

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

BALLARD: [MALFUNCTION] Retirement Systems Committee. My name is Senator Beau Ballard. I represent District 21 in northwest Lincoln and northern Lancaster County, and I serve as chairs-- chair of the committee. We'll start off by having the members of the committee and the committee staff do self-introductions starting on my far left with Senator Juarez.

JUAREZ: Hello. Margo Juarez from District 5 in south Omaha.

SORRENTINO: Tony Sorrentino, Legislative District 39, Elkhorn and Waterloo.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

CONRAD: Hi. Danielle Conrad from north Lincoln.

HARDIN: Brian Hardin, District 48.

CLEMENTS: Rob Clements, District 2, Cass County, eastern Lancaster.

BALLARD: Also assisting our committee is our committee clerk, Connie Thomas, and our committee, and our committee pages, Jacob Janssen and Sam Johnson, both at UNL. This afternoon we'll be hearing gubernatorial appointments and LB295 and will be taken up in the order listed outside of the room. On the table near the entrance, you will find green testifier sheets. If you're planning to testify today, please fill out and hand it to Connie when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for the particular bill, you must testify in the position during the bill's hearing. If you do not wish to testify and would like your position-- and like your record of your position on a bill, please fill out the yellow sheet near the entrance. Also, I would note the Legislature's policy that all letters for the record will be received via the online comment portal by that committee by 8 a.m. the day of the hearing. Any handout submitted by testifiers will also be included as part of the, part of the record as exhibits. We'd ask if you had any handouts, that you please make 12 copies and bring them to the page. If you need additional copies, the page can help you make more. Testimony for each bill, will begin with the introduce-- introducer's opening statement and after the opening statement we'll hear from supporters of the bill, then from those in opposition, followed by those speaking in the neutral, neutral capacity. The introducer of the bill will be given an opportunity to make closing statements if they wish to do so. We ask

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

that you begin your testimony by giving your first and last name and also spelling for the record. Because this committee meets over the noon hour and members have other hearings beginning at 1:30, we'll be using the 3-minute light system today. When you bring-- when you begin your testimony, the, the light on the table will turn green, the yellow light will give you a 1-minute warning, and when the red light comes on, we'll ask that you wrap up your final thoughts. I'll remind anyone in the audience and senators to turn off their cell phones or put them on vibrate. We'll begin with our gubernatorial appointment with Patrick Bourne.

PAT BOURNE: Good afternoon, members of the Retirement Committee. My name is Pat Bourne, B-o-u-r-n-e. I live in Omaha, 13020 Binney Street, 68164. Thanks for having me today and considering my appointment to the PERB Board. When I spoke with Connie, it's been a while since I've been in front of a committee, she just said kind of give me your background and what qualifies you for being a member of the PERB. And so just kind of way of background, my-- I have an undergraduate in finance from University of Nebraska Omaha. I have a law degree from Creighton. While at Creighton, I focused on tax policy and tax structures and business structures and was a member of the Legislature from 1998 to 2007. I was one of the first-- I was the first class to get term-limited out, and so I left in 2007. During my time in the Legislature, I was a member of the Retirement Committee for all 8 years and had a real strong interest in, in retirement plans and systems. While I was in the Legislature, I worked at Blue Cross and Blue Shield of Nebraska, had a variety of roles there: sales, service, human resources, client reporting, things like that. One of the things that I was most pleased about during my time at Blue Cross Blue Shield was I served on the, what we called, the 401(k) Committee, and I was on that for a number of years. And, again, I have a real strong interest in people planning for the future. And so we devised a number of things with that committee to increase education and awareness of how retirement plans work, increased contributions. And I think that's one of the things I remember most about Blue Cross was, you know, helping people prepare for the future. Most recently, I was a member of the OSERS, the Omaha School Employees Retirement Plan (System). I came there during the Superintendent Logan period. So it's kind of after, you know, some of those issues, after their-- most of their functions were transferred to the state, help with the transition to NPERS of that plan. And then, recently, there was a, a gentleman on the PERB who wanted to retire and, and I ended up, you know, approaching the governor's office asking to fill that open seat. So,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

again, I've had a real strong interest in retirements, retirement plans, helping people plan for the future, and, and have been involved in that space for quite some time. So with that, I would appreciate your consideration and happy to answer any questions if you might have any.

BALLARD: Thank you, Senator Bourne. Are there any questions?

JUAREZ: I have a question, please.

BALLARD: Yes, Senator Juarez.

JUAREZ: So could you elaborate a little bit about what you did when you said you'd looked-- 401(k)s? Did you help make investment decisions or what did you do?

PAT BOURNE: So what we did was we would-- we-- I don't really like those freedom funds, you know, so what we would do, we increased the opportunity for folks to meet with investment advisors from the organization that ran our 401(k). We implemented some things relative to borrowing against the 401, some different features that kind of required some counseling before a person were to borrow against their 401. Because, again, it's a short-term fix, right, to borrow against that. So we tried to put not necessarily limitations in it, but making sure that people entered into those arrangements with their eyes wide open. But I think the most important thing we did was really increase the education and the opportunity to meet with those investment advisors to make some smart decisions about their future and that 401(k) plan and, you know, the plan increased pretty significantly in terms of the assets we held for our employees over the 10 or 12 years I was on the committee.

JUAREZ: OK. Thank you.

BALLARD: Any other questions? Can you give a little bit of-- understand-- what, what issues did you work on when you're on the Retirement Committee? Like, what, what are we [INAUDIBLE]?

PAT BOURNE: Well, that was, that was kind of back when it seemed interest rates were high and a lot of the retirements were flush. And, and I, frankly, carried some legislation for some of the school districts to increase retirements. Seems to me there was some teachers that had kind of gotten into some gaps where they had left employment due to pregnancies or whatever, and there were some issues around them getting a maximized benefit and helped with those. It's been a while.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

I think I've been out of the Legislature about 17 years, frankly, those are some of the issues that kind of come to mind.

BALLARD: All right. Thank you. Senator Hardin.

HARDIN: As you look at this and it's broad and you have a, a deep amount of experience in working with these kinds of things, when you look at all of this and say they need to work on blank.

PAT BOURNE: Yeah.

HARDIN: What is that blank filled with?

PAT BOURNE: I really think that, you know, people, I think they're responsible for their futures, right? And so I think it's about education and making sure people understand the plans, whether it's a 401(k) or a defined contribution, defined benefit. I just think it's an awareness. So I think anything that we can do to increase, you know, state employee, the members of the, of the retirement systems, education on how it works and how they can, you know, take some actions to ensure their futures.

HARDIN: Thanks.

BALLARD: Any final questions? Senator Conrad.

CONRAD: Thank you, Chair. Thank you, Mr. Bourne. It's good to see you again. I have so many anecdotes that I'd like to share, but I don't know if the committee has enough time today,--

PAT BOURNE: Thank you very much.

CONRAD: --but thank you for your long-standing service to our state. And thank you for your long-standing friendship to me and, and many members of this body. But as you know from your time on the committee and then you've talked a little bit about in how that work has continued as you've served on the OSERS Committee or even in your private sector obligations. Can you just help to give the committee kind of an understanding about how you hope to achieve or strike the right balance for taxpayers, for public employees? Just kind of those, those key issues that are always ever present--

PAT BOURNE: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

CONRAD: --in these retirement systems, kind of, issues and plans, just kind of the lenses that you apply.

PAT BOURNE: Yeah, that's a great question. I-- you know, I've, I've been to two PERB Board meetings, you know, and, and, frankly, it's significantly different than the OSERS Committee.

CONRAD: Yeah.

PAT BOURNE: And, you know, particularly when I came in on OSERS, you know, the investment, this has already been transferred. And so, so I'm still-- and, and I want to say that the chair of the PERB Board has been great. You know, they provide mentors for everybody that's new to the committee, which is a phenomenal thing. So I think, Senator, I'm still kind of trying to figure that out. But there has to be a good balance, I think, between, you know, making these-- making the positions, you know, as, as attractive as possible to, you know, attract and retain good employees--

CONRAD: Right.

PAT BOURNE: --because we certainly need that, right? And so, you know, I kind of look at the pension itself as part of the overall pay mix.

CONRAD: Yeah.

PAT BOURNE: And, you know, it just has to be a balance between the, the state's budget and, you know, the funds necessary to attract and retain the, the best and the brightest. Right?

CONRAD: Very good. Thank you. Thank you.

BALLARD: Thank you. Any other questions? Senator Sorrentino.

SORRENTINO: Thank you, Chairman Ballard. No questions. I would like to provide a unsolicited, [INAUDIBLE] unsolicited recommendation. And Mr. Bourne, I worked with him for many years when he was at Blue Cross Blue Shield and I was in the brokerage business and I found him to be quite trustworthy, knowledgeable, and very good to work with.

PAT BOURNE: You're very kind, Senator. Thank you.

BALLARD: Thank you. On that note, thank you for your testimony and thank you for your willingness to serve. Thank you, Senator.

PAT BOURNE: Thank you so much for your time.

BALLARD: Proponents? Any-- anyone in opposition? Anyone in the neutral? All right, seeing none, we will close the nomination on Patrick Bourne. Next up, we have Jacob Curtiss from the finest district in the state.

JACOB CURTISS: Yes. And I did provide a copy of what I'm going to share as well, but I will read this for the committee. My name is Jacob Curtiss, J-a-c-o-b C-u-r-t-i-s-s. Generally, I go by Jake. I reside at 11945 North 142nd over in Waverly, which is Legislative District 21, same as committee chair, Mr. Ballard. And I would like to first thank the Retirement Committee for the opportunity to share a little bit about myself and this position. I am currently the director of employee-- excuse me, employee relations for Millard Public Schools. I have served in this role since 2017. I'm a licensed attorney for the state of Nebraska and a background in insurance, retirement plans compliance, as well as human resources. I'm the current legislative liaison for the Nebraska Association of School Personnel Administrators. In my current position, I'm very well-versed on the school retirement plan as it pertains to the reporting and tracking requirements for employers. Additionally, I'm responsible for educating Milford staff on benefits, which includes the retirement plan. Through this role, I have an expansive view of the school plan looking at it not only through the eyes of new teachers coming on board fresh out of school, but also from the lens of veteran staff who have crossed the career milestone and are ready to retire and receive the benefit that, that NPERS provides. I've had the opportunity to work with NPERS leadership in the past on legislative issues, providing insight from school administration on challenges with current plan design elements. I've come before the retirement committee previously relating to legislation as well. Through this process, I've gained experience and insight in navigating the challenging landscape associated with retirement plan compliance while working with multiple stakeholders to make key modifications to the plan to support those challenges facing districts with teacher and substitute shortages. Through these efforts, I've realized the vital work that the retirement board, legislative retirement committee, and NPERS staff does for securing the retirement benefit not only for teachers and school personnel, but for all public employees under the state of Nebraska's retirement systems. I know firsthand that the NPERS retirement benefit is a vital recruiting and retention tool for individuals considering work in the public sector versus private industry beyond just the school plan. I recognize that my board

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

position and appointment is that of the school plan members stipulated by law to serve on the retirement board. I understand the obligations and responsibilities of the Public Employees Retirement Board to ensure all NPERS governed plans are appropriately managed and that I'll serve as a trustee and fiduciary of these plans. I will strive to learn and lead in a fiscally prudent manner and demonstrate sound fiduciary judgment as the other retirement board members do so. I'm honored to have been appointed by the governor for this position and do thank this committee for time today to share information. I would like to answer any questions that you do have.

BALLARD: Thank you, Mr. Curtiss. Are there any questions? Senator Hardin.

HARDIN: I'll repeat a question from earlier. When you think about the breadth of this, it's only people's retirement that we're dealing with, as you look at this system, what comes to mind that makes you go this needs this?

JACOB CURTISS: You know, similar to the, the person before me, I have also been to, to just two PERB meetings so far listening in. I, I think the biggest thing as I'm starting into this is, is truly just that, to listen and recognize the challenges associated with governing these plans across the, you know, the school plan, the State Patrol plan, you know, the, the state plan itself and, you know, ensuring, you know, from the Board's standpoint that, you know, the, the fiduciary obligations are being satisfied and that the underlying shareholders, the employees, the, the state itself are also being, you know, fully and adequately recognized in making those decisions.

HARDIN: Thanks.

BALLARD: Senator Conrad.

CONRAD: Thank you, Chair. Thank you for being here, Mr. Curtiss. And I was hoping that maybe you could just help to paint a little bit more of a picture about your present work and how that might impact your appointment if it moves forward. And I think it will. I think it will be very highly successful. But so working as director of employee relations at Millard Public Schools, how important are retirement plans to teachers at your school?

JACOB CURTISS: They're very important and it's not just teachers either. We need to look at the benefit for, you know, the hourly staff

as well, for custodians, your food service workers, your paraprofessionals. And, you know, all of those people that when they look at an opportunity to come work for a school or, you know, possibly Walmart or a, a Target and, you know, it goes beyond just what is that, you know, hourly wage? But, you know, what are the health benefits associated? What is the retirement benefit at that future point that they can receive?

CONRAD: So in addition to a pretty consistent sense of meaning and importance for the team members at the school that you work with in regards to their retirement, do you think that the team members you work with who are impacted by the school retirement fund, are they concerned when there's dramatic changes proposed that would implicate the benefits package that they kind of thought they were walking into or have? Have you, have you heard any recent feedback in, in your present role in regards to some legislation before this body?

JACOB CURTISS: Yeah, I mean, over, over the years since I've been, you know, in my seat since 2017, any time there is proposed legislation surrounding retirement, you know, people can tend to get worried because that is a whole level of, you know, kind of uncertainty to their future that they lose a little bit of control on. So, you know, good or bad, you know, any time any change is out there, people can, can tend to get worried. And, you know, a big piece is, you know, the, the work with NPERS leadership and kind of the support of, OK, this is what this change, you know, means. This is how, you know, it's going to be addressed. If you look at it from the standpoint of the additional tiers being added into the retirement system or, you know, other adjustments that 198 provided with substitute service and the ability to, to have those come back, you know, those were changes, they caused some uncertainty. You know, some good, some bad. But some of it is also just the nature of letting that legislative process work.

CONRAD: Sure. I, I really appreciate that. And then in your present role, about how much time do you spend talking with individual team members or groups of new hires or retirees or what have you with team members who are on the front lines of, of our educational systems about their retirement plans?

JACOB CURTISS: Yeah. So one of the things that Millard does is all of our first-year teachers through their induction program, there is, you know, a, a session that I come in specifically speaking to benefits, including kind of retirement for our retirees, there are dedicated

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

kind of retirement planning sessions to help with timing of applications. This is sort of information you need to, to look and be, be mindful of, and then, also, you know, ensuring that the, you know, state-provided retirement seminars, benefits, things like that, they're able to take advantage of, too.

CONRAD: Yeah. So just to kind of put a bow on it, in your work day in and day out with teachers and team members impacted by the teachers' retirement fund, the team members that you work with take it very seriously and find those benefits very important to their work. Is that a fair assessment?

JACOB CURTISS: Yeah, definitely. I mean, when you look at the, the retirement piece and selecting, you know, if you come out of college and you have the potential of going into teaching or going to work for, you know, another company, you know that retirement at that early stage is kind of a, a known future. But I think it's definitely as time progresses and especially as staff get closer to that earliest retirement age, is when they really start to, to kind of realize just the benefit that they truly have and are able to take advantage of.

CONRAD: Very good. Thanks for your time. Appreciate it.

JACOB CURTISS: You bet.

BALLARD: Thank you, Mr. Curtiss. Any other questions?

JUAREZ: I have one, please.

BALLARD: Yes, Senator Juarez.

JUAREZ: Could you tell me a little bit and, no, you don't need to go on for a long time, but I'm curious what you did in-- as a compliance officer, your experience in the retirement plans division at Mutual. Could you elaborate a little bit for me what you did at Mutual?

JACOB CURTISS: You bet. Mutual of Omaha in retirement plans area is two, kind of, separate sets that they have. One is the traditional 401(k) business, the other is the pension closeout business. And so I did some work on kind of the 401(k), but more was devoted towards the pension closeout and that was where private employers made the decision to freeze or terminate their pension plan. And so the obligation for continuing those payments, the vested annuities, etcetera, were transferred to Mutual and so went through the process

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

of writing up the, the contract certificates, etcetera, associated with that.

JUAREZ: OK. Thank you.

JACOB CURTISS: You bet.

BALLARD: Thank you, Senator Juarez. Any other, any other questions? Appreciate it. Thank you so much.

JACOB CURTISS: Yeah. Thank you so much.

BALLARD: Are there any proponents to Mr. Curtiss' nomination? Anyone in the opposition? Anyone in the neutral capacity? Seeing none, we will-- there was no proponents-- no online proponents, no online opponents, and no one in a neutral capacity. With that, we will close our nominations and open our hearing on LB295. Trevor.

CONRAD: Why is the committee counsel opening?

BALLARD: It's a committee bill.

TREVOR FITZGERALD: It's a committee-introduced bill. Good afternoon, Chairman Ballard, members of the Nebraska Retirement Systems Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB295 on behalf of the committee. LB295 was introduced at the request of the Nebraska Public Employees Retirement System, commonly referred to as NPERS, and serves as their annual cleanup bill. The bill amends various sections of statute governing state, county, and school retirement plans administered by NPERS, as well as the statutes governing the Public Employees Retirement Board, or PERB. Given the length of the bill, I will briefly discuss the major provisions of the bill rather than going section by section. First, LB295 would provide a process for the PERB Board to waive repayment of benefits if those benefits were the result of an inadvertent overpayment. Generally, when retirement benefits are paid out in error, the plan members are required to repay the benefit, but NPERS have experienced some situations in which the member received the overpayment due to no fault of their own or based on receiving incorrect information from their employer. The bill would not waive the repayment in all cases, but simply provide a process by which the PERB Board could waive repayment in certain cases. Second, the bill makes two changes to eligible types of identification documents under the retirement statutes. Under current law, only those individuals who are United States citizens or who are lawfully present

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

are eligible to participate in state retirement systems. LB295 would add state-issued learner's permits to the list of eligible identification documents for state retirement plan purposes. The bill also clarifies that identification documents issued by the U.S. Department of Homeland Security or the U.S. Citizenship and Immigration Services, whose expiration date has been extended by the federal government, are still considered valid identification documents. Third, the bill adds the Class 5 School Employees Retirement System, commonly referred to as the OSER System, to the definition of statewide public retirement systems under the Spousal Pension Rights Act. This appears to have been an oversight when management of the OSERS plan was transferred to NPERS in 2021. Fourth, the bill makes a series of technical changes to the School Employees Retirement Act. These technical changes include the inclusion of leave of absence pay and the definition of compensation, codifying the formula used by NPERS to determine whether a school employee is considered full time or part time, providing that lump sum payments to multiple beneficiaries can be made independently of each other, clarifying the definition of early retirement, providing that employees deemed full time under the OSERS plan remain full time once they are deemed so, and eliminating the 60-day deadline for beneficiaries under the plan to elect lump sum distribution. Fifth, the bill makes small changes regarding pre-retirement planning programs sponsored by NPERS. Section 24 of the bill adds language authorizing the PERB Board to offer online pre-retirement planning programs, while Section 14 of the bill ensures that members of the OSERS plan receive leave with pay to attend pre-retirement planning programs similar to participants in other plans. Sixth, Section 22 of the bill clarifies several provisions regarding the PERB Board providing that the vice chairperson of the Board may call a meeting and allowing for mileage reimbursement for PERB Board members. Finally, Section 25 of the bill would prohibit the use of any named logo, symbol, or similar name logo or symbol related to a state retirement plan and written solicitations to plan members without PERB Board approval. This is designed to address situations where financial planners and other organizations will send letters to plan members and use the NPERS logo or other information to make it appear that the products being offered are affiliated with NPERS. In addition to the changes contained in the green copy of the bill, last week, Senator Ballard filed an amendment, AM18, which corrected a drafting error and added one additional component to the bill. This additional component would amend the definition of retirement date under the School Employees Retirement Act to allow teachers to file for retirement up

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

to 270 days prior to the effective date of their initial benefit rather than the current 120-day limit. This change is designed to provide greater flexibility for retiring teachers and hopefully give NPERS staff more time to process applications. Finally, members should have received a copy of a new amendment, AM61, in their materials. That amendment contains provisions from AM18 and makes two additional changes. First, AM61 strikes Section 18 from the bill at the request of NPERS. My understanding that this issue regarding appropriations for actuarially required contributions in the State Patrol plan may need to be addressed in some aspect what may be addressed at a later time. Second, AM61 clarifies the language regarding inadvertent overpayments to provide that such overpayments may only be waived by the PERB Board if the repayment would create a hardship. This language is designed to address concerns raised by the Attorney General's Office and there may be further conversations between NPERS and the AG's Office to further refine that language. A representative from NPERS is here to testify behind me, but I would be happy to answer any questions committee members have at this time.

BALLARD: Are there any questions for Trevor?

JUAREZ: I have a question, please.

BALLARD: Yes, Senator Juarez.

JUAREZ: OK, Trevor, I try to keep up with you, listening intently.

TREVOR FITZGERALD: Tried to get in on 3 minutes, even though I'm opening.

JUAREZ: OK. So my question is, in regards to the waiver of the inadvertent overpayments, who actually is making the decisions on those?

TREVOR FITZGERALD: It would be the PERB Board that would make that decision and the NPERS testifier behind me will have a little more information about that. There's been some IRS guidance on that issue recently on, on how that would work.

JUAREZ: OK, thank you. Then, I'll, I'll wait.

TREVOR FITZGERALD: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

BALLARD: Any other questions? I have one. Section 6, we, we open up the, the OSERS on sec-- we're no way taking financial-- any more financial obligation under this.

TREVOR FITZGERALD: Right. So Section 6 and I just want--

BALLARD: It says spousal rights.

TREVOR FITZGERALD: Yeah. So the, the Spousal Pension Rights Act, it governs the treatment of retirement benefits in the cases of divorce or legal separation. Adding the OSERS plan to that list of plans that are considered statewide public retirement systems under the act, that doesn't change the fact that under current statute we explicitly provide that the state is not financially responsible for or liable for the funding obligations of the OSERS plan. So that, that responsibility and liability still rests with the Omaha Public Schools. So my, my understanding is that change, and NPERS can, can follow up on this, it's designed to ensure that NPERS can respond to qualified domestic relations orders, or QDROs, related to the OSERS plan in the same manner that they reply-- respond to other QDROs for related to other plans managed by NPERS.

BALLARD: Thank you, Trevor. Seeing no additional questions, thank you.

TAG HERBEK: Chairperson Ballard, members of the Nebraska Retirement Systems Committee, I'm Tag Herbek, T-a-g H-e-r-b-e-k. I am legal counsel for the Public Employees Retirement Board and the Nebraska Public Employees Retirement Systems speaking on NPERS cleanup bill, LB295. I would like to thank the committee for introducing this bill and I will do my best to stay under time. Sections 1, 3, 4, 8, 16, 19, and 21 introduce much-needed possible financial relief for retired plan members living on a thin, fixed retirement income and time resources relief for NPERS employees. The IRS requires members of retirement plans to have a bona fide termination or separation period. Under current statutes, if a member does everything they can to comply with termination rules, but the employer provides inaccurate information to NPERS or to the member, the member must repay any distribution received. This could easily be tens of thousands of dollars. For example, a member takes a distribution and tells the school to only call them back for substitute service. The school calls the member into work for a nonsubstitute position but does not disclose this to the member. The member has now violated the termination rules and must repay their distribution, which could severely impact someone's low fixed income. The IRS, as part of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

Securing a Strong Retirement Act of 2022, recently allowed qualified plans to make mandatory repayment exceptions for inadvertent benefit overpayments, which includes a payment made before a distribution is permitted under the IRS code or under the terms of the retirement plan. It does not include any payment overpaid due to the sole fault of the plan participant. Under our requested provisions, the retirement board would be responsible for hearing and approving any repayment exceptions involving an inadvertent benefit overpayment. Sections 2, 5, 9, 15, 17, 20, 23 provide for the occurrence where a federal agency issues guidance or policies that renew immigration statuses without issuing updated documents with a new expiration date. For example, a federal agency may issue temporary final rules that increase the automatic extension period of an employment authorized document. Also, policy guidance may affect certain specific nonimmigration statuses with automatic renewals for periods of time without issuing new documentation. Section 6 would make the Nebraska Spousal Pension Rights Act applicable to the Omaha School Employees Retirement System. This would bring the OSERS plan in administrative alignment with the state retirement systems NPERS already administers in order to qualify domestic relations orders and distribute alternate payee payments. Qualifying domestic relations orders is an administrative fiduciary responsibility and not a settlor function. Section 7 codifies the current practice of including leave of absence pay as pay eligible for retirement contributions in the school plan. This section also codifies an already used formula for determining whether a part-time employee has become eligible to participate in the school retirement plan. NPERS is required by the IRS to have a consistent formula for all 265 separate school participant districts. This is the easiest formula for 265 school districts to use for hundreds of employees by new school administrative staff. There may be more complex formulas available, but adoption of complicated, less accessible formulas reduce the efficiency of school staff and NPERS auditors and drain the few resources government officers have.

BALLARD: All right. Thank you. Are there any, any questions? Yes.

SORRENTINO: Thank you, Chairman Ballard. Just an overall question. There's a couple of places where you refer to once an employee has met the definition of full-time employee, they may dip under that and become part time. But it would appear that this retirement plan would continue to treat them as permanently eligible. Is that correct?

TAG HERBEK: Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

SORRENTINO: I come from a different world. Explain that to me that once you leave the full-time status and become part time, eligibility terminates. Could you explain the reasoning for that?

TAG HERBEK: The reasoning for that is in order to, to allow, allow individuals to remain in the system as a benefit to them. The IRS, in the past 2, 3 years, where Secure 2.0 has been pushing and wanting individuals to become part of a, a retirement system to remain-- or a retirement plan to remain in that retirement plan.

SORRENTINO: So this is a wish, not a mandate? It's not an IRS mandate that I'm aware of.

TAG HERBEK: I would say it is borderline on the edge of a mandate.

SORRENTINO: OK. Secondly, when you talk about basing-- when people have a, a leave of absence, could you go a little bit deeper into what leave of absence pay-- what is included? I mean, it could be vacation pay, PTO. Is it things like disability? Would disability fall into the bucket of leave of absence pay?

TAG HERBEK: No.

SORRENTINO: No. Not--

TAG HERBEK: No.

SORRENTINO: What exactly would fall into that definition, please?

TAG HERBEK: Leave, leave of absence pay?

SORRENTINO: Yes.

TAG HERBEK: It's someone who voluntarily, or should voluntarily, but arranges to, to leave work for a certain amount of time and they are paid during that period.

SORRENTINO: Do you recall the maximum period you can get for leave of absence? I don't know that.

TAG HERBEK: Off the top of my head, I do not remember.

SORRENTINO: OK. But typically a leave of absence pay, it's requested, it's granted. In your opinion, is it typically a full-time pay for a period of time or is it a drastically reduced amount?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

TAG HERBEK: It's going to depend. I can't say whether it's one way or the other. It's up to the, the employee and the school.

SORRENTINO: It's up to each individual school district? OK. Thank you.

BALLARD: Are there any other questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, sir. I also wanted to talk about leave of absence pay, they put in the definition of compensation, is that a new item?

TAG HERBEK: No, it's what we've been doing for some time.

CLEMENTS: And so why is that needed in this bill?

TAG HERBEK: Clarification.

CLEMENTS: Clarification? All right, I do see-- I see in Section 38 talks about leave of absence for a period not exceeding 12 months as far as service not being interrupted so I would assume that's what we're talking about, less-- 12 months or less?

TAG HERBEK: Correct.

CLEMENTS: Thank you.

BALLARD: Thank you. Any other questions? Oh, Senator Conrad.

CONRAD: Thank you, Chair. Thank you. Good to see you again.

TAG HERBEK: Same.

CONRAD: Appreciate you opening on this. I just want to tease this out a little bit so that the record is clear that there's some sort of implication, I guess, perhaps by my colleagues. Right? I don't know what their motive is in asking the questions, but, I mean, obviously, each school has personnel policies in place and HR policies in place that govern various types of leave, including leave of absence. Right? It's kind of beyond the scope of this committee and, and this bill that's before us. And those are in place for a variety of different reasons so that they can recruit and retain team members who are facing serious issues, whether it's a cancer diagnosis or whatever other reason might precipitate the need for a leave of absence. Are you aware of any sort of rash problem with school or other public employees using or abusing leave of absence provisions in Nebraska?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

TAG HERBEK: I am, I am not aware of any. We're just doing it for clarification purposes.

CONRAD: Thank you.

BALLARD: Seeing no other-- you had a few more sections, do you want to cover, cover those in your testimony?

TAG HERBEK: Sure.

BALLARD: OK. Just go ahead, couple more minutes.

TAG HERBEK: Thank you.

BALLARD: Yes.

TAG HERBEK: Section 10 allows NPERS, in the school plan, to pay death beneficiaries as appli-- applications for benefits are received instead of waiting until all shared death beneficiary applicants are received when there are multiple beneficiaries speeding up beneficiary payments by months or even years. Section 11 resolves an ambiguity in the OSERS plan language and keeps members in the plan as intended and already practiced when they immediately switch from full-time employment to part-time employment. This action matches recent congressional plan advances to keep partici-- participating members in the plan. In this section, NPERS is also attempting to align it with the normal retirement date definition that requires 5 years of service at OPS. This is the reference to membership service instead of creditable service. Section 12, again, resolves ambiguities in the OSERS plan by codifying the current practice of only applying a COLA to a formula annuity and not to a service annuity. Past practice supports this resolution. Section 13 removes a time deadline for a beneficiary to elect a lump sum benefit payment instead of receiving the deceased member's annuity upon becoming eligible for a death benefit in the school plan. NPERS felt additional clarification was needed in Sections 14 and 24 as some plan employees-- employers were not interpreting a date to mean a full 8 hours. In the proposed changes, we hope adding the number of hours available to someone in addition to the proposed days available will help employers understand that retirement education should be a full day and not less than 8 hours. Section 22 is requested to bring PERB statutes in alignment with PERB policy and its rules and regulations. Now, all 3 sources of law and procedures would be the same regarding who can call board meetings. This request also adds the ability for board members who

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee January 31, 2025
Rough Draft

live in western Nebraska to get reimbursed for mileage to attend board meetings. Section 24 provides clarification for employers that half-- that half-day in-person retirement seminars also have necessary education videos that members need to view as part of their retirement education experience. Section 25 is a member protection provision which will make marketers and businesses who contact retirement plan members clearly indicate they are not associated with NPERS or the PERB. In the past, plan members have received written communications from certain businesses, implying that they are associated with state retirement plans. These businesses can still contact plan members in writing, but will need to provide noticeable language in their communication stating they are not associated with the state retirement plans.

BALLARD: Thank you. Any final questions? Senator Sorrentino.

SORRENTINO: Thank you, Chairman Ballard. One final question is we have a long bill, a 93-page bill, but if you know this, we, we codify the formula currently used by NPERS to determine whether a school employee is considered full time or part time. Do you know using that formula, what would be the minimum number of hours an employee could work and still be considered full time? Is it 20 or is it 22, is it 30? Does anybody-- and if it's-- if a subsequent proponent knows that, I'd be glad to hold the question.

_____: It's going to depend on the--

BALLARD: OK. We'll, we'll, we'll--

SORRENTINO: I'll hold the question.

BALLARD: We'll, we'll, we'll hold the question.

SORRENTINO: OK. Thank you.

BALLARD: Just for the transcribers.

SORRENTINO: All right.

TAG HERBEK: Sorry about that, I don't--

SORRENTINO: Nope. Thank you.

TAG HERBEK: --have that on top of my head.

SORRENTINO: No further questions.

BALLARD: All right. Thank you-- any further-- thank you for your testimony.

TAG HERBEK: Yep.

BALLARD: Next proponent. Any opposition? Anyone in the neutral position? Seeing none, that'll close our hearing on LB295. I'll read a couple-- position comments online: zero proponents, two opponents, and two in the neutral. That'll close our hearing on LB295 and it will close our hearings for the day. Thank you. And, committee, we're just going to go into a quick exec session, if that's OK?