

## 2021 Legislation

Understanding that Nebraska legislation drives changes to your retirement plan is vital to remaining informed and up-to-date for your retirement planning. We wanted to showcase some of the bills that were passed during this session of the 107th legislature that may impact the School, Judges, and State Patrol retirement plans, or Nebraska retirees, in general. If you wish to see the bills, in their entirety, there is a link under each one that will take you to the legislative page for that specific bill.

### LB 17 - JUDGES/STATE PATROL/SCHOOLS

[LB17](#) increases a dedicated court fee to provide additional revenue into the Judges' plan. This fee will increase from \$6 to \$8 on July 1, 2021, until it reaches \$12 July 1, 2025.

In addition, it adds an annual contribution from the State of Nebraska to the Judges' plan of 5% percent of total compensation of the members of the Judges' plan beginning July 1, 2023. This rate cannot rise above 5% and can be reduced or eliminated by the Legislature.

It adopted a shorter amortization period to reflect recent changes to actuarial standards. Beginning July 1, 2021, closed 25-year amortization periods will apply, rather than the older 30-year amortization period, for the Judges, State Patrol, and School retirement plans.

### LB147 - SCHOOL

This bill, amongst other things, directs the transfer of management of the OSERS (Omaha School Employees Retirement System) from the Board of Trustees to NPERS (Nebraska Public Employees Retirement System), and the tasks associated with the transfer of management.

This bill requires the completion of a compliance audit by November 15, 2021, and the first annual audit by the state auditor done by July 1, 2022.

[LB 147](#) clarifies membership eligibility in the Omaha Public School (OPS) plan and redefines termination of employment. Specifically, it sets forth that voluntary and/or substitute service is allowed on an intermittent basis, defined as no more than eight service days during a calendar month, during the 180-day period following termination of employment.

It also transfers duties and responsibilities for management of the OSERS to the PERB/NPERS effective September 1, 2024. The bill specifies that OPS remains solely liable for the retirement system's funding obligations and will cover all costs for the management transfer.

It reinstates the Board of Education as the primary party responsible for the administration of the OSERS plan

during the time it takes to transfer the management of the OSERS Board of Trustees to the PERB/NPERS, making the Board of Trustees a subset of that Board of Education, effective July 1, 2021.

### LB 209 - DEFERRED COMPENSATION PLAN (DCP)

[LB 209](#), as amended, does not impact the Deferred Compensation Plan administered by NPERS.

### LB 64 - RETIREES

[LB 64](#) changes how Social Security benefits are taxed in the state of Nebraska. The changes allow federal adjusted gross income (AGI) to be reduced by a percentage of the Social Security benefits received. The percentages change would be based on marital status and AGI. The pertinent percentages are:

- 5% for taxable years beginning or deemed to begin on or after 1/1/2021 and before 1/1/2022
- 20% for taxable years beginning or deemed to begin on or after 1/1/2022 and before 1/1/2023
- 30% for taxable years beginning or deemed to begin on or after 1/1/2023 and before 1/1/2024
- 40% for taxable years beginning or deemed to begin on or after 1/1/2024 and before 1/1/2025
- 50% for taxable years beginning or deemed to begin on or after 1/1/2025 and before 1/1/2026

Amendment 1360 filed May 11, 2021, adds a legislative intent clause that states the intent to exclude social security benefits from taxation to:

- 60% for taxable years beginning or deemed to begin on or after 1/1/2026
- 70% for taxable years beginning or deemed to begin on or after 1/1/2027
- 80% for taxable years beginning or deemed to begin on or after 1/1/2028
- 90% for taxable years beginning or deemed to begin on or after 1/1/2029
- 100% for taxable years beginning or deemed to begin on or after 1/1/2030

### LB 386 - JUDGES

[LB 386](#) increased salaries for Nebraska Supreme Court Justices thereby increasing the salaries for district, juvenile, appellate, and worker's compensation court judges since their salaries are a percentage of the Supreme Court Justices' salaries.

### LB 387 - RETIREES

[LB 387](#) excludes military retirement benefit payments from state income tax.

### LB 428 - SCHOOL

[LB 428](#) requires youth rehabilitation and treatment centers to establish educational standards to ensure residents have access to educational opportunities equivalent to other Nebraska schools. This may increase the number of employees at these facilities that participate in the School plan.

## Frequently Asked Questions (FAQs) about LB 147's Changes to the Termination of Employment Rules

With the recent passage of [LB 147](#) in the Unicameral, there are significant changes to what voluntary and/or substitute service can be provided by a School plan member during the 180-day period after termination from employment. With the knowledge that our School plan members will have questions regarding what is now acceptable, please reference our [Frequently Asked Questions \(FAQ\) about LB 147's Changes to the Termination of Employment Rules](#). After reviewing the FAQ document, if questions still remain regarding how this will affect the voluntary and/or substitute service provided after termination without violating reemployment rules, contact Member Services at (402)471-2053 or (800)245-5712, option #1.

## FREQUENTLY ASKED QUESTIONS

### 1. WHAT IS LB 147?

[LB 147](#) is a bill passed by the Nebraska Legislature in 2021. Among other things, it set a limit on the total number of days of intermittent unpaid voluntary service and/or intermittent substitute service a School plan member may work during the 180 days following termination of employment.

### 2. HOW DID LB 147 CHANGE THE TERMINATION OF EMPLOYMENT AND DISTRIBUTION FROM RETIREMENT RULES?

LB 147 did not change several important rules.

- (a) A member may not take a distribution from retirement if the member prearranged a return to work with any employer covered by the School plan.
- (b) A member may not take a distribution from retirement unless the member terminates employment.
- (c) A member does not terminate employment for retirement purposes if the member provides service to any employer participating in the School plan within 180 calendar days after the member's termination date un-

less the service is limited voluntary service provided on an intermittent basis and/or limited substitute service provided on an intermittent basis (hereinafter collectively referred to as "voluntary and/or substitute service").

LB 147 changed the termination rules by defining "intermittent basis" and "day of service."

### 3. WHAT DOES "INTERMITTENT BASIS" MEAN?

"Intermittent basis" means no more than 8 days in a calendar month of voluntary and/or substitute service provided on a day-to-day basis (no prearrangement).

### 4. WHAT DOES "DAY OF SERVICE" MEAN?

"Day of service" means any length of voluntary and/or substitute service provided during a single calendar day (whether that is 5 minutes or 8 hours of service).

### 5. WHEN DO LB 147'S RULES TAKE EFFECT?

The law became effective May 27, 2021. This means members and employers must immediately begin limiting, tracking, and documenting, voluntary and/or substitute service performed by School plan members who terminated within the past 180 calendar days.

## FREQUENTLY ASKED QUESTIONS CONT'D.

### 6. MAY A MEMBER WORK 8 DAYS OF VOLUNTARY SERVICE AT AN EMPLOYER AND AN ADDITIONAL 8 DAYS OF SUBSTITUTE SERVICE, FOR A TOTAL OF 16 DAYS OF SERVICE, IN A CALENDAR MONTH DURING THE 180 DAYS AFTER TERMINATION?

NO. A member is limited to a combined total of 8 days of voluntary and/or substitute service in each calendar month across all employers covered by the School plan, regardless of whether it is:

- 8 days of voluntary service,
- 8 days of substitute service, and/or
- A combination of voluntary service and/or substitute service totaling 8 days (such as, 4 days of voluntary service and 4 days of substitute service, or 1 day of voluntary service and 7 days of substitute service).

### 7. MAY A MEMBER WORK 8 DAYS OF VOLUNTARY AND/OR SUBSTITUTE SERVICE AT SCHOOL DISTRICT 1 AND ANOTHER 8 DAYS OF VOLUNTARY AND/OR SUBSTITUTE SERVICE AT SCHOOL DISTRICT 2 IN THE SAME CALENDAR MONTH?

NO. A member is limited to a combined total of 8 days of voluntary and/or substitute service in each calendar month across all employers covered by the School plan.

### 8. MAY A MEMBER AND EMPLOYER AGREE TO HAVE THE MEMBER RETURN TO TRAIN THE MEMBER'S REPLACEMENT?

NO. This is a prearranged return to work. Further, training a replacement is regular service, not substitute service. Substitute service is defined as temporarily backfilling for a permanent employee who is temporarily absent. In this case, the returning member is not backfilling for anyone.

### 9. MAY A MEMBER WORK 8 DAYS OF REFEREEING, OFFICIATING, OR COACHING PAID BY AN EMPLOYER COVERED BY THE SCHOOL PLAN DURING EACH CALENDAR MONTH OF THE 180 DAYS FOLLOWING TERMINATION?

NO. Refereeing, officiating, and coaching are considered regular employment for retirement purposes. If these services are provided during the 180 days following termination, then the member has not incurred a bona fide separation of service.

Additionally, a bona fide termination of service does not occur if the employer and member prearrange the member's return as a referee, official, or coach before the member terminates even if the prearranged return time is outside the 180-day period.

### 10. WHAT HAPPENS IF A MEMBER DOES NOT FOLLOW THESE RULES?

If NPERS determines a bona fide termination did not occur, NPERS is required by law to:

- (a) Collect missed contributions from the member (with applicable interest),
- (b) Collect missed contributions from the employer (with applicable interest),
- (c) Have hours of service and compensation reported for the member by the employer, and
- (d) Collect back any distributions made to the member (with applicable interest).

### 11. THIS SOUNDS LIKE A LOT OF WORK. HOW WILL THESE DAYS BE MONITORED?

NPERS is preparing sample logs members and employers can use to document the service performed during the 180 days after termination. The logs are designed to have the member enter their service, have the employer(s) verify the service (preferably by signing and dating the log), and have both the member and employer keep a copy of the log so they can produce it when asked to document service after termination.

Employers may develop their own logs. However, the logs should, at a minimum, include all of the information shown on NPERS' sample logs.

LB 147 gave NPERS authority to hire another auditor. Our Internal Audit Team is incorporating new testing protocols as part of their auditing process, including requiring employers to produce documentation showing voluntary and/or substitute service during the 180 days after termination. The logs will be cross-checked against payroll and other records to ensure accurate reporting.

## **IMPORTANT NOTICE:**

# ***Non-Contributing Member Forms***

Effective **August 1st, 2021**, NPERS will no longer accept paper, e-mailed, or faxed Non-Contributing Member Forms for terminating School Plan members. After that date, your employer must submit **ALL** Non-Contributing Member Forms via the Electronic Non-Con Portal. The Non-Contributing Member Form verifies your termination date and final salary. NPERS must receive this document before we make any distribution from your retirement account. We notified the Employer Reporting Agents at each school district/ESU of this change in their most recent newsletter.