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Nebraska Retirement Systems Committee
February 16, 2010

[LB899 LB927 LB928]

The Committee on Nebraska Retirement Systems met at 12:10 p.m. on Tuesday, February 16, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB928, LB927, and LB899. Senators present: Dave Pankonin, Chairperson; Jeremy Nordquist, Vice Chairperson; Lavon Heidemann; Russ Karpisek; LeRoy Louden; and Heath Mello. Senators absent: None.

SENATOR PANKONIN: I want to welcome everyone to the Retirement Systems Committee hearing today. The usual rules apply. If you're going to testify, we have testifier sheets in the corners and we'd like to have those filled out ahead of time. It really saves a lot of time to have you bring them forward when you come to testify. And please either turn off your cell phones or put them on manner mode. And we'll introduce the two senators that are here. I'm Dave Pankonin, District 2.

SENATOR NORDQUIST: Jeremy Nordquist, District 7.

SENATOR PANKONIN: We do expect other senators to be here momentarily. We'll introduce them as they come in. And we'll start with...and also I want to mention that we have with us, of course, Denise Leonard, our committee clerk; and Kate Allen, our committee counsel is going to introduce a couple of bills first thing this afternoon. And obviously, if you do come forward to testify, we need to have you spell out your name. And our page is Kendra. She's been with us a time or two and she does a great job for us. We appreciate her work as well. So with that, we'll start with LB928.

KATE ALLEN: Chairman Pankonin and members of the committee, I am Kate Allen, that's spelled K-a-t-e A-l-l-e-n, and I'm legal counsel to the committee. I'm here today to offer LB928 for your consideration. LB928 is introduced as a placeholder bill in the event a contribution adjustment is necessary for the State Patrol retirement plan this year. Under LB928, the State Patrol retirement plan members' contribution rates would increase to an unspecified amount beginning July 1, 2010. And I'd be glad to respond to any questions. [LB928]

SENATOR PANKONIN: Are there any questions? Seeing none, are there any...is there anybody that wants to testify in support of this bill? Anybody to testify in opposition? In neutral? [LB928]

KORBY GILBERTSON: Good afternoon, Chairman Pankonin, members of the committee now (laugh), for the record... [LB928]

SENATOR PANKONIN: Senator Karpisek has joined us. [LB928]

KORBY GILBERTSON: ...for the record, my name is Korby Gilbertson, K-o-r-b-y

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G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the State Troopers Association of Nebraska, or STAN. Just wanted to chat neutrally on this piece of legislation. We understand it is a placeholder and just remind everyone of the good working relationship we've always seemed to have. Obviously, things that happened during special session this year kind of had some impact on STAN's thoughts on doing increases in the contribution rate. We just want to make sure that when we're back at the table making these types of decisions that we're doing increases for both the employee and the employer, since that has been our longstanding agreement with the administration and the Legislature. So I just want to keep that in mind and I'd be happy to answer any questions. [LB928]

SENATOR PANKONIN: Don't see any questions. [LB928]

KORBY GILBERTSON: Thank you. [LB928]

SENATOR PANKONIN: Thank you. Anyone else neutral? Seeing none, I think, Kate, do you want to close and open or...? That closes the hearing on LB928. We'll next open the hearing on LB927. [LB928]

KATE ALLEN: Chairman Pankonin and members of the committee, I am Kate Allen, spelled K-a-t-e A-l-l-e-n, and I am legal counsel to the committee. I'm here to offer LB927 for your consideration today. LB927 is introduced as a placeholder bill in the event a contribution adjustment is necessary to the school employees retirement system plan this year. It would maintain the current 8.28 percent contribution rate for school employees through August 31, 2010, and change the employee rate to an unspecified amount beginning September 1, 2010. And I'd be glad to respond to any questions. [LB927]

SENATOR PANKONIN: Are there any questions? Seeing none, thanks, Kate. We'll now have testimony, if there's any proponent testimony. Welcome. [LB927]

MIKE DULANEY: Thank you, Senator Pankonin, members of the committee. My name is Mike Dulaney, D-u-l-a-n-e-y, executive director for the Nebraska Council of School Administrators and, very quickly, we certainly support this bill to the effect that we may or may not need it but we would welcome any conversations down the road if such an increase is needed. In the past, we, the three associations--school boards, teachers, and administrators--have had meetings with the Chair of the committee if such a contribution is needed. That way we can help brace our members if something like this is in the wind. Obviously, budgeting is the big issue for schools and they just need to be aware, so we certainly support what the bill is intending to do, if needed. [LB927]

SENATOR PANKONIN: Mike, thanks for being with us. Are there any questions? Seeing none, thank you. Welcome, John. [LB927]

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JOHN BONAIUTO: Thank you, Senator Pankonin, members of the committee. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of the School Boards Association and Mike testified for us perfectly. And we do appreciate our relationship with the Chair and the committee and our working relationship with both the NSEA and the school administrators. I think that having the organization to be able to work together when we have difficulties and find solutions has made a great difference. So we'll stand by and hope we don't need this bill. Thank you. [LB927]

SENATOR PANKONIN: Thank you. Any questions? Seeing none, any other proponent testimony? Anyone that wants to testify in opposition? Any neutral testimony? Okay, that closes the hearing on LB927. We'll now have Senator Nordquist introduce LB899. [LB927]

SENATOR NORDQUIST: (Exhibit 1) Thank you, Chairman Pankonin, members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 in Omaha. LB899 removes the sunset language on the state contribution to the Annuity Reserve Fund for school employees and the State Patrol and judges retirement funds associated with the purchasing power adjustment to benefits in the judges, school, and State Patrol retirement plans. The sunsets were inserted in 1996, when the Help Education Lead to Prosperity or HELP funds were shifted from teacher stipends to the school, state school retirement system, the...and the retirement fund for judges and State Patrol retirement fund. The OSERS plan also receives state contribution to the purchasing power adjustment but does not have a sunset. LB899 leaves the OSERS plan untouched. It is important to remember that the state remains liable for funding the purchasing power adjustment on benefits even if the language is removed; however, retaining the statutes makes it clear that the purchasing power adjustment are to be funded from state funds and not by increased employee/employer contributions. To help explain why it is so important it might be helpful to briefly discuss the history of the HELP funds. In 1989, LB89 designated \$20 million in General Funds for two years to go to augmenting teacher salaries. The next Legislature, in 1991, reduced the funding to \$15 million but made HELP funding a permanent part of our statutes. Over half of that funding, \$8 million worth, was vetoed by the Governor, leaving \$7 million in the HELP program. The HELP program stayed around \$7 million until LB700 was passed in 1996 to remove HELP funds from the statutes and place it in the state contribution plan to meet the COLA costs. The move from teacher stipends to the retirement plan came about because the HELP funds had dwindled from \$20 million to \$7 million in just five years, and there was great concern that the funding level could be cut even further. So instead, an agreement was reached in which the purchasing power adjustments were funded with this, with the HELP funds. The importance of strengthening our plans remains a top priority for this committee. Every year, every biennium we continue to look at this, and LB899, I think, is a step to help ensure that. Our state actuary, Dave Slishinsky, sent a letter and I distributed that, where he says removing the sunset from

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the state contributions under LB899 "will help improve the long-term funding and increase benefit security for members of the state school, the State Patrol, and judges retirement systems." I'd like to briefly discuss why, just talking to some people historically, why in 1996 there was not a sunset on the OSERS plan. Unlike the retirement plans for the state--State Patrol, state schools, and judges--we are not liable as a state for the funding of the purchasing power agreement adjustments in OSERS, that language, if the language is taken off the books. The policymakers at the time did not include a sunset because they wanted to make clear that funding the purchasing power is a state responsibility and should not be left to school districts and their employees. With that, I can answer any questions you might have about LB899 at this time. [LB899]

SENATOR PANKONIN: Thank you, Senator Nordquist. I do want to mention that Senator Louden and Senator Mello have joined us this afternoon for the hearing. Are there any questions for Senator Nordquist? Seeing none,... [LB899]

SENATOR NORDQUIST: All right. [LB899]

SENATOR PANKONIN: ...we will now have proponent testimony for LB899. Welcome. [LB899]

JESS WOLF: (Exhibit 2) Thank you, Senator Pankonin and members of the committee. My name is Jess Wolf. I'm the president of the Nebraska State Education Association, J-e-s-s W-o-l-f. I represent the 28,000 members that we have in K-12 and higher education and ESP that we have in both of those situations across the state. In 1996, as Senator Nordquist has just indicated, and I want to thank him for introducing this bill and we appreciate the committee's consideration of it and hope you'll pass it to the floor. In 1996, when the legislation was passed as LB700, which shifted \$6.9 million in General Funds from the Help Education Lead to Prosperity Fund to the Public Employees Retirement System Fund, that shift was designed to support the state contribution to the purchasing power adjustments to three defined benefit retirement plans: the school employees retirement system, the judges retirement system, and the State Patrol retirement fund. At that time, existing dollars from the HELP Fund were used to support the state contribution to the purchasing power adjustment on these plans for a period of 15 years. There was no additional commitment of state funds, which was fiscally responsible given the budget constraints in the mid-1990s. The state contribution addressed what the actuarial consultant identified as one of the major weaknesses of the defined benefit retirement system--a failure to provide state support for the purchasing power adjustment. We now face similar circumstances, albeit much more dramatic. Due to the historic downturn in the market, total dollars in the School Employees' Retirement System are down. In response to the economic downturn, the Legislature cut \$344 million from the state budget in the November special session. And Nebraska's economy, while not floundering, continues to struggle. Today, as in 1996,

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the state contribution to the purchasing power adjustment on the three defined benefit plans represents no additional commitment of state dollars and is needed to help shore up and preserve these defined benefit plans. What teachers receive from the defined benefit retirement system are security and peace of mind, knowing that their retirement is secure over the course of their career. This is critical to the growth and maintenance of a well-trained and stable work force in our public schools. The continued state contribution ensures benefit security and reduces the likelihood of additional state contributions. That predictability in state funding is prudent, as it helps preserve, not enhance, the defined benefit retirement system. These are the reasons the NSEA supports LB899. I respectfully encourage the committee to advance the bill to General File. As a matter of public policy, this legislation moves to protect and preserve the defined benefit plan for school employees, a wise investment in our educators, judges, and state patrolmen and women. You have an additional sheet I attached to the back that explains some other information concerning the purchasing power of our educators across the state. Thank you for your interest and support. I'll be glad to answer questions if you have them. [LB899]

SENATOR PANKONIN: Thank you, Mr. Wolf. [LB899]

JESS WOLF: Okay. [LB899]

SENATOR PANKONIN: Any questions? Senator Louden. [LB899]

SENATOR LOUDEN: Yes. Thank you, Senator Pankonin. Mr. Wolf, with what we're looking at here is your concern that this plan won't be viable all the time unless we put that money in there or, well, the three plans won't be viable all that time unless we put this money into it? [LB899]

JESS WOLF: Well, in fact what the actuary letter, I think that you already have, indicated was that it makes the plans more stable. And in fact, over the last 15 years the state hasn't had to contribute additional dollars to maintain that stability, partly due to the fact that those \$7 million were added each year. I know that you've seen the actuary report that came out in November. We think things have rebounded since then and what the actuarial's letter is indicating is that if we continue to put those dollars in the fund, the actuary, as they look at those funds for future years, can reduce the potential likelihood that the state will have to contribute additional dollars in the future. [LB899]

SENATOR LOUDEN: Now this is a defined benefit plan, correct? [LB899]

JESS WOLF: Yes, it is. [LB899]

SENATOR LOUDEN: Do you think then in order to continue that, that will the beneficiaries have to contribute more or the teachers and the judges and some of

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them? Should they contribute more rather than the state picking up the difference?
[LB899]

JESS WOLF: Well, at this particular time, I don't think there's any need for additional contribution from the school districts or for the employees. We would certainly be interested in looking at that if that's something...becomes something that's necessary into the future. You recall that during the special session there was \$20 million that the state was supposed to put into the system this year that was taken out, which would have certainly enhanced the plans' stability, and since that was taken out, of course, that did in fact weaken the plan for the future. [LB899]

SENATOR LOUDEN: Well, yeah. Now I was just wondering how unstable. As you say to strengthen the stability, I just wonder how unstable it really is, in your opinion.
[LB899]

JESS WOLF: Well, I don't think it's all that unstable at this particular point. We believe in the defined benefit plan. We'd like to make sure that is maintained. I think because of the actuary's subsequent letter, it indicates that it's not in as bad a condition as he had indicated to you in, I believe, the November report. If you're familiar, that report was basically based on the situation as of July 1. Since that time, of course, the stock market has greatly rebounded and I believe there are probably other people in the room who could tell you more about where the plan is at this particular time, but I think it's not in as serious a situation as it appeared on July 1. [LB899]

SENATOR LOUDEN: Yeah. Well, what I was wondering, if there was a way that the people involved in the plans could...would need to pick up the difference more than the state always coming in and picking up the difference, I guess that's what...where your position was on that. [LB899]

JESS WOLF: Well, I guess my position on that would be that the basic negotiations process that takes place in every school district across the state really includes those funds in that process anyway. So basically all those dollars that have been going in are dollars that would have gone...could have gone to salary if they hadn't gone to the retirement system. So in essence, we've been putting all those dollars in and, in fact, the state hasn't had to put anything in for a number of years except for the \$7 million.
[LB899]

SENATOR LOUDEN: Now if those schools are receiving state aid, though, part of that goes in as their needs, doesn't it? [LB899]

JESS WOLF: I believe it does. [LB899]

SENATOR LOUDEN: And then...but the state would be indirectly contributing part of

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that. [LB899]

JESS WOLF: I suppose that's true. [LB899]

SENATOR LOUDEN: Yeah. Okay. Well, thank you. [LB899]

JESS WOLF: Thank you. [LB899]

SENATOR PANKONIN: Any other questions? Mr. Wolf, thank you for your testimony. [LB899]

JESS WOLF: Okay. Thank you. [LB899]

KORBY GILBERTSON: Good afternoon, Chairman Pankonin, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the State Troopers Association of Nebraska in support of LB899. I think you've all been well-versed on why we're here. I wanted to answer a few questions of Senator Louden's in regards to whether or not the employees should pick up part of the contribution increases. Most of you remember last year the state troopers did have a significant increase in their contribution rate as part of an agreement that the state would also make a flat dollar figure contribution to help stabilize the fund. That money was then taken out during the special session. So I think that it's very clear that the employees are willing to step up to the plate in the additional contributions even in light of the fact that the statute states that they should not have to make an additional contribution unless there is a corresponding benefit increase. We've been very careful, in the past 20 years that I've started doing this with the state troopers, that we don't do any benefit increases unless there is proof that we are going to be stable enough to be able to do them, and we are concerned with the stability in the out years and have agreed with the administration and the Legislature that we are willing to work hand in hand and will take additional contribution increases as necessary. But we think that LB899 is a very important part of the whole nexus of making sure that these plans stay stable. [LB899]

SENATOR PANKONIN: Thank you. Any questions? Senator Karpisek. [LB899]

SENATOR KARPISEK: Thank you, Senator Pankonin. Ms. Gilbertson, thank you. I just wanted to say that I do appreciate the teachers and the State Patrol and the judges last year for coming to the table and working it out because, you're right, we probably could have had a real mess on our hands had they not. I think they realize that they need to...they don't need to but, in all intents and purposes, they need to. They have stepped up to the plate and they do have a good retirement. No one will argue that. But I have got some flack back about, gee, maybe everybody's plan, retirement, should...the state should do that for them, and I just want to get on record to say that it's a matter of

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statute why we do that and that we need to hold up our end of that bargain, too, and it's part of how we hire people and how we show them our appreciation. So I just want to say thank you for them coming to the table, and this committee for working it out, especially Senator Pankonin. If we just had more money, we wouldn't be in such a bad situation. [LB899]

KORBY GILBERTSON: (Laugh) Absolutely. [LB899]

SENATOR KARPISEK: So thank you. If you have anything to say about how it worked on your end, I appreciate it. If not, thanks. [LB899]

KORBY GILBERTSON: No, we've very much appreciated the working relationship that we've had and hope that we can continue that. [LB899]

SENATOR KARPISEK: Thank you. [LB899]

SENATOR PANKONIN: Senator Louden. [LB899]

SENATOR LOUDEN: Yes. Thank you, Senator Pankonin. Korby, what's your opinion then on the patrol's retirement plan? Is it still viable and quite healthy or where are we at on that thing? [LB899]

KORBY GILBERTSON: I think definitely so. Based on the contribution increase that we made last year, I think that likely, because the losses are smoothed out over five years, I'm guessing that we will have an additional contribution increase, which no one will like, but they're willing to step up and do it. We'll have to wait and see what happens this summer and this next November. And we've always been the first ones to the table saying we're willing to do what it takes, so we'll be there again. [LB899]

SENATOR LOUDEN: And you think it's quite viable the way it's working right now? [LB899]

KORBY GILBERTSON: Absolutely. When you look at the...how the plans in Nebraska look compared to plans in other states, we are very, very responsible in this state. And so I think that we'll be fine in the long run. [LB899]

SENATOR LOUDEN: Then I'd ask you one more question. With the people you represent, why are we having this conversation? [LB899]

KORBY GILBERTSON: I think we're having this conversation because it's a fluid issue and every...that's why we do an actuarial study every year and, unfortunately, there's not a ten-year fix because none of us have a crystal ball and can look at what the stock market is going to do, so that's why we're back every year. [LB899]

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SENATOR LOUDEN: Okay. Thank you. [LB899]

KORBY GILBERTSON: Uh-huh. [LB899]

SENATOR PANKONIN: Ms. Gilbertson, before you leave, I just...I appreciate Senator Karpisek's comments and I think overall we have some challenges but overall we do have probably a better situation than many places. I think we just need to be diligent on working on it. I'm just hoping that our investments had a lot of Berkshire Hathaway in the last couple months, so that's my hope. (Laughter) But then we'd be looking at lot better, but that's a whole nother story. Thank you for coming today. [LB899]

KORBY GILBERTSON: Thank you. [LB899]

MIKE DULANEY: (Exhibit 3) Senator Pankonin and members of the committee, my name is Mike Dulaney, D-u-l-a-n-e-y, executive director for the Nebraska Council of School Administrators. I do have a handout. I want to first address Senator Louden's concern and just remind the committee that schools and school employees have just come off an increase in the school employees' retirement rate that we agreed to and we worked with the committee, what was it, three or four years ago I believe, and agreed to an increase. And it was kind of a graduated increase and then a graduated decrease back to what we are now. And so we certainly have agreed to step up to the plate when needed to bear our share and that goes for the school employees and the management side. That has to be remembered. Now luckily the Legislature was kind to us and gave us a spending lid exclusion for the amount of the increase during that time. That helps schools to some degree certainly, at least on the spending side. The handout that I am giving to you is just a little history that I put together several years ago concerning LB700, which was really the genesis of what we have today and what we're talking about. And Senator Wickersham, of course, brought this bill back in '95. It was passed in '96 and the legislation was intended to help fund the purchasing power adjustment that we currently enjoy and we are very grateful to the Teachers Association for agreeing to basically convert that HELP Fund to TEEOSA...or to the retirement fund, excuse me, and allow all school employees--teachers, administrators, janitors, librarians, everyone--to enjoy that, plus the State Patrol, judges' plans, and OPS. So it was actually four different plans that were benefited. We certainly appreciate that. We want to hang on to this funding mechanism. With that, Senator, I'd be happy to answer any questions. [LB899]

SENATOR PANKONIN: Thank you. Thank you for bringing that memo. [LB899]

MIKE DULANEY: Uh-huh. [LB899]

SENATOR PANKONIN: Any questions? Seeing none. [LB899]

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JOHN BONAIUTO: Senator Pankonin and members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, and for the record I am testifying on behalf of the 1,700 school board members that hire the 28,000 teachers and 1,300 school administrators. (Laugh) I had to get that in there. You know the HELP Fund, it was, in its time, probably a good idea. But any time you hang a pot of money out, like the HELP Fund was hanging out, and you start revisiting it annually, it was going to dwindle and needed a home and this was a great way to really take what was left in the original HELP Fund and put it to a long-term purpose. And the partnership that we've had with the state has been extremely good because the employers and employees, when need be, they will work together and work with this body to try to shore things up and make sure that this system stays stable and sound. The state's contribution I think really does make a difference and it's not going to increase. It's an amount of money that's been obligated to get the state to participate, to recognize that they have a responsibility, but when in good years the state has been able to step back and not have to step up to make this contribution. And we've had some tough years and the school boards, when they're talking with their employees, this is part of total compensation. I mean there's going to be so many dollars on the table and the boards look at the base salary, benefits, and retirement, and really not only is it part of the total compensation discussion. I think that having the retirement system that we have, along with a good benefit package, has really helped boards attract good employees and bring people to the state that have had possibly higher salaries in other locations but not as good of insurance plans or as good of a retirement system. So this is extremely important and we would pledge that, on behalf of the employers, that we'll work with this body to keep this system sound, and it is a very important component in what we do to make the schools operate. So thank you. [LB899]

SENATOR PANKONIN: Thank you, Mr. Bonaiuto. Any questions? I've got one. [LB899]

JOHN BONAIUTO: Yes. [LB899]

SENATOR PANKONIN: The fiscal note which you may not have seen since it's just dated February 11 and just out, but it makes a comment in there. Your comment earlier about when our actual valuation indicates that contributions are sufficient, that this wouldn't need to be funded or parts of this? [LB899]

JOHN BONAIUTO: Uh-huh. [LB899]

SENATOR PANKONIN: Gary Bush is here. Maybe he's going to come forward and explain it because I'm a little confused. The way it's worded is that an elimination of the sunset would have a fiscal impact since all or part of the \$5.9 million shown in the subtotal would not be...would not be necessary. So I assume that means that...if things are going well then that part of it is not. Is that what you're...is that your assumption?

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[LB899]

JOHN BONAIUTO: I think this has been a moving or, in essence, a target, exactly, and there...you know, in the good years this was never even on the table or an issue, and so we see this as, again, as an important part of the partnership with the state. [LB899]

SENATOR PANKONIN: Thank you for coming and testifying. [LB899]

JOHN BONAIUTO: You bet. [LB899]

SENATOR PANKONIN: Any other proponent testimony? Welcome, Mr. Mueller. [LB899]

BILL MUELLER: Thank you, Mr. Chairman. My name is Bill Mueller, M-u-e-l-l-e-r. I appear here today in support of LB899 on behalf of the Nebraska District Court Judges Association, and as members of the committee are well aware, the judges get some of the funds that we're talking about today. They get about \$72,244 a year to their retirement plan. As this committee knows, the source of money in the judges plan is comprised of the individual contribution that the judge makes and then, I believe, it's now \$6 in court costs, plus this \$70,000. And the challenge that we in the judges plan always have is historically we have not expended state General Funds for judges retirement so we increase court costs. And last year, with the help of your Chair and your committee, we were able to add \$1 in court costs for a five-year period, and then the judges also increased their individual retirement contribution. And there was some push back on raising the court costs, as there always is, but again that's really the only way that the state makes its contribution as the employer to the judges retirement fund. We do support this bill and we thank the committee for your help last session. I think things are going well in our funds. I think of the funds, the judges fund probably looks better right now for a variety of reasons, not the least of which is we have the fewest number of members. And I'd be happy to answer any questions you may have. [LB899]

SENATOR PANKONIN: Thank you, Mr. Mueller. [LB899]

BILL MUELLER: Thank you. [LB899]

SENATOR PANKONIN: Any questions? See none. [LB899]

BILL MUELLER: Thank you. [LB899]

SENATOR PANKONIN: Any further proponent testimony? (See also Exhibit 4) Any opponent testimony? Any neutral testimony? Seeing none, we'll close the hearing on...oh, there is...oh, I'm sorry, Senator Nordquist, do you want to close? You sure? Okay. Thank you. That will close the hearing then on LB899. [LB899]