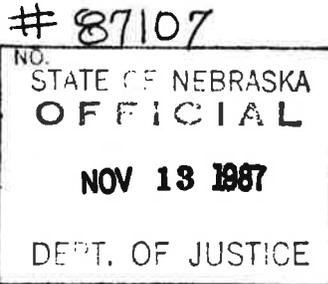


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: November 9, 1987

SUBJECT: Adjustment of Retirement Benefits for Retired School Teachers

REQUESTED BY: Senator Don Wesley
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
Fredrick F. Neid, Assistant Attorney General

You have requested our opinion concerning whether increased benefits for retired school teachers need to be considered a "cost of living increase". You have indicated that proposed legislation would provide the requisite statutory authorization for increases to benefit levels for retired school teachers.

The Nebraska Constitution prohibits the Legislature from granting additional compensation to public officers and employees after the services have been performed. Article III, Section 19 of the Nebraska Constitution, in part, provides:

The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public offices and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement, . . . (emphasis added).

The express exception to this constitutional provision permits adjustments only to reflect changes in the cost of living and wage levels which have occurred subsequent to retirement.

Accordingly, it is our opinion that increases in benefit amounts would need to be tied to changes in the cost of living or wage levels since retirement of the employees. In this regard,

L. Jay Bartel
Martel J. Bundy
Janie C. Castaneda
Elaine A. Catlin
Dale A. Comer
Laura L. Freppel

Lynne R. Fritz
Yvonne E. Gates
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson

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Jill Gradwohl Schroeder

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James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugal
Linda L. Willard

Senator Don Wesley
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proposed legislation for purposes of providing increased retirement benefits for retired school teachers would need be considered "cost of living increases" to preclude constitutional objection.

Sincerely,

ROBERT M. SPIRE
Attorney General



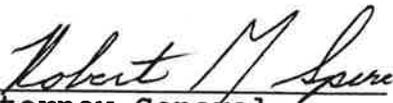
Fredrick F. Neid
Assistant Attorney General

FFN:jem

cc: Patrick J. O'Donnell
Clerk of the Legislature

87-03

APPROVED:


Attorney General