330]

Changes to Police Retirement 1983 – Present

In 1983, legislation was enacted (LB 237) which closed the first class city police officer defined benefit plan to new police officers and replaced the plan with a defined contribution pension plan, codified at Neb. Rev. Stat. 16-1001 to 16-1019. The 6% member contribution rate was matched 100% by the city.

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

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

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

As a result, LB 426 was introduced in 2009, which proposed to increase the officer and city contribution rates from 6% to 8% beginning in 2009 and to further increase contribution rates to 9% beginning in 2012. LB 426 also contained a new 5-year vesting schedule (the vesting schedule at that time was 10 years), and exempted the cost of the city's contribution rate increase from the levy and lid limitations. LB 426 was designated a Retirement Committee Priority Bill in 2009, but due to concerns about the levy/lid exception in the bill, the legislation was held in Committee. At that time two cities were against their lids – LaVista and Plattsmouth.

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

In 2012, LB 1082 was introduced and after further negotiations, the following contribution rate increases and vesting schedule were enacted:

- Beginning October 1, 2013, police officer & first class city contribution rates increased to 6.5%.
- Beginning October 1, 2015 police officer & first class city contribution rates increased to 7%.
- Beginning July 1, 2012, the vesting schedule was reduced from 10 years to 7 years
- No exceptions to the levy and lid limitations for payment of increased contribution rates

Firefighter Legislative Retirement History – Years 1895 - 1983

First class city firefighters were first covered by a retirement system in the year 1895 under Senate Bill 124 (prior to the creation of the unicameral in the 1930s). The retirement system language was amended in 1909 by House Bill 246, in 1943 by LB 327 and in 1947 by LB 184.

Through 1983, first class city firefighters were covered by defined benefit plans established and administered by each first class city under the authority of the First Class City Firefighters Retirement Act. [Neb. Rev. Stat. 16-1020 through 16-1042]. In 1983 cities came to the Legislature expressing concerns about their ability to meet their continuing funding obligations of the defined benefit plans. Legislation was introduced and enacted in 1983 to close the defined benefit plans to new members and all new firefighters hired beginning on and after January 1, 1984, were enrolled in defined contribution plans administered by each individual city consistent with the revised terms of the First Class City Firefighters Retirement Act.

The LB 531 hearing transcript reflects assurances from the League of Municipalities to firefighters that under the new defined contribution system, firefighters would be able to work until age 55 and retire with retirement benefits "roughly equivalent" to the guaranteed 50% of salary retirement benefit under the former defined benefit plan. Firefighters are allowed to retire at age 55 because of the physical demands of the job.

According to hearing transcripts of first class city firefighter retirement legislation introduced since the early 1980s, testimony from the League of Municipalities and others has advised the Retirement Committee that firefighters voted not to receive social security when social security was extended to public employees – i.e.—they opted out of coverage.

Firefighter Legislation and Interim Studies 2012 - Present

In 2012, firefighters raised concerns with the Retirement Committee that their defined contribution account balances were funding a retirement benefit at age 55 well below the goal of 50% of salary. This resulted in an interim study, LR 628, in 2012 and the introduction of LB 552 in 2013 which proposed a Cash Balance retirement plan for first class city firefighters. Similar legislation, LB 655, was introduced in 2015.

During the 2015 interim, the Retirement Committee surveyed all cities with paid firefighters, met with city representatives and firefighters in first class cities around the state and held a hearing to hear testimony and share survey results.

Data collected from the surveys and firefighter testimony provided at the hearing included the following information:

- Average age of most senior firefighters was 53
- Average years of service was 24.3 years
- Average annual salary (including fire chiefs) was $67,723
- Average value of retirement accounts was $367,000
- Average annuity that could be purchased from retirement account balances was $16,129
- The amount of annuity that could be purchased was closer to 25% of salary, not 50%

The League of Municipalities and city representatives raised concerns about cities taking on additional liability under a cash balance retirement system and cited the state's past history of shifting funding obligations onto cities and making further cuts in state aid. Additionally, cities stressed inequity concerns of pension benefits available to all city employees including police and civilian workers.

An Interim Study Report – LR 230 was completed in 2015 and is available on the Nebraska Legislature website under Nebraska Retirement Systems Committee Reports.
[See: https://nebraskalegislature.gov/pdf/reports/committee/retirement/lr230_2015.pdf]

In 2021, LB 478 was introduced to create a Cash Balance retirement system for first class city firefighters to be administered by NPERS. In the fiscal note on LB 478, NPERS estimated just over $500,000 in start-up costs, which would have to be appropriated from State General Funds or come from another funding source. NPERS may not use the trust funds of other retirement systems the agency administers because the IRS limits trust funds "for the exclusive use of a plan's members and beneficiaries".

Social Security Administration Assistance and Determination of Specific First Class Cities Regarding Social Security

The Social Security Administration worked with Nebraska officials in 1967 to resolve issues with firefighters in four cities who were contributing to Social Security in error. The Social Security Administration has also issued three Determination letters in response to specific questions raised by three first class cities – Bellevue in 2010, and South Sioux City and Papillion in August, 2022.

Validation of Improper Contributions to Social Security by Firefighters in Four Cities

In 1967, the Social Security Administration helped Nebraska resolve issues with firefighters in Alliance, Columbus, Falls City, and Nebraska City who were contributing to Social Security in error. Social Security Administration assistance included working with Congress to pass special legislation permitting the State to validate improper past contributions made on behalf of these firefighters. [See Nebraska Modification #183, which incorporated this coverage issue into Nebraska's Section 218 Agreement and POMS SL 30001.370.N (discussing special legislation in Nebraska); P.L. 90-248, § 119]

The Social Security Administration has issued three determination letters to first class cities in response to inquiries regarding social security coverage of firefighter positions in each of the cities. A Determination letter was issued to Bellevue on September 30, 2010, to Papillion on August 5, 2022 and to South Sioux City on August 5, 2022. The analysis provided by the Social Security Administration in its Determination letter to South Sioux City in 2022 clarified that determination of social security coverage for firefighter positions was not based on a vote by Nebraska firefighters to opt out of social security coverage.

According to the Social Security Administration analysis in the Determination letters, the determination of first class city firefighter social security coverage or non-coverage is much more complicated and based on:

- whether or not a statutory pension plan was adopted prior to 1951 for first class city firefighters
- whether or not a city was classified as a first class city in 1951 when Nebraska's 218 Agreement and Modification #1 was adopted, and
- whether and when there were paid firefighter positions in a specific city

Additionally, in the determination letter to South Sioux City, the SSA pointed out that under current Nebraska statutes, firefighters (and police officers) have always been -- and still are -- specifically exempt from the authority to vote to elect social security coverage under a referendum in Nebraska.

Below are descriptions of the determinations made by the Social Security Administration for Bellevue, Papillion and South Sioux City and the basis for the Social Security Administration's determination.

City of Bellevue

On September 30, 2010, the Social Security Administration Regional Office issued a determination letter regarding the coverage of firefighter positions in the city of Bellevue and concluded that Bellevue firefighters are covered by social security as part of Bellevue's absolute coverage group. The determination letter explanation for social security coverage included the following:

The State of Nebraska's Section 218 agreement and Bellevue's modification to the agreement, requested Social Security coverage for all employees in the absolute coverage group and· excluded from Social Security coverage those employees in positions under a retirement system. In 1951 Bellevue did not have a retirement system for firefighters. When Bellevue executed its modification, firefighters would have been covered for Social Security as part of the absolute coverage group, not a retirement system group. Once an absolute coverage group obtains coverage by a Section 218 agreement or modification, the absolute coverage positions remain covered even if they are later brought under a retirement system, See 20 C.F.R. § 404.1217.

Federal law provides that if state law requires a political entity to have a retirement system, it is considered established even though no action has been taken to establish the system. In 1951, the State of Nebraska required all first class cities with paid fire departments to provide a pension for firefighters. However, Bellevue did not become a first class city until 1955. Thus, when Social Security coverage was extended to Bellevue, it was not a first class city and did not have a paid fire department. Therefore, it cannot be said that Bellevue "established" a retirement system under federal law at the time Social Security coverage was extended. Consequently, even though the paid firefighters of Bellevue are now under .a retirement system- they remain covered by Social Security as part of the absolute coverage group.

City of Papillion

On August 5, 2022, the Social Security Administration Regional Office issued a determination letter regarding the coverage of firefighter positions in the city of Papillion and concluded that Papillion firefighters are covered by social security as part of Papillion's absolute coverage group. The determination letter explanation for social security coverage included the following:

Nebraska's Section 218 Agreement, which was approved by SSA on June 20, 1951, excluded services performed by an employee in a position "which, on the date of this agreement or of any modification thereof, is covered by a retirement system." Modification No. 1, executed by the agency on October 22, 1951, extended the Agreement to cover absolute coverage groups, i.e., groupings of positions not under a retirement system, in several cities including Papillion.

At that time, Chapter 35 of the Nebraska Revised Statutes for 1943, sections 201 and 205, required first-class cities with paid fire departments to provide a pension for all firemen of the department. First-class cities were cities with populations of 5,000 to 40,000 according to the most recent federal census. Neb. Rev. Stat.§§ 16-101, 16-102.

Parties appear to agree that the City of Papillion did not have paid firefighter positions until after Modification No. 1 was executed. Under agency policy, then, firefighter positions in Papillion are newly created. Newly created positions are part of an absolute coverage group if the positions would have been part of the absolute coverage group had they existed when the State extended coverage to the group. Thus, to determine whether firefighter positions in Papillion are covered by the State's Section 218 agreement, we must consider whether such positions would have been under a retirement system-and thus excluded from the absolute coverage-if the positions had existed in the City on October 22, 1951 .

The City of Papillion was not a first-class city on October 22, 1951. Accordingly, at the time Papillion received Social Security coverage, the City was not subject to State laws that required first-class cities to establish pension plans for firefighters. As we cannot say that firefighter positions in the City of Papillion would have been under a retirement system if they had existed on October 22, 1951, the firefighter positions are part of the City's absolute coverage group. Accordingly, these positions are covered under the State's Section 218 agreement.

We recognize that prior to August 15, 1994, Section 218 of the Act did not permit Nebraska and many other states to extend coverage to police and firefighter positions that were under retirement systems. However, Section 218 has always permitted coverage for police and firefighter positions that are not under retirement systems. Once a police or firefighter position is covered for Social Security as part of an absolute coverage group, the position remains covered even if it is later placed under a retirement system.

South Sioux City

On August 5, 2022, the Social Security Administration Regional Office issued a determination letter regarding the coverage of firefighter positions in South Sioux City and concluded that though South Sioux City firefighters had been contributing to social security, they are not part of South Sioux City's absolute coverage group and Nebraska's Section 218 Agreement does not extend coverage to them. The determination letter included the following explanation:

Nebraska's Section 218 Agreement, which was approved by SSA on June 20, 1951 , excluded services performed by an employee in a position "which, on the date of this agreement or of any modification thereof, is covered by a retirement system." Modification No. 1, executed by the agency on October 22, 1951, extended the Agreement to cover absolute coverage groups, i.e., groupings of positions not under a retirement system, in several cities including South Sioux City.

At that time, Chapter 35 of the Nebraska Revised Statutes for 1943, sections 201 and 205, required first-class cities with paid fire departments to provide a pension for all firemen of the department. First-class cities were cities with populations of 5,000 to 40,000 according to the most recent federal census. Neb. Rev. Stat.§§ 16-101 , 16-102.

Parties appear to agree that South Sioux City did not have paid firefighter positions until after Modification No. 1 was executed. Under agency policy, then, firefighter positions in this City are newly created. Newly created positions are part of an absolute coverage group if the positions would have been part of the absolute coverage group had they existed when the State extended coverage to the group. Thus, to determine whether firefighter positions in South Sioux City are covered by the State's Section 218 agreement, we must consider whether such positions would have been under a retirement system- and thus excluded from the absolute coverage-if the positions had existed in the City on October 22, 1951.

South Sioux City was a first-class city on October 22, 1951. If paid firefighter positions had existed in the City on that date, State law would have required the City to provide a pension for the firefighters. As the firefighter positions would have been under a retirement system if they had existed, the positions are not part of the City's absolute coverage group. Accordingly, Nebraska's Section 218 Agreement does not extend coverage to firefighter positions in South Sioux City.

If South Sioux City wishes to validate past contributions and provide continuing Social Security coverage for firefighters at this time, the State and City would need to complete several steps. We discuss these steps for information purposes only, and not to advocate any particular course of action. After August 15, 1994, all States are authorized to provide coverage for police and firefighter positions under retirement systems. However, such coverage remains unavailable unless permitted by State law and the State's Section 218 Agreement. At this time, Nebraska law has not been amended to permit police and firefighters from voting in a referendum for Social Security coverage,6 and Nebraska has not modified its Section 218 Agreement to allow coverage for police and firefighter positions under retirement systems. If State law is changed and Nebraska modifies its Agreement to permit coverage for such positions, the State could hold a referendum for South Sioux City firefighters and, if a majority approves coverage, the State could request coverage for these firefighters.

Process for Seeking Opportunity for First Class City Firefighter Social Security Coverage Through a Referendum Vote

In 1954, federal amendments were enacted to grant states the authority to extend social security and Medicare coverage through a referendum vote.

As noted above in the sections discussing Social Security coverage, Nebraska has enacted statutes establishing the federally required conditions to conduct a referendum for social security coverage. These provisions are codified at Neb. Rev. Stat. sections 68-621 through 68-631.

In a referendum process, if a majority of the eligible employees vote in favor of such coverage. A majority of all of the eligible employees under the system (not a majority of the eligible employees voting), must vote in favor of coverage. All states are authorized by Federal law to use the majority vote referendum procedures – Nebraska is a majority vote referendum state. Although the referendum itself is a State matter, Federal law requires that the following conditions are met to establish coverage:

- Eligible employees are given not less than 90 days-notice of the referendum
- An opportunity to vote is given and limited to eligible employees
- The referendum is held by secret ballot
- The referendum is supervised by the governor (or his/her designee), and
- A majority of the retirement system's eligible employees voted for coverage.

Sections 68-621(1) and 68-622, define a specific retirement system coverage group for voting purposes. Such group is limited to:

- employees of the State
- employees of "a single political subdivision of the state," or
- employees of a joint instrumentality created by Nebraska and any other states.

Nebraska's referendum statutory language in section 68-621(3) defines "eligible employees" to specifically exclude firefighters and police officers. Members of retirement system coverage groups (such as firefighters) can be covered by social security by voting in a social security referendum.

However, because the definition of "eligible employees" specifically excludes police officers and firefighters, in order for Nebraska to make the referendum process available to firefighters (or police officers), legislation must be enacted to amend the definition of "eligible employees" in 68-621(3) as follows:

> (3) Eligible employees, as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies ~~or if such employee is in service in a police officer or firefighter position.~~

Following enactment of the legislation, a modification to the State 218 Agreement must be prepared and executed to remove the language from the State 218 Agreement which prohibits coverage of police and firefighter positions under retirement systems.

The Social Security Administration has advised Nebraska that the State may use the template at POMS SL 40001.490, Exhibit 30 to modify its Agreement to permit coverage for police and firefighter positions under retirement systems. SSA has further advised that the Social Security Administration can assist the State Administrator to adapt this template to Nebraska's needs.

Following the statutory change and Modification to the 218 Agreement, a referendum vote could be conducted for firefighters. If a majority of eligible voters in positions under the specific retirement system (e.g. a specific first class city) approve coverage, then the State can modify its 218 Agreement to extend coverage to those specific members of the retirement system

Firefighter and City Contributions to Defined Contribution (DC) Accounts

In 1983 when the retirement system was changed from a defined benefit plan to a defined contribution plan, the firefighter contribution rate was set at 6.5% of salary. The city contribution rate was set at 13% (to compensate for the fact that firefighters are not covered by social security and therefore the city does not contribute the 6.2% for FICA). The total amount of member and city contributions are 19.5%. The rates have remained the same for 40 years.

Contribution rates are assessed as a percentage of salary. "Salary" is defined in the First Class City Firefighters Retirement Act as "the base rate of pay, excluding overtime, callback pay. . .", as reported on the participant's federal income tax withholding statement.

In contrast, "salary" is defined in the First Class City Police Officers Retirement Act as "all amounts paid to a participating police officer by the employing city for personal services as reported on the participant's federal income tax withholding statement. . ."

Comparison of First Class City Police Officer, Firefighter & City Retirement Plan Contribution Rates & Social Security/Medicare

ENTITY	MEMBER RATE	CITY RATE	FICA AND/OR MEDICARE	TOTAL PLAN CONTRIBUTION	TOTAL MEMBER	TOTAL CITY PLAN & FICA/MEDICARE
Police Officers	7%*		7.65%		14.65%	
Firefighters	6.5%**		1.45%^		7.95%	
City – Police		7%	7.65%	PO 7% + CITY 7% = 14%		14.65%
City -- Firefighters		13%^^	1.45%^	FF 6.5% + CITY 13% = 19.5%		14.45%

*Police Officer contributions are made on all amounts paid to police officers by the city for personal services
**Firefighter contribution are made only on base rate of pay — overtime & callback pay are specifically excluded from the definition of "salary" and therefore contributions are not paid on those amounts earned
^ Firefighters are not covered by social security -- firefighters only pay into Medicare
^^ City contribution rate is 13% because firefighters do not pay into social security & therefore, the city does not have to contribute FICA which is 6.2%

Nebraska Investment Council

The Nebraska Investment Council (NIC) was established in 1969 as the state's centralized investment agency. The NIC manages the investments of the various retirement plans, the state and its agencies, the College Savings Plan and other trusts and endowments as determined by law. On January 1, 2017, the Council also assumed management of the $1.2 billion Omaha School Employees Retirement System portfolio. The NIC currently manages $35 billion in assets across 33 investment programs.

The NIC has a staff of 9 full-time-equivalent positions. The functional organization is composed of 8 council members, the 9 agency staff, external investment managers, the external investment consultant, the external legal counsel, and the external global custodian. In 2022, retirement plan investment management costs were 34 basis points. The NIC indicates this is 10 basis points below comparable investment programs nationwide.

The NIC provides access on its website: https://nic.nebraska.gov to all of its publications, policies, statutes, meeting information and agendas, and provides information regarding the assets it invests and performance of those investments. The NIC conducts numerous reviews and studies each year of its retirement plan (and other) investments. Below are brief descriptions and summaries of the conclusions of two of the analyses that were conducted in 2022.

Capital Market Assumption Reports

Each September, the NIC's Capital Market Assumptions Report is presented to the Council. The Report is prepared by Aon – the Council's external investment consultant. The assumptions examine:

- Aon's asset class return, volatility and correlation assumptions
- Long-term -- based on 10-year and 30-year projection periods
    - Forward looking assumptions
    - Best estimate assumptions (50/50 better or worse)
    - Market returns, i.e., no manager alpha (other than the hedge funds and private equity which are entirely actively managed); and
- Global geographic coverage
- Updated quarterly

According to the September 2022 Capital Market Assumptions Report, based on Aon's capital market assumptions and the defined benefit plans' asset allocation targets, the NPERS defined benefit and cash balance benefit plans have a roughly 1 in 3 chance of meeting or exceeding the assumed rate of return of 7.3% over the next 10-to-30 years. OSERS' chances of meeting or exceeding its assumed rate of 7.5% are slightly lower.

The Report also compared NPERS actuarial assumption for investment return [tracked by NASRA] to peer public fund assumed rates. The Report noted several key takeaways:

- The public pension peer median actuarial assumption for investment return has declined from 8.00% from 2001-2010 to 7.25% based on the latest survey data

- NPERS' assumption for FYE 2019 (7.50%*) fell at the 75th percentile relative to its peers
- If NPERS exceeds (or falls short of) the actuarial return assumption, lower (or higher) funding will be needed in future years

  * NPERS Pension Plan investment return assumption is being lowered from 7.5% in 2020, to 7.3% in 2021; 7.2% in 2022; 7.1% in 2023 and 7% in 2024.

OSERS 2022 Asset-Liability Study

The NIC conducts an Asset-Liability Study every 3 to 5 years. The Study is a comprehensive toolkit for making decisions on a fund's asset allocation and investment risk that align with the liabilities those funds support. It also identifies future trends in the financial health of the fund based on economic uncertainties that may not be evident from an actuarial valuation.

Conclusions:

- OSERS' asset allocation (80% return-seeking assets) is diversified across the risk/return spectrum. Current investment policy has an expected return of 6.47%, trailing the Fiscal Year 2022 actuarial assumed rate of return (7.40%)
- The plan is expected to reach 103% funded in the central expectation by January 1, 2051 under the current investment policy
- Funded ratio improvement is highly dependent on the plan contributions, which are projected to increase over the period
- Optimistic (or pessimistic) asset performance could lead to better (or worse) outcomes than the central expectation Portfolio Analysis Asset-Liability Projection Analysis Liquidity Analysis
- The current portfolio has sufficient liquidity in the modeled Base Case, Recession, and Dark Skies scenarios
- Actual allocations differing from current targets does not alter the outcomes of this analysis (for 2020), 7.30% (2021), 7.20% (2022), 7.10% (2023), and 7.00% (2024)

History of Legislation and Statutory Limitation on State Investments

Divestment from South Africa

In 1980 the legislature passed a resolution – LR 43 -- introduced by Senator Chambers, calling on the Nebraska Investment Council to review the list of corporations and banks which invest in South Africa and to remove them from the approved list for investment of Nebraska Trust Funds. This was the first state South Africa divestment action taken in the country.

In 1983, Senator Chambers introduced LB 553, which was enacted. It called for a two-step divestment process. By 1984, no state funds remained invested in the stocks of banks making loans to South Africa and the state made no new investments in corporations doing business with South Africa.

In 1994 Senator Chambers introduced LB 1066, which in part repealed the South Africa divestment legislation that had been put into place in 1983.

Northern Ireland Reporting Requirements

In 1994, LB 705 was introduced by Senator Hall and amended into LB 1066, which required the Nebraska Investment Council to:

- compile an annual list of corporations doing business in Northern Ireland in which the state investment officer has invested state funds;
- determine whether each corporation on the list has, during the preceding year, taken affirmative action to eliminate religious or ethnic discrimination in Northern Ireland; and
- invest in a way that encourages corporations that pursue a policy of affirmative action in Northern Ireland.

In 2011 Senator Beau McCoy introduced LB 303 which repealed the requirements placed on the Nebraska Investment Council regarding reporting and investments in corporations doing business in Northern Ireland.

1996 Legislation to Limit Directed Investments

In 1996, LB 847 was introduced to, in part, limit directed investments for the primary or sole purpose of economic development or social purposes or objectives. Since that time, several bills have been introduced to limit investments, require divestment, or to require investment based on economic or social purposes or objectives. The relevant language, amended into 72-1239.01, appears below.

> **72-1239.01. Council; duties and responsibilities.**
>
> (3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems, the Nebraska educational savings plan trust, the achieving a better life experience program, and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems, the Nebraska educational savings plan trust, or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

Bills Introduced to Limit or Direct Investments

This is a list of bills introduced for these purposes, none of which were enacted.

2009	LB 140	Provide duties relating to investment of state funds in Sudan-related companies
2013	LB 77	Adopt the Nebraska Iran Divestment Act
2016	LB 1069	Provide duties for the State Investment Officer relating [on investment in energy-related companies or funds
2017	LB 412	Provide duties for the State Investment Officer relating to investment in energy related companies or funds

Recent National Focus on Environmental, Social or Governance (ESG) Factors

In the past two years there has been increased focus nationally in the consideration of certain environmental, social, or governance (ESG) factors in making investment decisions. In the past year a number of states have proposed or adopted state legislation that would limit the ability of public retirement plans from doing business with managers who invest based on ESG criteria or goals or who consider ESG factors in their investment processes.

No legislation has been introduced to date in Nebraska regarding ESG and investment of pension funds. However, as noted above, Nebraska has limitations on the NIC making investment decisions "if the sole or primary investment objective is for economic development or social purposes or objectives". [See the text of Neb. Rev. Stat. 72-1239.01 above]

Background & Description of Retirement Committee Review of Political Subdivision Underfunded DB Plans

In 2014, Senator Heath Mello introduced LB 759 to provide Nebraska Retirement Systems Committee oversight of political subdivisions with underfunded defined benefit plans. In Senator Mello's bill introduction, he stated:

> It really is an issue that we've come to identify nationally that's occurring more and more, is that while the state doesn't assume the liability, the state does actually have, I would say, the fiscal oversight responsibility to make sure local entities, if they're not meeting their obligations, to explain why they're not meeting their obligations. And if they need substantial policy changes to be made to meet those obligations, that they should be bringing those proposals forward and/or advocating and working with the Legislature to make sure their plans become solvent or remain solvent to the future.

At that time, the Omaha Police & Fire Plan was funded at 45% and the City of Omaha Civilian Plan was funded at 54%. In the actuarial valuation reports, the actuary noted that the City of Omaha had been paying less than the actuarially required contributions (ARCs) for a number of years for each of these plans. Excerpts from the actuary's comments in the City of Omaha Civilian and Police & Fire valuation reports:

> We strongly recommend that the contribution shortfall between the actual contribution rate and the Actuarial Contribution Rate be addressed and measures be taken to eliminate it. The longer action is delayed to address this funding shortfall, the higher the ultimate contribution rate will be. – 2008 Civilian Valuation Report

> Contributions to the City of Omaha Employees' Retirement System have been less than the full actuarial contribution rate for the last ten years. . . Given the current scheduled contribution rates, the contribution shortfall is expected to increase, the funded status is expected to decline and the System assets are expected to be exhausted in about 20 years even if all actuarial assumptions are met. – 2013 Civilian Valuation Report

> The valuation shows that the current Actuarial Contribution Rate is less than the current statutory contribution rate and thus the System is not in "actuarial balance." . . As the System's actuary we strongly recommend action be taken to increase future contributions to a level which will restore the System to actuarial balance. . . It is in the System's best financial interest for additional contributions to begin as soon as possible. – 2003 Police & Fire Valuation Report

> If the currently scheduled contribution rates and benefit provisions remain unchanged. . .the plan is projected to run out of money in about 20 years. If the trust fund runs out of money and if all promised benefits continue to be paid, the plan would revert to a "pay as you go" system at that time. Since there will be no trust fund assets to supplement the monthly benefits paid to retired members, contributions would need to increase equal to the annual benefits paid to retired members at that time. – 2009 Police & Fire Valuation Report

LB 759 was enacted and codified at Neb. Rev. Stat. 13-2402. It requires any governing entity that offers a defined benefit plan which was open to new employees on January 2004, to file a report with the Nebraska Retirement Systems Committee if the most recent actuarial valuation report indicates that (1) the contributions do not equal the actuarial requirement for funding or (2) the funded ratio of the plan is less than eighty percent.

The report must include, at a minimum, provide an analysis of the future benefit changes, contribution changes, or other proposed corrective action to improve the plan's funding condition.

In 2013, in addition to the Omaha Civilian and Police & Fire plans, there were six other political subdivisions with defined benefit plans funded below 80% including:

Douglas County Retirement Plan was funded at 61%
Eastern Health Agency of Nebraska funded at 64%
Lincoln Police & Fire funded at 66%
Omaha Public Power District funded at 72%
Metro Area Transit Hourly funded at 73%
Omaha School Employees Retirement (OSERS) funded at 73%

Retirement Committee Review Process

Beginning in 2014, the Retirement Committee sent letters in September to all political subdivisions with defined benefit plans and asked them to confirm the funding status of the political subdivision's defined benefit plan. If the plan was funded below 80%, the political subdivision was asked to complete the Underfunded Plan Reporting Form. The Reporting Form was created to ensure the reporting includes specific categories of information was reported by each political subdivision to the Retirement Committee. In addition to actuarial data, requested reporting information includes:

- A narrative of the circumstances that led to the underfunding of the plan
- A description of corrective actions implemented to improve the funding status of the plan including benefit changes, increased contribution rates and/or employer contributions
- A description of any changes in the actuarial methods and/or assumptions since the previous actuarial valuation report
- A description of recent or ongoing negotiations with bargaining groups that may impact the plan's funding status

Each political subdivision was instructed to return the completed form along with its most recent valuation report and experience study and was then informed of a public hearing date to present its report to the Committee. The Nebraska Retirement Systems Committee held the first hearing for the underfunded plan reports and presentations in 2014 and has conducted hearings each year since then.

For a number of the years, 8 political subdivisions reported underfunded plans. In 2022, there are 6 political subdivisions with underfunded plans. Lincoln Police & Fire and Eastern Nebraska Health Agency were not required to report to the Retirement Committee in 2022 because they have increased their respective plans' funding levels to 80% or above according to their most recent actuarial valuations.

Reporting Form for Underfunded Political Subdivision Pension Plans

1. Please list the following information for **plan years X through current plan year Y [5 years of data, example 2019 through 2023]:**
   (a) Actuarial funding status
   (b) Assumed rate of return
   (c) Actual investment return
   (d) Member and employer contribution rates -- percentage
   (e) Normal cost – percentage
   (f) Actuarially required contribution (ARC) – percentage & dollar amount
   (g) ARC contribution – actual dollar amount contributed & percentage of ARC actually contributed

2. Please provide a brief narrative of the circumstances that led to the current underfunding of the retirement plan.

3. Have there been any changes in the actuarial methods and/or assumptions since the previous actuarial valuation report? If so, please describe.

4. In what year is the plan's actuarial funding ratio expected to reach 100%?

5. What is the method used to amortize the unfunded actuarial liability?

6. Please provide a description of corrective actions implemented to improve the funding status of the plan including, but not limited to, benefit changes, increased contribution rates and/or employer contributions. Please include any actuarial projections based on these changes and attach a copy of the actuarial projections.

7. Please describe recent or ongoing negotiations with bargaining groups that may impact the plan's funding.

8. Please attach a copy of the most recent Actuarial Experience Study. When will the next Actuarial Experience Study be completed and available for review by the Committee?

9. What is the current assumed rate of return? If the rate has been changed in the past year, or if there are plans to review the rate in the upcoming year, please describe.

10. Please attach the most recent actuarial valuation report. If the valuation report is completed biannually (or less often) please include an updated report for the interim year/s, if available.

Submit the information electronically by **October 15** to the Chairman of the Nebraska Retirement Systems Committee and copy the Committee Legal Counsel. If you have any questions, please contact the Committee Legal Counsel.

City of Omaha Charter “substantially equal contributions” Language

The City of Omaha is a municipal corporation of the metropolitan class organized and existing under and by virtue of the Constitution and laws of the state and is governed by a home rule charter.
Article XI, section 5, of the Constitution of this state provides:

> "The charter of any city having a population of more than one hundred thousand inhabitants may be adopted as the home rule charter of such city by a majority vote of the qualified electors of such city voting upon the question, and when so adopted may thereafter be changed or amended as provided in Section 4 of this article, subject to the Constitution and laws of the state."

The “Pension and Retirement System” provisions in the Omaha Charter appear in Section 6.09. The relevant portion of that Section states that “[E]ach pension and retirement system shall be financed on an actuarially funded basis, with the city and the employee making substantially equal contributions. . ”

Omaha Charter: https://library.municode.com/ne/omaha/codes/code_of_ordinances?nodeId=PTICH

Nebraska Retirement Committee Concerns

Because of the "substantially equal contributions" language and the severe underfunding of the Omaha Civilian (54%) and the Omaha Police & Fire (58%) Pension Plans, members of the Retirement Committee have expressed concerns over the past 6 years about the ability of the plans' funding to improve. According to Reporting Form responses submitted by the City of Omaha each year, between 2013 and 2021, the City of Omaha paid -$29.599 million less than the ARC amount determined by the actuary in the Civilian Employees Plans, and -$31.4 million less than the ARC amount determined by the actuary in the Police & Fire Plans – for a combined total of just under $61 million in nine years.

Civilian and Police & Fire ARCs & Amounts of ARCs Paid by City of Omaha

ARC(Millions)	2013	2014	2015	2016	2017	2018	2019	2020	2021	TOTAL
Civilian Plan										
ARC	$15.783	$17.996	$15.842	$12.042	$12.519	$14.990	$17.313	$17.297	$17.400	
Amount of ARC Paid by City	$7.216	$7.194	$12.336	$12.401	$12.799	$13.645	$16.028	$15.120	$15.354	
Subtotal	-$8.567	-$10.802	-$3.016	+$.359	+$.28	-$1.345	-$2.285	-$2.177	-$2.046	**-$29.599**
Police/Fire Plan										
ARC	$52.895	$41.732	$42.918	$43.971	$45.297	$50.877	$51.822	$55.078	$55.590	
Amount of ARC Paid by City	$35.302	$43.838	$41.851	$42.138	$43.235	$48.796	$48.779	$51.858	$52.983	
Subtotal	-$17.593	+$2.106	-$1.067	-$1.833	-$2.062	-$2.081	-$3.043	-$3.22	-$2.607	**-$31.4**
										-$60.999

During the past six years, Committee members – particularly Senator Mark Kolterman, Retirement Committee Chairman, have raised concerns about the Omaha Charter language that limits the City's ability to fund the entire annual ARC and have asked questions about the process to amend the Charter. The City of Omaha has been urged to take a look at, and discuss amending its Charter to allow the city to annually appropriate the total actuarially required contributions. The City of Omaha representative who has annually presented the underfunded plan reports for the Omaha Civilian and Omaha Police & Fire has advised the Committee that a Charter Convention is only held every ten years and the city could propose a change to the Charter at the next Convention.

A Charter Convention was convened in May 2022 by the Mayor. In response to Retirement Committee concerns, the following Memorandum was submitted by Bernard in den Bosch, Deputy City Attorney regarding the language in Section 6.09.

Omaha Law Department Memo to 2022 Charter Convention

INTEROFFICE MEMORANDUM -- Law Department
DATE: May 16, 2022
TO: Members of the 2022 Charter Convention
FROM: Bernard J. in den Bosch, Deputy City Attorney
SUBJECT: Suggested Charter Revisions – Miscellaneous

I do want to pass along one request that has been made by an entity that is typically not affiliated with the City. Since the City's pension systems are funded at a rate below 80%, the City is required to make a special report and appear before the Legislature's Retirement Committee each year. Several members of the Committee have asked that the City reconsider the language in Section 6.09 of the Charter that states that the pension systems are to be funded "with the city and the employee making substantially equal contributions." One of the reasons for this request is that the City's pension systems are different than many of the other pension systems in the State. In most other public pension systems, if the employee and governmental entity contributions do not meet the Actuarially Required Contribution (ARC) in any given year, the governmental entity is required to make a contribution representing the difference between the ARC and what was contributed to the pension system through the typical contribution method.

I have indicated to the Committee that I would forward their request to the next Charter Convention.

In June, the Charter Committee forwarded its recommendations to the mayor. There were recommendations for twenty-four Amendments to the Charter, however, none of the recommendations included changes to the "substantially equal contributions" language in Section 6.09 of the Charter.

November 22, 2022 Retirement Committee Hearing

At the November 22, 2022 hearing on the presentation of the political subdivision underfunded plan reports, Retirement Committee Chairman had the following exchange with Bernard in den Bosch, Omaha City Deputy Attorney who has presented the City of Omaha's underfunded plan reports each year.

BERNARD in den BOSCH: When I was before this committee last year, there was some discussion about the charter convention and there was in fact a charter convention that met last summer. You had asked and I did submit to that charter convention a request that they consider changing the language. And I think it's 6.07 of the charter that requires substantially equal contributions by the city and the employees. That was presented to them. I provided them a memo that they received prior to the-- at the start of the charter convention and I did discuss it with them in a meeting and they have-- they met in committees and decided to bring forward what they wanted to bring forward and then the city council brought a subset of those forward for a vote. Unfortunately, the charter convention did not make that recommendation, which I don't know that I can answer for them, so to speak. The reality is, and I don't know if they're unfair, is, you know, significant changes are made. There's-- we're seeing some positive. I know it's, it's very slow. That's very difficult for most for people to, to understand, but we are seeing those positive changes. So that is not the only mechanism by which charter changes can be brought. City council can make a-- adopt an ordinance at any point in time to put it on, on a ballot. And, you know, I, I, I certainly can indicate that that's what this committee would like to have done, but obviously, other people can make similar requests. I'm-- I have some ability to make a suggestion. I don't have an ability to make anybody do anything necessarily. So I figured I would address that prospectively because I figured if I didn't, then I probably will still be addressing it

KOLTERMAN: Well, the concern that I have-- and I'm just-- I mean, I've always been blatantly honest with you. The percentage of the ARCs that you pay, the actuarially required contributions over the last five years has continually declined. In 2016, you paid 106.81 percent, but then in 2010-- 2017, you paid 91.2 percent of the ARC. In 2018, you paid 86.8 percent and in 2019, you paid 87.4 and last year you paid 88.24 percent of the ARC. We don't have this year's yet. And your unfunded actuarial liability actually decreased slightly from $230 to $229 million. But, but my concern is-- and this is exactly what we saw with the Omaha Public Schools plan, they weren't making their ARC payments. And that, that's what's-- I mean, if you go back to 2014, that's what Cavanaugh Macdonald had indicated, that you, you were going to run out of money if you didn't make those ARC payments. And that's, that's just the minimum amount that you should be making. The other thing that we've heard for the-- at least since I've chaired this committee the last seven years is that you couldn't put more money in than an equal amount to what the, the employees were putting in because of your charter. And so every year, I think if you look at the record, on the record every year, I've asked you to go back and take a look at the charter or at least have some discussion. When that came up this year, I asked my staff and I talked to my committee. I said, are you hearing anything about the charter? Because I was under the impression the charter was something that could only be addressed every so often. Now I hear that you can do it—

BERNARD in den BOSCH: Though historically, the charter—

KOLTERMAN: --more often-- at any time you wanted to.

BERNARD in den BOSCH: Historically, the council has never done it under the charter conventions, but you can.

KOLTERMAN: The reason I have the concerns about this is, number one, the people that are in the pension plan deserve to know that their plan is going to be funded. And to ask the-- I believe right now-- I'm not sure I have that in front of me. I think I do-- your employees are-- what percentage are the employees actually putting in?

BERNARD in den BOSCH: About 10, 10.2 percent.

KOLTERMAN: Yeah and so if you ask them to put-- and, and you're matching that-- if you—

BERNARD in den BOSCH: And we're-- actually, the city puts in about 18 percent.

KOLTERMAN: OK, but you-- you're at-- they, they can't put more than 10 percent in. It's rank and file. So if you change the charter, it will give you the opportunity to do so. And now I'm going to go back to what happened in 2010. You passed some sort of an ordinance allowing extra charges on restaurant tax or some sort of a occupation tax. It's my understanding that was designed to be used to help take care of the pension plans that were in dire straits already back in 2010. There's a disconnect here somewhere.

I, I don't understand what it's all about. I mean, what do you do with the excess money that's coming from that, that restaurant tax? Does that go into the general fund?

BERNARD in den BOSCH: I think-- the restaurant tax, I think, certainly was in part to pay the difference, the increased contributions for the police and fire pension system was at least the discussion at the time. But it goes into the general fund. There are-- there have been increased contributions for both, but, but there's no question that the restaurant tax revenue has exceeded the amount--.

KOLTERMAN: So—

BERNARD in den BOSCH: --that's being—

KOLTERMAN: So if the restaurant tax was put into place to take care of pension problems or at least part of it, where, where do we go-- and you're not willing to look at making a-- the only people who can make additional contributions in here is the city of Omaha. I mean, you're already asking the employees to take a big burden here. So it's almost like everything we've asked over the last seven years has fallen on deaf ears. It doesn't make any sense to me. I think the people in-- the citizens of Omaha need to understand what's going on here. I think it's a blatant disrespect to the employees as well as the citizens of Omaha. And I'm sorry if I'm kind of upset about this, but I like to think that if you listen, work with us, we're willing to work with you. But I don't see any cooperation whatsoever from the city of Omaha. So with that, I don't know what to ask unless you have an answer for that.

BERNARD in den BOSCH: I, I don't, I don't-- and all I can say is what I think I've already said. And I, and I appreciate what you're saying. I think there is a concern. The, the ARC, at least in my view, has gone up and down a little bit, but we still haven't met it. There's no question since we made the assumption changes in, in 2018, we have not met the ARC. We actually met the ARC for the couple of years before that. When we changed the rate of return, we have not and I-- that's absolutely true.

KOLTERMAN: You know, with Omaha Public Schools, we put in statute that they had to make their ARC payments. I don't know if we have the right to do that to you or not. I think we probably have some sort of ability to help you in that regard, but.

BERNARD in den BOSCH: I don't know that.

KOLTERMAN: I mean, we can't do it-- I mean, we're here-- you are here today because your plan continues to be underfunded.

BERNARD in den BOSCH: We are.

KOLTERMAN: And city, city of Lincoln worked with us. They're over 80 percent. Omaha Public Schools, they're-- granted, they're not at 80 percent, but they're going in the right direction. I don't know what more to say—

BERNARD in den BOSCH: No.

Public Retirement Plans in Nebraska
Type of Plan, Plan Administrator & Plan Year

NAME OF PLAN	TYPE OF PLAN	PLAN ADMINISTRATOR	PLAN YEAR JULY 1–JUNE 30	PLAN YEAR JAN 1– DEC 31	PLAN YEAR SEPT 1– AUG 31
Judges	DB	NPERS	X		
State Patrol	DB	NPERS	X		
School Employees	DB	NPERS	X		
County Employees	CB/DC	NPERS		X	
State Employees	CB/DC	NPERS		X	
Eastern NE Health Agency	DB	Eastern NE Health		X	
Douglas County	DB	Douglas County		X	
1st Class City Firefighters	DC	1st Class Cities		X	
1st Class City Police	DC	1st Class Cities		X	
Lancaster County	DC	Lancaster County		X	
Lincoln Police & Fire	DB	City of Lincoln			X
Metro Area Transit Hourly	DB	Metro Area Transit		X	
MUD	DB	MUD		X	
Omaha Civilian	DB/CB	City of Omaha		X	
Omaha Police & Fire	DB	City of Omaha		X	
OPPD	DB/CB	OPPD			X
OSERS	DB	OPS -- NPERS 9-24		X	

COMPARISON OF STATE-ADMINISTERED & OMAHA SCHOOL RETIREMENT PLANS

	JUDGES DEFINED BENEFIT (DB)	STATE PATROL DEFINED BENEFIT	SCHOOL DEFINED BENEFIT	CLASS V SCHOOL DB OSERS-SCHOOL PLAN	COUNTY DC & CB	STATE DC & CB
Employee/Member Contribution Rate	Weighted average rate is 8.48%* Hired after 7/1/15 (Tier 2) rate is 10%	16% -- officers hired before 7/1/16 Hired after 7/1/16, (Tier 2) is 17% **++	9.78%	9.78%	4.5%***	4.8%
Employer Contribution Rate	Various court fees^ State 5% comp beginning 2022 >	16% -- officers hired before 7/1/16 17% for 7/1/16 (Tier 2) officers++	101% = 9.88%	Greater of 101% (9.88%) or "amount to maintain solvency"	150% = 6.75%***	156% = 7.48%
State Liable for Unfunded Balance	Yes	Yes	Yes	No	Yes for CB	Yes for CB
Scheduled State Contribution	No	No	2% of total compensation	2% of total compensation plus State Service Annuity (SSA) Hired after 7/1/16 – No SSA	No	No
Vesting	5 years	0-5 years = 0% 6 years= 20% 7 years = 40% 8 years = 60% 10 years & beyond = 100%	5 years	5 years	3 years or age 55	3 years or age 55
Retirement Age	Full benefit age 65 with 20 years Actuarially reduced ages 55-65	Age 55 with 10 years or 50 with vesting schedule Mandatory retirement at 60	65 or at 55 if Rule of 85 met^^ Early retire at age 60^^^ Hired after 7/1/18 new Rule 85 at age 60+	Full benefits 65 with 5 years or 55 with 10 years –Rule of 85-pre 7/1/16 unreduced at age 62 Hired after 7/1/16 unreduced at 65 Hired after 7/1/18 new Rule 85 at minimum retirement age 60+	Age 55	Age 55
Maximum Benefit	70% of final average monthly salary	75% of final average monthly salary	None	None	N.A.	N.A.
Final Average Salary in Formula	3 highest 12-month salary Hired after 7/1/15 5 highest 12-month salary	3 highest 12-month salary Hired after 7/1/16 5 highest 12-month salary	3 years highest salary Hired after 7/1/13 5 years highest salary	3 years highest salary Hired after 7/1/13 5 years highest salary	N.A.	N.A.
Formula Multiplier	3.5%	3%++	2%	2%	N.A.	N.A.
COLA	Max 2.5% tied to CPI Hired after 7/1/15 Max is 1%; PERB may award additional one-time payment up to 1.5% to tier 2 judges any year plan is 100% funded	Max 2.5% tied to CPI Hired after 7/1/16 Max is 1%; PERB may award additional one-time payment up to 1.5% to tier 2 officers any year plan is 100% funded	Max 2.5% tied to CPI Hired after 7/1/13 = Max 1%	Max 1.5% - tied to CPI & Medical COLA+++ Hired after 7/1/13 Max 1% and Medical COLA Hired after 7/1/16 Max 1% -- NO Medical COLA	Member may purchase COLA	Member may purchase COLA

* Judges hired before 2004 who select Joint & Survivor benefit and judges hired after 2004 contribute 9% first 20 years and 5% thereafter; Judges hired before 2004 who did <u>not</u> select Joint & Survivor benefit contribute 7% during first 20 years and 1% thereafter; actuary reports an annual contribution rate as percentage of weighted average

\> The State contributes 5% total judges' compensation; % may be adjusted upon actuary's recommendation if funded at 100% for two consecutive years; cannot go above 5%

** State Patrol members do not pay into social security

*** County Law Enforcement Officers pay supplemental rate based on county population -- less than 85,000 additional 1%; greater than 85,000 additional 2%; 100% employer match

^ Judges plan is funded from $8 filing fee (increased $1/year to $12 in 2025) on actions filed in courts and assorted fees on district/county court filings. See section 24-703(3)(a)

^^ Pre- July 1, 2018 Rule of 85 – Beginning at age 55, Rule is met if age + creditable years of service = 85

^^^ May retire at age 60 with 5 or more years creditable service; between 60-65, there is 3% per year reduction (if Rule of 85 not met)

\+ New Rule of 85 (School & OSERS Plans) – beginning July 1, 2018 -- Rule is met if age + creditable service = 85 with minimum retirement age of 60

++ State Patrol officers pay higher contribution rate (with state 100% match) and have high formula multiplier because they don't pay into Social Security; also required to retire at 60

+++ Medical COLA begins 10 years after retirement = $10/month for each year retired ($250/month maximum) – prorated for years of service less than 20