

**ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013**  
**COMMITTEE STATEMENT**  
**LB263**

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**Hearing Date:** Wednesday February 20, 2013  
**Committee On:** Nebraska Retirement Systems  
**Introducer:** Nebraska Retirement Systems  
**One Liner:** Change provisions relating to government retirement systems

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 6 Senators Conrad, Davis, Karpisek, Kolowski, Mello, Nordquist  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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<b>Proponents:</b> Kate Allen Mike Dulaney	<b>Representing:</b> Retirement Systems Committee Nebraska Council of School Administrators
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<b>Opponents:</b>	<b>Representing:</b>
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<b>Neutral:</b> Phyllis Chambers	<b>Representing:</b> Nebraska Public Employees Retirement Systems
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**Summary of purpose and/or changes:**

LB 263 includes primarily Internal Revenue Code updates and technical and clarifying changes to the Judges, State Patrol, Class V School, School, State and County Employees Retirement Plans, and the Public Employees Retirement Board responsibilities. Many of the changes were recommendations of the 2012 Compliance Audit conducted on the state-administered retirement plans.

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**Explanation of amendments:**

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

-amends the definition of employee in the County Plan. Employees of counties with population of 200,000 (increased from 150,000) are not eligible to be in the County Plan [page 6]

-requires elected county officials to exercise the option to participate in the County Plan within 30 days of taking office [page 12]

-grants authority to the Public Employees Retirement Board beginning July 1, 2013 to determine whether a governmental entity currently participating in the County Plan is a qualified employer under Internal Revenue Code 414(d); establishes time frames for Board actions, grants full vesting to affected members and grants the Board rule and regulation authority to carry out this provision [page 13]

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

[page 14]

-specifies in each of the plans the specific employing unit related to the Internal Revenue Code pick up provisions [pages 15 (county); page 44 (judges); page 75 (schools); page 103 (patrol); page 123 (state)]

-clarifies that forfeiture funds are to allocated to the accounts of the remaining members of the County and State Plans [pages 16-17 (county); page 125 (state)]

-establishes minimum accrual rates for specific years in the Judges, State Patrol and School Plans [pages 47 (judges); page 69 (schools); page 107 (patrol)]

-clarifies in the School Plan that only per diems paid as expenses are not considered compensation [page 57]

-clarifies language for the salary cap applied to School Plan members whose retirement date is between July 1, 2012 and July 1, 2013; establishes new definitions and clarifications for the 8% salary cap applied to all members whose retirement date is on and after July 1, 2013 [pages 59-61]

-strikes proposed language that changed provisions regarding service provided within 180 days following termination of service and proposed language regarding part-time employment; reinstates original language [pages 62-63]

-clarifies that employers may adopt a policy which limits or denies employees from providing voluntary or substitute service within 180 days of the employees' termination [page 62]

LB 321 -

LB 321, as amended by the Committee, requires only permanently disabled police officers to spend down all credits for unused annual or sick leave or other similar credits in order to receive disability salary or disability pension. [section 1; pages 1-4]

LB 594 -

LB 594 directs the Nebraska Investment Council rather than the Board of Educations Lands and Funds, to manage and invest the Nebraska Veterans' Aid Fund. [section 29; pages 93-94]

#### Section-by-Section Summary of AM835:

##### First Class Cities Police Officers Retirement Act

Section 1: [amends 16-1011;] incorporates LB 321, as amended by the Committee; only permanently disabled police officers are required to spend down all credits for unused annual or sick leave or other similar credits in order to receive disability salary or disability pension (page 2) [COMM AM]

##### County Employees Retirement Plan

Section 2: [amends 23-2301] - definition section

-employees of counties with population of 200,000 (increased from 150,000) are not eligible to be in the County Plan [page 6] [COMM AM]

-adds definitions for retirement application and retirement date (pages 9-10)

Section 3: [amends 23-2306] clarifies membership requirements in the county plan as follows:

-part-time employees must exercise option to participate in the plan within 30 days of employment and elected county officials must exercise the option within 30 days of taking office (page 12) [COMM AM]

-grants authority to the Public Employees Retirement Board beginning July 1, 2013 to determine whether a governmental entity currently participating in the County Plan is a qualified employer under Internal Revenue Code 414(d); establishes time frames for Board actions, grants full vesting to affected members and grants the Board rule and regulation authority to carry out this provision (page 13) [COMM AM]

-state employees who become county employees pursuant to transfer of assessment function to the county are not considered terminated and receive vesting credit for service as state employee (page 14) [COMM AM]

Section 4. [amends 23-2307] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding county pick up of employee contributions (page 15)

Section 5. [amends 23-2310.04] clarifies use of defined contribution forfeiture funds by remaining defined contribution plan members (pages 16-17) [COMM AM]

Section 6. [amends 23-2315] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions (pages 17-18)

Section 7. [amends 23-2317] strikes obsolete 2009 required minimum distribution language and adds new language regarding such distributions (page 24)

Section 8. [amends 23-2319] strikes obsolete forfeiture language (pages 25-26)

-strikes obsolete 2009 required minimum distribution distribution language and adds new language regarding such distributions (pages 26-27)

Section 9. [amends 23-2319.01] inserts internal reference addition regarding use of defined contribution forfeitures (page 28)

#### Judges Retirement Plan

Section 10. [amends 24-701] adds definitions for retirement application and retirement date (page 36)

Section 11. [amends 24-703] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding county or state pick up of employee contributions (pages 43-44)

Section 12. [amends 24-710.13] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments (page 47) [COMM AM]

#### School Employees Retirement Plan

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

-amends retirement date definition. also requires member to file retirement application 120 days (was 90) prior to effective date of member's initial benefit (page 54)

-clarifies in the School Plan that only per diems paid as expenses are not considered compensation [page 57]

[COMM AM]

-clarifies language for the salary cap applied to School Plan members whose retirement date is between July 1, 2012 and July 1, 2013. Establishes new definitions and clarifications for the 8% salary cap that is applied to all members whose retirement date is on and after July 1, 2013 [pages 59-61] [COMM AM]

-strikes language from termination definition and moves to 79-904.01 and 79-921 (page 61)

Termination of employment date is clarified as follows:

-termination is determined by end of member's contractual agreement or by the employer if there is no contract or partial fulfillment of a contract (page 61)

-strikes calendar designation of days (page 62)

-strikes proposed language that changed provisions regarding service provided within 180 days following termination of service and proposed language regarding part-time employment; reinstates original language [pages 62-63] [COMM AM]

-clarifies that employers may adopt a policy which limits or denies employees from providing voluntary or substitute service within 180 days of the employees' termination [page 62] [COMM AM]

-member is not deemed terminated if the board determines that a termination was not a bona fide separation or the member was compensated for a full contractual period but the member terminated prior to the end of the contract (page 62)

-strikes proposed language amending regular employee definition and clarifies that once a member has reached the designation of regular employee, then contributions will begin with the next full payroll period and apply to all future employment with the same employer (page 63) [COMM AM]

Section 14. [amends 79-904.01] inserts language stricken from definition of termination regarding repayment of benefits if termination has not occurred (page 64)

Section 15. [amends 79-917] extends period from 30 to 180 days for school employees to apply for vesting credit for years of service in another Nebraska governmental plan (page 64)

Section 16. [amends 79-921] inserts language stricken from definition of termination regarding employers' obligation to notify board of termination date (page 65)

-renumbering and revisor internal reference changes (page 67)

Section 17. [amends 79-947.06] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments (pages 69-70) [COMM AM]

Section 18. [amends 79-956] adds clarifying language regarding member who dies before his or her retirement date (page 71)

Section 19. [amends 79-958] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding employer pick up of employee contributions (page 75)

Section 20. [amends 79-962] requires all school employee contracts to specify the contractual period of employment including the start and end date of the contract (page 76)

## Class V School Employees Retirement Plan

Section 21. [amends 79-984] requires annual actuarial reports rather than every 3 years (page 76)

Section 22. [amends 79-987] clarifies standards for actuary (page 77)

Section 23. [amends 79-990] authorizes interest for purchase of service credit to be determined by the board (page 79)

Section 24. [amends 79-991] authorizes interest for purchase of service credit and delayed payments to be determined by the board (pages 82-84)

Section 25. [amends 79-992] authorizes interest on restored funds and delayed payments to be determined by the board (pages 85-86)

Section 26. [amends 79-996] clarifies how the rate of interest is to be determined by the board for purchase of additional service credit and the interest on delayed payments (page 88)

Section 27. [amends 79-9,102] adopts changes in response to amendment of applicable tax laws; incorporates the limitations on the maximum benefit that may be paid under Internal Revenue Code section 415; strikes obsolete language (pages 88-91)

Section 28. [amends 79-9,117] eliminates the required registration fee for pre-retirement planning programs (page 93)

## Nebraska Investment Council and Veterans Aid Fund

Section 29: incorporates LB 594 which directs the Nebraska Investment Council rather than the Board of Educations Lands and Funds, to manage and invest the Nebraska Veterans' Aid Fund [pages 93-94] [COMM AM]

## Nebraska State Patrol Retirement Plan

Section 30. [amends 81-2014] adds definition for DROP account (page 96)

-adds definitions for retirement application and retirement date (page 97)

Section 31. [amends 81-2016] extends period to apply for vesting from 30 to 180 days (page 100)

Section 32. [amends 81-2017] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding state pick up of employee contributions (page 103-104)

Section 33. [amends 81-2027.08] inserts minimum accrual rates for specific years for calculation of cost-of-living adjustments (page 107) [COMM AM]

Section 34. [amends 81-2041] designates that DROP funds are placed in an IRC 414(k) account and must meet IRC 415 limitations (page 109)

## State Employees Retirement Plan

Section 35. [amends 84-1301] adds definitions for retirement application and retirement date (pages 118-119)

Section 36. [amends 84-1307] part-time employees must exercise option to participate in retirement plan within 30 days of employment (page 121)

Section 35. [amends 84-1308] strikes obsolete provisions and inserts Internal Revenue Code 414(h)(2) language regarding state pick up of employee contributions (pages 123-124)

Section 38. [amends 84-1314] clarifies use of defined contribution forfeiture funds by remaining defined contribution plan members. (pages 125) [COMM AM]

Section 39. [amends 84-1317] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions (pages 126-127)

Section 40. [amends 84-1319] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions (pages 132-133)

Section 41. [amends 84-1321] strikes required minimum distribution language regarding 2009 distributions and adds new language regarding such distributions (pages 134-136)

Section 42. [amends 84-1321.01] revisor reference change regarding use of defined contribution forfeiture funds (page 136)

#### Public Employees Retirement Board

Section 43. [amends 84-1503] adds language to actuary qualifications; requires the next compliance audit to be completed by December 31, 2020 (pages 141-142)

-inserts language in board duties to maintain plans' qualified status pursuant to section 414(d) of the Internal Revenue Code (page 144)

Section 44. [amends 84-1511] makes it permissive to charge a fee for pre-retirement planning program (page 146)

Section 45. [amends 84-1511.01] makes it permissive to charge a fee for retirement education and financial planning program (page 147)

Section 46. Severability clause

Section 47. Repealer

Section 48. Emergency clause

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Jeremy Nordquist, Chairperson