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Nebraska Retirement Systems Committee
February 11, 2015

[LB467 LB468 CONFIRMATION]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Wednesday, February 11, 2015, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB467, LB468, and a gubernatorial appointment. Senators present: Jeremy Nordquist, Chairperson; Al Davis, Vice Chairperson; Mike Groene; Rick Kolowski; Mark Kolterman; and Heath Mello. Senators absent: None.

SENATOR NORDQUIST: Good afternoon, everyone. Welcome to the Retirement Systems Committee. I'm state Senator Jeremy Nordquist from District 7, from downtown and south Omaha. I'm Chair of the committee. Today we will have an appointment and two bills to hear. We will do the appointment first and then LB467, LB468. If you are testifying, there are sheets in the back we'd like you to fill out and submit to the committee clerk. For the record, please state and spell your name. Please silence your cell phones so we don't disrupt the committee proceedings. With us today we have Senator Rick Kolowski from Omaha; Vice Chair of the Committee Al Davis from Hyannis; Senator Mark Kolterman from Seward; and I believe Senator Groene from North Platte and Senator Mello from Omaha will also be joining us. Laurie Vollertsen is our committee clerk; Kate Allen, our legal counsel. With that, I think we'll go ahead and get started with the appointment of Michael Walden-Newman as state investment officer. Come on up. Go right ahead. Welcome.

MICHAEL WALDEN-NEWMAN: Good morning, Mr. Chairman, members of the committee. My name is Michael Walden-Newman; that's M-i-c-h-a-e-l W. W-a-l-d-e-n-N-e-w-m-a-n. And, Senators, I know you do this a lot, but this is the first time in my life this has ever happened to me. And I can't tell you how excited I am to be here. I woke up last night thinking about you all and wondered what I would say in my opening remarks. And what I thought I would do is try to answer a question that I would have if I were you, and that is how in the world did this guy get here? And here's the story. I have had a wonderful life in Cheyenne, Wyoming, for the last 25 years. I'm not from there. I was born actually in Topeka. I grew up in Oregon where my folks moved when I was a little boy, went to undergrad out there, and have done some other things. And you've seen my bio. But we moved to Cheyenne with babies and raised our kids there. And they have grown and left us. We raised them to go away and they took us up on it. And my wife and I had a conversation that maybe you all have had with partners. Okay, we're together. We've lived a lot of life. Looks like we've got some more left. What do you want to do? And we had thought in several years down the road maybe moving someplace. But what happened is pretty magical actually. I had someone ask me toward the end of the summer this question. They said there's a job that's been open for...been advertised for a while for an investment officer in Lincoln. Do you know anybody who would want to move to Lincoln, Nebraska? And I thought, you know, I think I'd like to move to Lincoln, Nebraska. And went home and talked to my wife and

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had never thought about really working with a recruiting firm or anything like that. And what happened is the Investment Council had engaged a national recruiting firm to find a replacement for the former state investment officer who was retiring. And I then called the recruiting firm and they said you're a little bit late in the process. Frankly it's been open for a while. We're far down the road. But if you're interested, sure. So one thing led to another and I came out for a couple of visits with members of the board. And by golly, they offered me the job. And I was absolutely tickled, my wife more so. We packed up the house, put it on the market. My last day on the job in Cheyenne was December 3 because we had intended to work through the end of the week, but the movers had the house packed. And we got so excited when I came home one afternoon for lunch to see how things were going, my wife said they're done. And I called back to the office and I said I think we're going to just get on the road. So we got in the car and drove to Sidney and have been here. I started work the 8th of December. So it has been just a couple of months. I've been here long enough to know what I don't know. I have a sense of why the board hired me for the job, and that's a good thing. A couple of things, you know from my bio that I spent the last ten years running the state of Wyoming permanent fund portfolio. I was the first CIO for that portfolio, and it's a fund built up with coal, oil, and gas revenue that the state banks in permanent funds to be invested in perpetuity for the benefit of the state. And the state lives off of that money. They spend all of the income and it generates a lot. Last year it was over \$900 million...\$800 million; the year before that, \$900 million. Before that I worked for a nonprofit tax research lobby group, if you will. And my work was involved primarily in work on the state's tax structure. I crafted a bill that set up a commission to review the state's tax structure for the long term back in the late '90s. I also worked on property tax legislation that put in place property tax relief for taxpayers. So I was involved in that kind of work. And part of the reason I got the job as the first CIO, I was appointed by the state treasurer. My board were the elected officials of the state. These funds are not the retirement funds of Wyoming, although I had a place on that retirement board because I was the proxy for the state treasurer. So I was familiar with the funds. But the reason I was offered the position was they, in the treasurer's words, and the governor at the time, is that you're able to have a broader perspective than just investing the money, but you bring an understanding of how the investment of those funds fit into the state's larger fiscal picture. And it turned out to be a skill set that I was able to put to use. And I hope to in a sense here because I know that while my job and the job of the Investment Council is to invest these funds for the beneficiaries of the state under the prudent investor rule and primarily preserve those funds but invest them in perpetuity for the long-term benefit. I am conscious that that fits directly into your work here in crafting a larger fiscal...a sound fiscal profile for this state. So I have a broad range of experience with asset classes. When I took over the job in Wyoming, the portfolio was invested in house in bonds in the treasurer's office. And my charge was to help the treasurer get the portfolio diversified out into the hands of asset managers who were experts where we needed it. And we got busy. It was...the portfolio was \$5.5 billion when I arrived and was \$19 billion when I left. And that's not because I'm a whiz kid because you remember the

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state spends all the money. That's why that neighbor doesn't have an income...I'm going to learn how...let me put it this way now that I'm in Nebraskan. I am going to learn how to pay a state income tax which Wyoming does not have. And I'm going to learn how to pay property taxes which in Wyoming are among the lowest in the United States on individuals. And as a high-ranking official said to me, you are going to have a portfolio here that is not coal and oil and gas money but is paid for by real Nebraskans. And it's every nickel we've got. And I want you tell me you're going to take good care of it. And that's what I intend to do. So I visited with both the outgoing Governor and then-Governor-elect Ricketts. And again, I just want to tell you I'm happy to be here. My wife and I are thrilled personally to be here. People have been so warm, so kind. We came not knowing a soul and intend to make it our home. So thank you.

[CONFIRMATION]

SENATOR NORDQUIST: Great. Thank you, Michael. Questions for Michael? Senator Kolowski. [CONFIRMATION]

SENATOR KOLOWSKI: Michael, thank you. Excellent background and thank you for the broad sweep of your discussion in telling about yourself. I only have one question. Did you happen to bring a couple dozen oil wells with you... [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: No. (Laugh) [CONFIRMATION]

SENATOR KOLOWSKI: ...when you came to Nebraska? Anything would help with that. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Yeah. Mr. Chairman, Senator, I know my history. A little Wyoming history a little bit, I know that there was a time when western Nebraska was thinking about maybe joining up with part of eastern Wyoming. I don't know that it's gone the other way where you could kind of slide over. But Wyoming has a big benefit that way. It has with it some fiscal implications for the long term for that state.

[CONFIRMATION]

SENATOR KOLOWSKI: Let me ask one serious question if I could, please. Your Peace Corps experience, what was the biggest takeaway you had from the experience of working in west Africa as you did? [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Yeah. Mr. Chairman, Senator, I was 22, full of a lot of ambition. I'd say as materialistic as a person could be at that age, I was determined to make myself a million dollars. And I spent eight years in a culture with people who have nothing. And what that taught me--and you can see the reaction after all these years--is that taught me what is truly important in life. It's ironic that I ended up eventually in a career that's all about money. But what it did, in all honesty, it taught me what is truly valuable. [CONFIRMATION]

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SENATOR KOLOWSKI: Thank you. Appreciate it. [CONFIRMATION]

SENATOR NORDQUIST: Thank you. Senator Groene. [CONFIRMATION]

SENATOR GROENE: Thank you, Chairman. And my only...are the retirements defined benefit or defined contribution? [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, Senator,... [CONFIRMATION]

SENATOR GROENE: Did you speak on it, or did I miss that? [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: And you're talking about my background or in Wyoming? [CONFIRMATION]

SENATOR GROENE: Yeah, you did this in Wyoming. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Yeah. [CONFIRMATION]

SENATOR GROENE: What did you manage there? What type of accounts? [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, Senator, in my role in Wyoming, the pension funds were separately managed. I worked for the treasurer and managed all of the state's funds, the permanent...the \$19 billion was made up of about \$12 billion, \$13 billion of permanent funds that were built up with mineral tax revenue and set up for various purposes. The bulk of the money went to the state's general fund. There was an account that the income from which paid, for example, college tuition for every high school graduate in the state, endowed chairs for state...the community colleges and the university. I mentioned earlier before you arrived that in my capacity as CIO for that fund, I sat on the board for the pension fund as the state treasurer's proxy. And the pension fund in Wyoming is for all public employees, state and local, and is a defined benefit plan that is a very rich benefit plan. The retirement equals 60...on full retirement is 60 percent of your highest three years of employment plus social security on top of that. So it is... [CONFIRMATION]

SENATOR GROENE: What age can they retire? [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: It's rule of...Mr. Chairman, Senator, Rule of 85 and shorter for certain classes of employees: fire employees. So the board asked me...specifically if I could elaborate, Mr. Chairman... [CONFIRMATION]

SENATOR NORDQUIST: Please. [CONFIRMATION]

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MICHAEL WALDEN-NEWMAN: ...and members of the committee. They asked me specifically a pointed question that I think would be relevant for you all too. And that is how are you going to react changing from a job where all you had to do was make the money and turn it over to the state for spending, versus a job now where you're going to have to make a rate of return that will meet the actuarial requirements for a segment of the population who are going to depend on this, and if you don't, it has direct fiscal impacts to the state coffers? And that, Mr. Chairman and members of the committee, is the question. The first part of the answer is that I honestly believe--I don't want to sound egotistical--but I want you to know that I believe that I have the skill set to manage the funds. What I can't do is I can't control the financial markets. I can put in a structure that I believe is the best and safest way to attempt to make that return. But...and then, you know, control the structure that will turn the markets into money. But the markets are the markets. You know, that we'll have to see. It's as honest as I can be with the answer. I hope that's what you're looking for. [CONFIRMATION]

SENATOR NORDQUIST: Great. Michael, one of the questions we've talked about on this committee a lot and also in the Appropriations Committee is just generally the staffing structure of the Investment Council. And looking at other states, how they've done it and we know there are other states that have more in-house management and oftentimes are able to accomplish the same equivalent investment return with less fees, and then there are others that go the other way. Just generally have you had in the two months that you've been here brought any thoughts together just on that structure. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Mr. Chairman, I appreciate the question. I did think about this before taking the job. And I knew a couple of things since the interviews and where I am now after a couple of months. I know that what I've inherited is a crackerjack staff. The returns speak for themselves. So first of all, let's back up. I was not hired to come in and fix a broken system. Some people don't have that luxury. They're hired for a new job to come in and fix something that's broken. That's not what happened to me. That made the...that's attractive. You know, it's scary to take a new job. And that was attractive. The second thing that was attractive about the investment philosophy is that it's so clear what fiduciary responsibility is of the staff. And the statute, the law makes it...you all have made it very clear that that's the sole purpose of this portfolio. It's not to be invested for, say, economic development reasons or social reasons, which is not the case in Wyoming. And I've had experience with what that can mean. And we can leave that there. The staff is a mix of long-term staff and new staff, which is also of benefit. So you have the stability of and memory that comes with long-term staff, and you have the fire that comes with younger staff and the obligation for both types of staff to keep them if you can. And so what I was pleased to see is that the Legislature has made the efforts to try to retain the staff that you're going to need to meet the demands of managing this portfolio and made the investment in staff and salaries. I know there's a portion of the

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staff, the majority of the staff are outside the personnel pay structure to be able to do that. I know that we put in money. And I hope it's looked on favorably by those of you...well, all of you in the budget process to be able to retain them. We have two younger staff who are going to receive a professional designation if they pass their exams this summer that is going to take them to a world of opportunities beyond us. And that's, we all know about what it takes to retain talent. And so I'm pleased to see that that's there. For now, the staff I think is, in my opinion, my short time there is adequate for the workload. More money does not mean more work in my opinion. You know, more of the...it's that...the portfolio, in order to try to achieve this 7.75 percent or 8 percent return is having to invest in types of assets that are complicated, not difficult to understand because if I can't explain something to a neighbor who's not in this business, I don't intend to invest in it. You don't want that. But they do take monitoring and that can take staff. We have a good consultant. But it could be as the portfolio goes along, it could be that we'll need more research staff. But for the moment, no.
[CONFIRMATION]

SENATOR NORDQUIST: Okay. Any other questions from the committee? Seeing none, thank you. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: I apologize for a little emotion. [CONFIRMATION]

SENATOR NORDQUIST: That's all right. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: You know, I'm half-Czech, and even the toughest ones well up pretty easy. I don't know what it is. You don't even need a fiddle for it.
[CONFIRMATION]

SENATOR NORDQUIST: Thank you. [CONFIRMATION]

SENATOR DAVIS: I thought that was just an Irish problem. (Laughter)
[CONFIRMATION]

MICHAEL WALDEN-NEWMAN: Is that? Yeah. I got a little of that. It's a bad combination. Thank you all very much. [CONFIRMATION]

SENATOR NORDQUIST: Thank you so much. [CONFIRMATION]

MICHAEL WALDEN-NEWMAN: I appreciate the consideration. [CONFIRMATION]

SENATOR NORDQUIST: Yes, absolutely. Any other testimony related to this appointment? Seeing none, that will close the hearing on the appointment and we will move on to our two bills that we have today. And I will turn it over to Senator Davis.
[CONFIRMATION]

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SENATOR DAVIS: Are you ready, Senator Nordquist? [LB467]

SENATOR NORDQUIST: Yes, thank you. [LB467]

SENATOR DAVIS: Okay. [LB467]

SENATOR NORDQUIST: (Exhibit 1) Thank you, Senator Davis, members of the Retirement Systems Committee. I'm state Senator Jeremy Nordquist from District 7 in downtown and south Omaha here to introduce LB467, a bill related to the State Patrol Retirement Plan. The bill would create a tier of benefits for new Patrol officers who become members on or after July 1, 2015. The second tier has a number of the same general changes that we made to the school plan in 2013, and we will also see some of those similar changes in the next bill, LB468 which relates to the Judges' Retirement Plan. Right now, officers who are employed contribute 16 percent of their salary which is matched by state at 16 percent. They can receive a cost-of-living adjustment up to 2.5 percent a year. And their final compensation for purposes of calculating their benefit is averaged over three years of highest salary. This bill starting for those officers, new officers hired July 1, 2015, and after, the following changes would be made. Rather than a 16 percent contribution rate, it would be increased to 18 percent and matched by the state at 18 percent. Rather than 2.5 percent cost-of-living increase, we would go to a 1 percent cost-of-living increase which is what we did with the school plan, except in this bill and in the judges' bill that I'll also explain, what we said is rather than just locking it in at a 1 percent cost-of-living increase like we did with the school plan, we said if the plan reaches a 100 percent funded and is above 100 percent funded, then the Public Employees Retirement Board could grant an additional supplemental COLA above the 1 percent level. And then similar again to the school plan, rather than averaging their three years of highest salary, we will take their five years of highest salary. So if you think about the simple math there, adding two more lower years in just simply reduces that average for purposes of calculating their benefit. Also, we added a provision that makes changes to DROP plan, or the Deferred Retirement Option. This was added back actually when I was a staffer for the committee. And we have I believe that the people who entered it upon first opportunity are getting toward the end of their five-year option. But essentially the DROP option is very popular in law enforcement plans around the country. When you reach retirement age, you essentially are deemed to be retired for purposes of your retirement benefit. You start drawing that retirement benefit and it gets put into an account that you manage and you can't touch that until you actually leave employment. You can work for five more years at that point, keep making your salary. And during that five-year time your retirement benefit is...accumulates in an account. And when you leave, you continue to receive your retirement benefit and you have five years of your retirement in an account. What we changed--and this idea actually came from some discussion with what Omaha police did with theirs--is rather than when you enter DROP, you no longer make contributions to the plan. This would

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require members after five years...we give people who are within five years of entering DROP and essentially deeming to be retired, five years. So we're not kind of affecting those people who are right up against the window. But once you enter DROP, we wouldn't require them to continue making their 16 percent contribution to the plan. It certainly would make drop less attractive than it currently is. But for...you know, I think for many members it would still be an attractive option. My intent with this is to begin a discussion with the committee. When we look...this is something we do pretty much every...we have a similar bill pretty much the first year of every biennium. There are a number of factors that go into our retirement plans. And these were a few that we keyed on: contribution rate, the COLA, the five-year final average salary. But they're not the only ones. And we certainly want to have a discussion with the associations that represent the troopers. And you know, they represent essentially...I guess they're the only voice speaking for people who aren't hired yet, too, as an association. So we want to work with them and talk to them about what changes we think we need to have made. And I handed out all the copies, so I don't have my own. But this is the Judges' one. You can look at the Patrol one. Essentially there's three colors there. The color in the middle is the unfunded liability, and this plan will not be fully funded, I believe it's...I think it's--thank you, great--until 2035. And between now and then, if we make no changes to the plan and we continue to assume an 8 percent rate of return, we have to fill in that red amount with General Fund dollars. In this plan, Kate and I added them up a while back and I don't it in front of me. I believe both these plans were...is somewhere between \$140 million for one of them, and the other was like \$160 million. So if we make no changes and we hit 8 percent average every year, between now and 2035 we still have to come up with an additional \$140 million. That's why we're coming forward to look at reducing benefits for new hires for this plan. We do have budgeted in...and if you flip to the other side it's a little more detail on the five year. We have...the Governor has requested and we do have budgeted so far in our preliminary the \$3.9 million for this year and \$3.2 million for next year. Those numbers we probably can't move hardly at all because even if we put new structure for benefits for new hires, it's going to be a number of years before those benefits start to have a real impact on the plan. So these are long-term changes. In the short term, our options quite frankly are just really limited with this plan--a little different with the Judges' Plan because of the contribution rate that goes into it. But that's all I've got on it, and I'd be happy to take any questions. [LB467]

SENATOR DAVIS: Thank you, Senator Nordquist. Are there any questions from the committee? Senator Groene. [LB467]

SENATOR GROENE: What age can they retire? How many years of service before they can retire? Is it similar to the Rule of 85? [LB467]

SENATOR NORDQUIST: Boy, I wish I had my cheat-sheet in front of me. They can retire at 50 is the, I believe, right, the initial retirement age. Normal retirement age is 55. And I believe mandatory is 60. And...I don't have my cheat-sheet in front of me. [LB467]

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SENATOR GROENE: Is it the 60 percent amount? [LB467]

SENATOR NORDQUIST: They actually have a 70 percent final...75 percent, sorry. Kate is going to correct me. And they have a 3 percent multiplier on that. So 75 percent is the benefit. This plan is the only plan though that they do not contribute to Social Security. So when you think about, you know, somebody who retires with a 60 percent benefit plus Social Security, you know, I guess I don't know what percent Social Security makes up, but it probably...that is probably even more generous than getting to 75 percent. And then when you think about their contribution rate, 16 percent probably seems pretty high both for the employee and employer, but note they're not making that FICA payment to Social Security either. [LB467]

SENATOR GROENE: Have you considered raising the retirement age to 55 minimum? [LB467]

SENATOR NORDQUIST: That's a factor that certainly can be talked about. I'm sure that people behind us, the Patrol when they testify would probably talk about why they don't think that is a good policy. But with DROP now, most people are working until 55. So they...but they start pulling their retirement payments at 50 when they enter into the DROP plan. [LB467]

SENATOR GROENE: The friends that I have that are State Patrolmen, they can work past 55. I know all of them have. [LB467]

SENATOR NORDQUIST: Right, right. There is certainly a cost with law enforcement when you...I don't know what the magical age is. But certainly when you get to a point, there becomes higher costs with disability and injuries on the job just because of the physical nature of it. And there is a point where it just doesn't make sense to have law enforcement of a certain age on the beat. [LB467]

SENATOR DAVIS: Senator Kolowski. [LB467]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Senator Nordquist, do you know how many people we have in the system in the State Patrol? [LB467]

SENATOR NORDQUIST: I know the active number is in the low 400s, I think is active. I don't have the...we can get--it's in the actuarial reports and everything--the inactive numbers, the retired members. But one of the issues that is contributing, has contributed to this plan is not that long ago we hit our lowest level of state troopers that the state has had, at least in the 20 years of data that we've seen. And there was no new classes hired. And because of that, we did have an issue of not having new members paying into the plan. And that helped compound the problem, also with the

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investment losses of the Great Recession. So there are new classes being hired and trained right now. And hopefully we don't have that problem. [LB467]

SENATOR KOLOWSKI: Is the candidate pool difficult to fill, or are we finding more than adequate numbers of (inaudible)? [LB467]

SENATOR NORDQUIST: I think you'll, and maybe a representative of the trooper association can speak to this, too, but they'll actually hand out...I was just given a comparison to what other states do. And also they're competing, you know, with Omaha, with Lincoln police. So for instance, Omaha police start at about \$5,000 a year more and they contribute 3.5 percent less to their retirement plan out of their paycheck. Lincoln police start at \$2,000 a year more and they only contribute 8 percent of their paycheck to their retirement plan where we're asking 16 percent from our troopers. So if you're someone looking at going into law enforcement, comparing the Patrol versus Omaha or Lincoln, there are better options if you're looking just on, you know, the size of your paycheck and how much is coming out for your retirement plan. [LB467]

SENATOR KOLOWSKI: But the cities pays Social Security also, is that correct? [LB467]

SENATOR NORDQUIST: Lancaster, with their low rate, I'm not sure. But I know Omaha doesn't. [LB467]

SENATOR KOLOWSKI: They do not. Okay. [LB467]

SENATOR NORDQUIST: Yeah. [LB467]

SENATOR KOLOWSKI: Counties also? Douglas County, Lancaster? [LB467]

SENATOR NORDQUIST: Right. Douglas County has a defined benefit plan. Their salary is about the same as the Patrol. But again, they only contribute 8.5 percent to their retirement plan and theirs is also a defined benefit plan. Lancaster County's is a defined contribution plan. But the neighboring states, also very...we are the highest of any state around. Some states like Wyoming, 2 percent is the employee contribution rate. Kansas is 7 percent. Iowa is 11 percent. So we are definitely at the high end on that. [LB467]

SENATOR DAVIS: Senator Kolterman. [LB467]

SENATOR KOLTERMAN: Thank you, Senator. Senator Nordquist, I just want to make sure I'm looking at this correctly. There's several issues that are going to be reduced in this bill. But there's also an increase in this bill, am I not correct? [LB467]

SENATOR NORDQUIST: An increase on what? [LB467]

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SENATOR KOLTERMAN: On the 1 percent...or taking it to 18 percent. [LB467]

SENATOR NORDQUIST: No. The contribution rate is 16 percent right now. We're taking it up to 18 percent. [LB467]

SENATOR KOLTERMAN: So that's an increase. [LB467]

SENATOR NORDQUIST: Yeah. That's more out of their paycheck to the plan. [LB467]

SENATOR KOLTERMAN: But we also have to increase as well. [LB467]

SENATOR NORDQUIST: Right. Yeah, so the argument...yeah, that's true. The argument would be though that we are legally on the hook for whatever the shortfall is. So either we make it up by increasing our contribution rate as a state, or we just make a flat-out General Fund appropriation to whatever this shortfall is every year. The only difference between that would be you just have a...you just budget it if you're at 18 percent on...you know what your number is that you need to put in. So for this year, no matter what, we pretty much are on the hook for \$3.9 million and \$3.2 million if we want to keep funding our plan at the actuarially required contribution rates. We've always done. So we haven't...if you don't do that, then you start going down the road of the Omahas or the Illinoises. And then you compound the shortfall in the plan and it gets out of hand pretty quickly. So we've always as a state met that amount. So whether we do it through an increased contribution in statute or whether the actuary comes back to us at the end of the year and says this is what you owe, the money ends up being the same. [LB467]

SENATOR KOLTERMAN: Okay. [LB467]

SENATOR NORDQUIST: But even at that 18 percent and 18 percent, that probably is still not enough to... [LB467]

SENATOR KOLTERMAN: And that's just, if I understand it all correctly, that's just for future hires. [LB467]

SENATOR NORDQUIST: In the bill, yeah, because we probably shouldn't increase the contribution rate for current employees right now. There is litigation pending on that issue from previous attempts to do that from the state. [LB467]

SENATOR KOLTERMAN: Can I ask? [LB467]

SENATOR NORDQUIST: Please, yes, yes. [LB467]

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SENATOR KOLTERMAN: How many other states have the DROP Program that you're aware of? [LB467]

SENATOR NORDQUIST: You know, we can look into that. I'm not sure. When it was brought to us in...I believe it was 2007, was it adopted? That would have been, yeah, when I was working on it. It was pitched as a very popular option. We'll check on that. The actuary at the time showed that it was a net neutral cost to the plan. Now thinking about it, I think some of the challenges maybe for those people who were there, there's net neutral. I think the cost that maybe wasn't accounted for there was you're not bringing in new people, you're retaining people for five more years that may have retired otherwise. There's some costs associated both to the plan and to the state of keeping on higher salaried people rather than bringing in a new entry-level trooper. So we essentially said...you know, we have this group that likely...at least a larger chunk of them would have retired. We basically gave them a good option to stay on for five more years and didn't bring in a new group at the bottom, as many as we would have otherwise. So you know, I think that was a...some questions that maybe weren't addressed when we approached it the first time. [LB467]

SENATOR KOLTERMAN: And under that plan though, they quit contributing at age 50, is that correct? [LB467]

SENATOR NORDQUIST: Yep, that's correct. [LB467]

SENATOR KOLTERMAN: And start collecting their retirement, but they stay in the plan. [LB467]

SENATOR NORDQUIST: Yeah. So they stay working, but essentially they're... [LB467]

SENATOR KOLTERMAN: They're frozen at where they're at there? [LB467]

SENATOR NORDQUIST: Yep. So whatever their benefit is at that time, that starts rolling out to them. When they're working, it's got to go into an account. They can't touch it, just invest it. But once they...and they keep getting their paycheck and they can get salary increases with that five years with their paycheck. Essentially it's like a 16 percent salary increase though when you do that because now you're not making your 16 percent contribution to the plan. And then after...you're only allowed to be in for five years. When you hit that five-year period you leave. You take your nest egg that's been coming. And you keep getting the same retirement benefit that you got calculated when you were 50. [LB467]

SENATOR KOLTERMAN: Do you know, do they pay Social Security on the DROP plan? [LB467]

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SENATOR NORDQUIST: I don't...I think it's a retirement benefit. I don't think that that...I mean I don't think you pay the FICA... [LB467]

SENATOR KOLTERMAN: So right now...I just find it hard to believe that police officers are excluded from Social Security. [LB467]

SENATOR NORDQUIST: Yeah. So a lot of...police and fire. It was a public safety thing that when Social Security came around initially it was an option to not participate. And we did look in at one time when we were looking at first-class city firefighters, we did look at what the options would be to enter, to allot...there is a referendum process where they could vote to get back into it. But I don't think anyone is taking up that option. And I think it's the members that actually would have to do that. [LB467]

SENATOR DAVIS: Other questions? I've got a couple, Senator Nordquist. This chart is...this is the chart with the bar chart which shows the three colors and it fades to...the red is taken out after 2036. This is if we do nothing? [LB467]

SENATOR NORDQUIST: That's if we do nothing. [LB467]

SENATOR DAVIS: So this is if we do nothing. So how does it... [LB467]

SENATOR NORDQUIST: And we assume 8 percent rate of return. [LB467]

SENATOR DAVIS: So how does it get better then after 2036? What happens at that point? [LB467]

SENATOR NORDQUIST: Essentially we pay off the unfunded liability in the plan at this point. And then it drops down to what it costs for what's called the normal cost of the annual...what does it cost for this year's amount of service, putting that money aside for the benefits that are earned this year that we'll have to provide in the future. That's the normal cost and that's what it would come down to. But we're still essentially paying off the losses. [LB467]

SENATOR DAVIS: These are losses from the past is what we're talking about that we're dealing with here. [LB467]

SENATOR NORDQUIST: Yeah, yeah. The unfunded liability, yes. [LB467]

SENATOR DAVIS: Okay. And I think we've had a lot of good questions. And I wonder if we can put together a packet to sort of lay out all the options and compare the Omaha salaries and the various states. I think that would be helpful. [LB467]

SENATOR NORDQUIST: Right, right. And there are other factors like, you know, when

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I talked to the troopers, I met with them again last week. You know, for a new hire their concern is 18 percent for a new hire is a lot of money out of his paycheck, especially when you're looking at salary differentials at other places. So the question is, well, do we look at doing something on the benefit side then? I think, my understanding is Iowa is not near 75 percent final salary as a max benefit. I think they're closer to 60. Is that enough without Social Security? You know, I think that's a question. But what's the balance we want here for a new trooper coming in? Do we have higher contribution rates with a more generous benefit, or do we reduce both and maintain a lower contribution rate with a lower final benefit? [LB467]

SENATOR DAVIS: And you can't, in many respects, just look at it strictly from a retirement point of view. It has to do with comparable salaries and... [LB467]

SENATOR NORDQUIST: Right, right. That's right. [LB467]

SENATOR DAVIS: ...the cities. And that's one other thing I think would be good to know just from a fiscal point of view is the people that are at the top end and working, are we going to save enough when we hire new people at the bottom to compensate for that. And then that's apples and oranges in a way, but when you look at the state budget it's all one pot of money. [LB467]

SENATOR NORDQUIST: Right. And you know, as we again...the chart assumes an 8 percent rate of return and that our Investment Council certainly has talked about the need to maybe revise that down slightly to 7.75 percent or even slightly lower than that. So those numbers, I think it was this plan that was \$140 million or so over this period short. If it was revised down to 7.75 percent, that grows to about \$165 million. So doing nothing really is not a good option at this point. [LB467]

SENATOR DAVIS: Can we lower it to 7.75 percent only for this plan or has it got to be across the board? [LB467]

SENATOR NORDQUIST: No, usually...I think because the Investment Council manages the funds the same, so they would want to have a uniform. [LB467]

SENATOR DAVIS: Across the board, that's what I thought. [LB467]

SENATOR NORDQUIST: Yeah. And the teachers' plan, after the changes we made to that, it's projected at the end of 30 years to be 170 percent funded could well sustain at 7.75 percent or even 7.5 percent. But these two plans that we're talking about today need similar changes to get back, get to that type of a position. [LB467]

SENATOR DAVIS: Thank you. Any other questions? Great. Proponents of LB467. Are there any opponents to LB467? [LB467]

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MATT SCHAEFER: (Exhibits 2 and 3) Good afternoon, Senator Davis, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today on behalf of the State Troopers Association of Nebraska, STAN, in opposition to LB467. STAN appreciates Senator Nordquist's sincere concern in shoring up the funded level of the plan, but is opposed to this package of changes that are almost entirely one-sided. As we've already discussed, most of the changes affect only new hires. But taken together, STAN is concerned that they would be an additional challenge for already challenging recruitment efforts. As you'll see from the handout being passed around where we compare to other agencies within and without the state. The one change that does affect current hires, a couple of comments on the DROP change, in talking to one of our members he calculated that it would be \$60,000 reduction in his paycheck over five years if the change was implemented because he's outside of that five-year grace period that was in the bill. The other change I would note in DROP is that as I read it, it only requires an employee contribution during the DROP period. There would be no employer contribution. So that's one of those one-sided changes. And as touched on before, there's pending litigation about the ability of the state to make changes to the retirement benefit of new...of current employees. It would be unclear whether this would be considered one of those benefits that cannot be changed. As for the changes to the new hires, STAN believes that they might jeopardize the Patrol's ability to recruit new troopers. As you can see from the handout, Nebraska already requires the highest employee contribution of any of the states that the CIR uses to compare benefits. And even more concerning, the State Patrol is not competitive with other larger law enforcement agencies within Nebraska today. So obviously a change to 18 percent for the employee contribution would really give a young man or woman pause before accepting employment in the Patrol versus other options they might have. One anecdote on recruiting, it's my understanding that a recent boot camp, as I'm told, had 24 openings but they only had 19 qualified applicants that could go through the boot camp. And I also passed out a picture there. That was last week. Obviously we're talking about a dangerous job. Last week on Wednesday, two troopers made a traffic stop in Omaha at 108th and Center and were fired at by a passenger in the car or a driver in the car. And fortunately the two bullets struck right in between where the two officers were sitting in the car. STAN is not opposed to making changes ever to the plan, but is opposed to this package at this time. And as touched on, it may be too early to make these changes. We're coming out of a period where there were no additions to the State Patrol force level. There were no new people coming into the plan, paying into the plan. And so we're only recently the last year, year and a half seeing new hires entering the plan. So we may see the plan funded...plan health get better on its own with those new hires factored in future actuarial studies. I think I'll stop there and take any questions you might have that I can answer. [LB467]

SENATOR DAVIS: Thank you, Mr. Schaefer. Any questions? Senator Mello. [LB467]

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SENATOR MELLO: Thank you, Vice Chairman Davis, and thank you, Mr. Schaefer, for your testimony. I imagine the DROP Program, we could get rid of that program now legislatively, could we not, for new members who would be coming on to the Patrol? [LB467]

MATT SCHAEFER: I think that would be within your ability to that. [LB467]

SENATOR MELLO: Is that something that STAN has considered maybe in regards to addressing some of the potential long-term benefit challenges as well as some of the funding challenges we've got, is maybe revisiting the drop issue in the sense of maybe looking to...I know we have a number of members now who can qualify for it, so it would purely an idea for new members moving forward that just couldn't qualify for drop. [LB467]

MATT SCHAEFER: I don't think I can commit to supporting that today, but I think it would be much more palatable than eliminating the drop for folks that are six years away from it today. [LB467]

SENATOR MELLO: Has there been any conversations at all with STAN about possibly moving to a cash balance, defined benefit option instead of if nothing happens with this plan in regards to STAN's opposition to LB467? Let's say we don't take any action on it now or anytime in the future. At some point we're going to have to do something. But have there been any conversations at all in regards to the considerations of moving to a cash balance plan. I know it would be a little bit of a change obviously in regards to the general retirement structure. [LB467]

MATT SCHAEFER: Yeah. I'm sure we've had terribly detailed ones, but I certainly think that's an option. You'll note that the Lancaster County Sheriff has a defined contribution plan. And it was cut off on my sheet here, but the county matches actually at 150 percent level. So it's...and obviously it'd be up to the officer how much he wanted to put in. But there is a nice...significant match from the county sheriff on that one. [LB467]

SENATOR MELLO: Okay. Thank you. [LB467]

SENATOR DAVIS: Other questions? Senator Kolterman. [LB467]

SENATOR KOLTERMAN: Do you know, Matt, do you know whether or not there's any additional options available to the Patrol like the 457 types of plans, defined contribution that they can do in addition to this? That's probably a question for the Chair. [LB467]

MATT SCHAEFER: I don't know that. I don't think so. [LB467]

SENATOR KOLTERMAN: Okay. Thank you. [LB467]

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MATT SCHAEFER: I assume they could use a private 401...or whatever the correct account would be. [LB467]

SENATOR KOLTERMAN: Okay. [LB467]

SENATOR DAVIS: Senator Mello. [LB467]

SENATOR MELLO: Thank you, Vice Chairman Davis. Matt, and I guess to some extent, and maybe you discussed it in your testimony and I may have missed it, but has the Patrol...the State Troopers Association of Nebraska, have they provided any general plan or outline or blueprint of their own in regards to how they recommend we address their unfunded pension liability moving forward. I mean I was listening for your testimony of what the STAN's recommendation is in regards, and not simply opposing LB467. But what is it, what would be their recommendation to address an equitable, so to speak, solution to address the unfunded liability? [LB467]

MATT SCHAEFER: I think there are certainly changes in this bill that are...have different levels of objections too. So I think there could be things that ultimately could be supported. But if it was more two-sided, as you can see from the chart in front of you, not only are we on the high end of employee contributions according to the CIR numbers, we're on the low end of employer contribution. So I know the state has made the additional required contribution for a quite few years in the past. But other states are putting more up front as a matter of course into the plan, so I think that would obviously want...they would want that to be on the table as well. [LB467]

SENATOR MELLO: Above the 18 percent for new employees, for new troopers that's recommended in the plan? I think our...in the bill is 18 percent, 18 percent for both. [LB467]

MATT SCHAEFER: Yeah. [LB467]

SENATOR MELLO: So your...I mean the recommendation you would make is that the state should go higher than the 18 percent. [LB467]

MATT SCHAEFER: I think that would be one option, yeah. [LB467]

SENATOR DAVIS: Matt, the contribution rate seems to vary all across the board. Do you know if other states if their troopers participate in Social Security, any idea on those things? [LB467]

MATT SCHAEFER: I think it varies, and I apologize for not having that. It wasn't on the data that I reviewed. But we can certainly make an effort to track that down for you. It

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would certainly help. [LB467]

SENATOR DAVIS: If we're going to try compare apples to apples, we need to have the same data there I think. And I think that's all I...I just don't think the data is complete. [LB467]

MATT SCHAEFER: Okay. I don't have it. [LB467]

SENATOR DAVIS: Any other questions? Thank you. [LB467]

MATT SCHAEFER: Thank you very much. [LB467]

SENATOR DAVIS: Other opposition. Seeing none, anyone testifying in the neutral capacity? [LB467]

ORRON HILL: (Exhibit 4) Chairman Nordquist, Chairman Davis, members of the Retirement Committee, greetings. My name is Orron Hill, O-r-r-o-n H-i-l-l. I'm legal counsel for the Public Employees Retirement Board and Nebraska Public Employees Retirement Systems. I'm here to testify to LB467 in a neutral status. Much of my testimony as you will see in the written copy has already been covered by Senator Nordquist and through the question and answer phase. Predominately I would just again draw your attention to the additional required contribution piece and the funding levels of the plan, that we currently stand at approximately 81 percent funded and had an additional requirement contribution of \$3,866,737 specifically and that the 30-year projections show that these additional required contributions will continue to increase unless some response is taken. The other thing I would like to point out is that NPERS has been working with its actuaries and legal counsel for the Retirement Committee regarding drafting language related to the cost-of-living adjustments while also trying minimize the implementation concerns such as the cost, the time required to implement, the need for additional actuary studies, modification of the IT systems, publications, and other items along those lines. We would be glad to continue working with the legal counsel on those cost-of-living adjustment languages. The Retirement Committee should also consider whether only members who are eligible for an annual COLA should be eligible to receive and supplemental COLA, such things as the minimum time in a pay status, such as a full funding fiscal year or other requirements. Lastly, we would like to make sure that the committee knows PERB has not the opportunity to discuss the bill or its proposed amendments due to the timing of their introduction. This is a concern obviously, but given the potential discretion and authority that the committee and the Legislature would be granting the board. They would certainly want to make sure that they understood what the Legislature was placing upon them in those requirements. And that's why we're testifying in a neutral status today. Any questions from the committee, please? [LB467]

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SENATOR DAVIS: Thank you, sir. Any questions? Senator Kolterman. [LB467]

SENATOR KOLTERMAN: Yeah, thank you for coming to testify today. And I certainly understand your neutral position. Can you answer the question that asked earlier about whether or not there's any optional opportunities for the Patrol officers to contribute additional monies? [LB467]

ORRON HILL: We do have a deferred compensation plan that is available, and it's something that they could certainly look into. I don't know specifically what other plans the State Patrol may have under its own purview though. [LB467]

SENATOR KOLTERMAN: But you do have...there is a deferred comp plan. [LB467]

ORRON HILL: There is, Senator, yes. [LB467]

SENATOR KOLTERMAN: Okay. [LB467]

ORRON HILL: Now the concern is making sure we have all the qualifications and making sure they can do it. My understanding is that--and I will certainly defer to the experts--but they can only enroll in that plan once they've gone into the DROP. Is that...? [LB467]

_____: I think that's right. [LB467]

ORRON HILL: I believe that that is the correct statement, but I would want to double-check on that and get that back to the committee to be 100 percent sure. [LB467]

SENATOR KOLTERMAN: If you would, I'd appreciate that. [LB467]

ORRON HILL: Absolutely. [LB467]

SENATOR KOLTERMAN: The other question that I have and it deals more with how PERB operates. You know, we've heard about PERB for the last month now, and you always have this disclaimer that you haven't had a chance to meet. Just out of curiosity, how often do they meet? And do you...does it all meet here? Do you move that meeting around? [LB467]

ORRON HILL: We have a regularly scheduled monthly meeting. And at those monthly meetings, we're obviously required to follow all the open meetings laws and give the proper notice and make sure that all our agendas are properly published before any discussions can occur. And so that monthly meeting is when we meet. We have the ability to call a special meeting when there is something of significance if that is

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required. At this point in time, they have not done so as we're still waiting on this particular issue to determine what our approach is going to be as drafted by the legislative committee. [LB467]

SENATOR KOLTERMAN: So then in the meantime, is that where the executive committee meets and talks about some of these issues and gives us an initial reaction? [LB467]

ORRON HILL: That is correct, Senator. We will have telephone conferences with the various members calling the chairperson, the chairperson of the legislative committee, and those options and talk to them on the phone to make sure that they're up to date on as much information as we have available to us at the time. [LB467]

SENATOR KOLTERMAN: Okay. Thank you very much. [LB467]

ORRON HILL: You're welcome, Senator. [LB467]

SENATOR DAVIS: Any other questions? Seeing none, thank you, Mr. Hill. [LB467]

ORRON HILL: Thank you, Senator. [LB467]

SENATOR DAVIS: Any one else testifying in the neutral capacity? If not, Senator Nordquist, would you like to close? [LB467]

SENATOR NORDQUIST: Just real briefly on the Patrol and maybe I'll have Kate distribute this after the hearing. I don't think we have any extra copies right now. But essentially the actuary tells us what the actuarially required contribution is to fund the plan. You take...and that has ranged anywhere from 30 percent up to a high of 56 percent in 2012 largely due to a lot of the investment losses being absorbed in that year. That's kind of why it peaked. You subtract the member statutory rate, and then what's left after that is what the state has to come up to...come up with either through its statutory rate or the additional General Fund contribution. So even though our statutory rate right now...well, even through this time from 2004 to now has ranged from 12 percent to a high of 19 percent, the state has always had a little extra to pay on top of that. So what we actually pay in our essential match rate is anywhere from 17 percent to a high of 37 percent one year. So even though in statute it says 16 percent or 18 percent, if you factor in the extra General Funds we put in to make the plan whole for that year, it's been as high as 37 percent. So you know, maybe we look at putting in statute a higher number like the other states, maybe to have a 1.5 to 1 match rather than a 1 to 1 match. That would help just accountingwise both for us and for the actuary. It doesn't necessarily change anything for the funding status. That would be it on that bill, Mr. Chair. [LB467]

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SENATOR DAVIS: Any questions? [LB467]

SENATOR KOLTERMAN: I have... [LB467]

SENATOR NORDQUIST: Yeah. [LB467]

SENATOR DAVIS: Senator Kolterman. [LB467]

SENATOR KOLTERMAN: Sorry about that. [LB467]

SENATOR NORDQUIST: No, please. [LB467]

SENATOR KOLTERMAN: So, and I'm not trying to beat a dead horse, but if we have a situation where the state experiences very good returns, our Investment Council does a better than average job, couldn't that close that gap some? [LB467]

SENATOR NORDQUIST: Oh, right. Absolutely. [LB467]

SENATOR KOLTERMAN: And so when we see these projections, we're taking a pretty conservative approach to that, is that an accurate statement? [LB467]

SENATOR NORDQUIST: The projection is assuming 8 percent every year. So if we have...and over the next decade or so our investment consultant is saying probably 7.5 percent, 7.4 percent is probably more the likely number. Historically though it's been 9.3 percent. So it...they give us a pretty wide window of where our return could fall over the next decade. [LB467]

SENATOR KOLTERMAN: And that still includes 2008 where we took a pretty good hit. [LB467]

SENATOR NORDQUIST: It does, yeah. So historically, 9.3 percent including '08-'09, yeah. But historical doesn't necessarily project to the future, so they're making assumptions about the economy of the future. But yeah, if we have a couple more good years in a row, it does make a pretty big impact to the funding level of the plan. [LB467]

SENATOR DAVIS: Okay, thank you, Senator. [LB467]

SENATOR NORDQUIST: Yep. [LB467]

SENATOR DAVIS: Senator Mello. [LB467]

SENATOR MELLO: Thank you, Vice Chairman Davis, and thank you, Senator Nordquist. I guess it's a question I can probably ask in our Exec Session, but you

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mentioned a little bit in the sense of the DROP Program, knowing that it's roughly about 8 years old. Do you think it's worthwhile for this committee maybe to consider doing some actuarial analysis of the existing DROP Program as it impacts State Patrol members now to see whether or not the original analysis maybe may have been off in the sense that we need to account for potential losses to the state plan moving forward, that as I asked the question I think of Mr. Schaefer of whether or not we even have a DROP Program for new members moving forward based on some kind of analysis. [LB467]

SENATOR NORDQUIST: Yeah. No matter what we do as far as a package including changes to the DROP, we will have to do some actuarial analysis on it. And I certainly think the DROP will be what we do with that, whether we maintain it with the contribution rate continuing or eliminate it altogether I think is something we need to look at the actuarial impacts of that. Yeah. [LB467]

SENATOR MELLO: Thank you. [LB467]

SENATOR DAVIS: Any other questions? If not, that will close the hearing on LB467. [LB467]

SENATOR NORDQUIST: Great. [LB467]

SENATOR DAVIS: Are you ready to start, Senator Nordquist? [LB467]

SENATOR NORDQUIST: (Exhibit 1) Let's see here, 15, 20 minutes so we'll get rolling on LB468 which relates to the judges' retirement bill...Judges' Retirement Plan. It creates a similar tier for the Judges' Retirement Plan who become new members on or after July 1, 2015. Again, similar structural changes to what we've talked about with the Patrol and what we did with the school plan. It would make the same COLA change. Rather than a 2.5 percent max it would be a 1 percent max unless the plan is over 100 percent funded, and then a supplemental COLA could be added. Rather than three years of final average salary, it would be five years of final average salary. I would say for judges, this is probably the one plan where this provision, going to five years, probably has the least impact just because of...there isn't really upward mobility in judgeships. There's probably less so even....less so than the Patrol. Patrol there probably isn't a lot either. There was more in the school plan as far as upward mobility of salaries. So we have the COLA provision. One other provision that's unique to the Judges' Plan is that after 20 years of contributing, your contribution rate falls off. So right now the contribution rate is 9 percent. After 20 years, it goes to 5 percent. There is another level, too, depending on what you choose, if you choose a joint-survivorship benefit. But we would eliminate that drop-off so would not be a decrease in contribution rate after 20 years. You would maintain that. And the Judges' Retirement Plan is 93 percent funded. It is the healthiest as of right now of all of the plans. Unique to the

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Judges' Plan though there isn't a direct employer contribution. The Patrol, teachers', there is an employee and employer contribution that as salaries increase, those contributions go up. This plan is funded with a member contribution, which I said is 9 percent right now, and a court fee, a \$6 court fee. There is a corresponding bill that I introduced on behalf of the Retirement Committee in the Judiciary Committee which would have increased the court fees from \$6 to \$8 as well as add the court fee to pretrial diversion. Right now if you take a...go to diversion, whether it's a STOP class for parking or for traffic violation or some other diversion program, you don't pay a court fee on it. And because more...that is becoming a more popular option, we've seen our court fees dwindle. So that bill has those two components. The Judiciary Committee advanced the bill is my understanding just yesterday without the going to \$8, just applying the current court fee to diversion. That bill came out. We will look at either running it as an amendment of some nature to this bill or have it as a standalone bill. And I think we need to have a discussion in the body about this because even if you look at again the 30-year chart, the big challenge with this plan is if you...this assumes that we maintain our \$6 contribution rate for the next 30 years. Obviously \$6 today is going to be worth a lot less in 30 years. So if we don't occasionally increase that contribution rate, then it has to fall back on General Funds. There's no other option. So I think it's a discussion for the body. I know there are some members of the Legislature who are very adamantly opposed to increasing that contribution rate, and he serves on the Judiciary Committee, and that quite frankly the bill would be met with a lot of opposition if we try to increase that court fee. But we have not in the past put General Funds, significant General Funds into the Judges' Retirement Plan. And if we don't raise the court fee, that is the direction we're going to have to go. We still will look at crafting a new...you know, revising the benefits for new hires, pulling that back a little bit. If we do that with the court fee I think this plan will be in great shape. If we do it without the court fee then we just will have to start relying on General Funds to make up the difference in this plan. That would be it. [LB468]

SENATOR DAVIS: Thank you, Senator Nordquist. Questions? Senator Kolowski. [LB468]

KATE ALLEN: Thank you, Mr. Chairman. Senator Nordquist, again, do you know the numbers of the judges across the state? [LB468]

SENATOR KOLOWSKI: I don't. I'll have Kate pass a note to you with those on there. I could maybe get it and read it in my closing. Kate, you want to just state it into the mike. Pull your mike down. [LB468]

KATE ALLEN: Currently the numbers are 153 right now. Active... [LB468]

SENATOR GROENE: Active? Or total, retired and active? [LB468]

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KATE ALLEN: Active. Retired: 128. [LB468]

SENATOR NORDQUIST: So it's a small plan and because of that, it can create funding challenges, too, just the size of the plan. [LB468]

SENATOR KOLOWSKI: And how much do they pay into it? [LB468]

SENATOR NORDQUIST: So they contribute 9 percent--and it's kind of been a change over time--9 percent rate is for judges who became members prior to 2004 and elected the joint and survivor benefit or for judges who became members after 2004 without the joint survivor. There's a 7 percent rate for judges who were members before 2004 and did not elect the joint survivor benefit. One amendment we have drafted is to look at maybe increasing the contribution rate to 10 percent for new hires as well. It's not in the introduced version, but it's one of those many as we again, we look at how we piece these plans together and look at a new package for new hires. All the factors that are out there, we can look at adjusting any of those as a committee. And I think we need to do that in discussion obviously with the judges' associations. [LB468]

SENATOR DAVIS: Other questions? Senator Mello. [LB468]

SENATOR MELLO: Thank you, Vice Chairman Davis. And, Senator Nordquist, I believe we...I just asked the legal counsel about this question. And I can...I see other attorneys and representatives of the district and county judges as well as the Chief Justice in the audience who may testify on this, so I can ask them as well. Every year I know from the Appropriations Committee we deal with this issue in the sense of there's a...there seems to be a large number of vacant judge positions in the state, which means when there's a number of large vacant judge openings, that is a member in theory who is not paying into the retirement plan. I know I thought I've mentioned it to you and maybe the legal counsel before of what...is that an option we can do in requiring the Supreme Court when there is a vacancy to ensure that instead of paying that member, so to speak, the judge that's not there, that they're making a contribution on that vacant judge's behalf in theory into the retirement plan. I know it's just, to some extent, it's utilizing their existing budget authority for a judge position to make sure they're still funding the plan. But I didn't know if you or the legal counsel had looked at all into that issue. [LB468]

SENATOR NORDQUIST: You know, I remember you discussing it with us. And I would have to follow up with Kate to remember what we came across. I mean I'm sure there would be opposition to that. So it's cases where they're using retired judges to fill in vacant spots. And because of that, there isn't a contribution, right. [LB468]

SENATOR MELLO: Yes. Correct. [LB468]

SENATOR NORDQUIST: You know, I think that's...you know, we have the ability to

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pretty much say what we want to do there, but whether or not that's palatable I think we would need to talk to them about it. And what the scope of that would be, I don't know. [LB468]

SENATOR MELLO: Okay. [LB468]

SENATOR DAVIS: Other questions? Senator Nordquist, judges, are they exempt from Social Security also? [LB468]

SENATOR NORDQUIST: No, they do pay it. [LB468]

SENATOR DAVIS: They do pay. So they do have something else. [LB468]

SENATOR NORDQUIST: Yes. [LB468]

SENATOR DAVIS: And then can you run through the compensation one time. Seven percent or nine percent if they were on before... [LB468]

SENATOR NORDQUIST: Yeah. So if you were on before 2004, you were contributing 7 percent unless you chose a joint and survivor benefit, and then you were at 9 percent. After 2004 as an individual, you were at 9 percent. I don't have here...is there a higher rate if you do joint and survivor after? It's still 9 percent. Okay. [LB468]

SENATOR DAVIS: So it's 9 percent for whether you put... [LB468]

SENATOR NORDQUIST: Yeah. [LB468]

SENATOR DAVIS: ...either you got joint survivor or the single. It's just 9 percent. [LB468]

SENATOR NORDQUIST: Right. Yeah. [LB468]

SENATOR DAVIS: Any other questions? Senator Kolterman. [LB468]

SENATOR KOLTERMAN: Yeah. I'm having a little bit of difficulty following that joint survivor. So when they get into the plan, do they have to elect a joint...? [LB468]

SENATOR NORDQUIST: I believe it's upon entry, yeah. [LB468]

SENATOR KOLTERMAN: So they have to elect the joint survivor benefit at that point in time? [LB468]

SENATOR NORDQUIST: Yeah. [LB468]

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SENATOR KOLTERMAN: I always thought that came at the end when they got ready to retire. [LB468]

SENATOR NORDQUIST: I think because of the differential in contribution rate, that's how it's set up on this one. But we can follow up with you on that. [LB468]

SENATOR KOLTERMAN: Okay. [LB468]

SENATOR DAVIS: Thank you. Senator Mello. [LB468]

SENATOR NORDQUIST: All right. I believe we've got 10 minutes. Let's go. Come on. (Laugh) [LB468]

SENATOR MELLO: All right. Thank you, Vice Chairman Davis. I'll be quick. Senator Nordquist, is it commonplace for the Judges' Retirement Plan to have a General Fund appropriation to this plan? [LB468]

SENATOR NORDQUIST: We have been very reluctant to do that. There may have been back in the early 2000s. I think there was an actuarially required contribution. Last year we did it I believe out of a court fund. [LB468]

SENATOR MELLO: Out of a cash fund I believe. [LB468]

SENATOR NORDQUIST: Cash funds, right. Yeah, we have been reluctant to do that. But in this situation, even if we make structural changes to the plan but don't increase the court fee, there just is no way to avoid it. [LB468]

SENATOR DAVIS: Senator Groene. [LB468]

SENATOR GROENE: I'll waive. We've got to get out of here. [LB468]

SENATOR NORDQUIST: Yeah. Right, right. I'll follow up with you afterwards. Thank you. [LB468]

SENATOR DAVIS: Thank you, Senator Nordquist. Are there proponents for the bill, proponent testimony? Is there opponent testimony? Seeing no opponent testimony, neutral testimony. Chief Justice. [LB468]

MIKE HEAVICAN: Mr. Vice Chair, members of the committee, my name is Mike Heavican, and that's spelled H-e-a-v-i-c-a-n, and I'm the Chief Justice of the Nebraska Supreme Court. I want to say that I appreciate the efforts that your committee has made, and especially that Senator Nordquist has made to deal with the underfunding of

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judges' retirement. I was not here for all of Senator Nordquist's presentation. He is very knowledgeable about this. As he noted, this is a relatively small fund and a relatively small amount of money that we are talking about. I would urge you...we don't want to speak against this bill as it is drafted. I realize it is an effort to handle the deficit with the least amount of pain to existing judges as possible. I would urge you to fund the deficit out of General Fund monies. And I would suggest one way to do that is to take the money from the millions of dollars that we collect in court fees that go into the state's General Fund. Court fees are allocated to a lot of things, and one of them is judges' retirement. All of our technology is paid from court fees. Judicial branch education is paid from court fees. The Law Enforcement Training Center in Grand Island I believe is paid for through court fees. And there may be some other things too. But a bunch of that money just goes into the General Fund. That would be an ideal way to finance the deficit that we have. Beyond that I want to comment on what judges do for the state of Nebraska and some of the things that we think are important for judges. The request that I just made is based on the need to attract and retain good lawyers for Nebraska's judiciary. We need for judicial salaries and retirement to remain competitive not only to public employees' salaries, but also with the private sector. We need to attract judges into the judiciary who can compete with the amount of money that is available to some of our lawyers in private practice. Last week or the week before--I forget, time flies--I gave the State of the Judiciary Address. I wanted to give you all the impression that the judiciary is busy, it's innovative, and it's dynamic. And that is because we are busy, we are innovative, we are dynamic, we watch our budget very closely. Senator Mello, in answer to one of your questions, we don't contribute to retirement when a judge is vacant, but all that money goes back into the General Fund. So you actually...when we have a judicial vacancy, all that money ends up back with the state. So we may not be contributing directly to retirement, but we are putting it back into the General Fund. As you know, we've taken on a number of new projects for our judges at the behest of the Legislature including the public guardian program. All of these new projects involve judges and judicial case loads either directly or indirectly. Much of the State of the Judiciary Address was devoted to criminal justice reform for both juveniles and adults. The success of reforms in Nebraska will lie significantly in the hands of Nebraska's judges. We have already asked our county and juvenile court judges to assume more responsibilities for the supervision of juvenile delinquents. And they have risen to the occasion. In adult court, it is almost certain the judges will be asked to take more of the up-front diversion and supervision of criminal defendants in order to save Nebraska taxpayers hundreds of millions of dollars and to make Nebraska's citizens safer at the same time. This will be accomplished by using drug courts, and other innovative programs which exist in Nebraska largely because of judicial leadership. And of course Nebraska's judges will continue to solve Nebraskan's problems and disputes both large and small, and to do so with patience and grace. Our judges decide parental rights, multimillion dollar lawsuits, and literally life and death in some criminal sentencings. Many cases of course involve lesser amounts of money and seemingly less dramatic issues. Every case, however, is important to someone, and every case is important to

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our judges. The impression many citizens have of state and local government is formed by an experience those citizens had in our state courts. There is no better invest that you can make in the future of state government than competitive salaries and retirement for our judiciary, that the judiciary will be in place for a much longer time than most of us in this room will be serving in government. I call your attention to a phenomenon which has occurred on at least four occasions in the last five years. Not enough qualified lawyers, and that means a minimum of two, have applied for an open judgeship for the Governor to make an appointment for a judicial vacancy. While several factors have contributed to this previously unheard of situation, competitive salaries and retirement is always an issue in attracting good judges to the judiciary. So the bottom line here is this is part of being competitive. We want to work with you to make this work. But taking this relatively small amount of money out of the General Fund is not a great evil. As a matter of fact, it is a contribution to good government in Nebraska. With that, I'd answer any questions anybody has. [LB468]

SENATOR DAVIS: Thank you, Mr. Chief Justice. Any questions? Seeing none, we appreciate... [LB468]

MIKE HEAVICAN Senator. [LB468]

SENATOR GROENE: When a judge goes to the federal court like Gerrard did or something, how does that retirement follow him? Is he retired then and collecting, or is waiting until he's done with the federal position? [LB468]

MIKE HEAVICAN: No, you have to be at least 65 before you can collect. And so he will get, when he wants to collect, whether that's at 65 or some later date, he will get an amount of money tabulated based on how long he served. So if you're here 20 years, you will get...and I could be wrong about the details, but I think it's the average of your last 3 years' salary annually, 70 percent of that, that would be the full amount. If he was not here the entire 20 years, then there's a discount for each year you're not here. [LB468]

SENATOR GROENE: Thank you. [LB468]

MIKE HEAVICAN: Yeah. [LB468]

SENATOR DAVIS: Thank you, Mr. Chief Justice. Any other questions? [LB468]

MIKE HEAVICAN: Good. Again, thanks a lot for the work that you're doing. And we'll be happy to work with you for any numbers or any issues that come up thank you. [LB468]

SENATOR DAVIS: I'm going to have to leave because I'm introducing a bill somewhere else. [LB468]

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SENATOR NORDQUIST: See if there's anyone else. [LB468]

SENATOR DAVIS: Anyone else want to testify on this bill? [LB468]

STEVE BURNS: I'll try to be very quick. I know that you have other things to do. My name is Steve Burns, S-t-e-v-e B-u-r-n-s. I'm a district court judge from Lancaster County. As you can tell from my white hair, I'm not going to be around much longer here, so this bill is not personally affecting me. But one of the things I wanted to highlight is one of the things that Chief Justice Heavican just mentioned. As district judges, we are extremely concerned about the adequacy or applicants for new judicial positions. It is...the four positions that have required at least two rounds of applications in order to get qualified applicants is highly unusual. It should be sending alarms everywhere. We don't think that compensation draws a judge to the bench. Clearly if I had chosen to remain in civil practice, the compensation level would have been significantly higher than it was by my choosing to be a district court judge. However, compensation, including your retirement benefits, can be an impediment. And that I think is where we're at. And I'm very concerned. The association is very concerned that as you approach this bill you keep that in mind. One of the other things I think you need to keep in mind is 30,000 cases filed in the state of Nebraska last year were not assessed a judges' retirement fee. In addition to that, you have postconviction relief cases that don't have any fees charged and you have protection order cases that also do not have fees charged of any nature. We would ask that these be explored as avenues for revenue sources. We would ask that you explore the impact of the retirement fees on these, also the desirability of assessing those retirement fees and then what impact those fees may have on the proposed changes. Again, we would want to work with the committee. We want to thank the committee for the information that we've been able to obtain and the efforts that you make toward this. We know it is a very difficult job of coming up with a zero at the bottom of the line when you're all done. And we appreciate your efforts very much. And I'll take any questions. [LB468]

SENATOR KOLOWSKI: Thank you. Any questions? [LB468]

SENATOR KOLTERMAN: I just have...and I know we're pressed for time, but the 30,000 that you allude to, is that STOP classes and things of that nature? [LB468]

STEVE BURNS: No, sir, that's in addition. These are cases in a...and all kinds of cases are reopened at some point in time. A final judgment is entered and then the case is reopened. There is another filing fee that is charged when the case is reopened for further efforts such as modification of child support, of example, or parenting time. And there is not a judge's retirement fee assessed on those cases when they're reopened. [LB468]

SENATOR KOLTERMAN: Can you tell, Mr. Burns, is there a fee assessed to all the

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STOP as well, or against the STOP classes? [LB468]

STEVE BURNS: For a judges' retirement? [LB468]

SENATOR KOLTERMAN: Yes. [LB468]

STEVE BURNS: There is not. There is only...so far as I know, there is only a judges' retirement fee paid on a case that is actually filed in court. [LB468]

SENATOR KOLTERMAN: Okay. Thank you. [LB468]

SENATOR KOLOWSKI: Thank you very much, Judge. [LB468]

STEVE BURNS: All right. Thank you. [LB468]

SENATOR KOLOWSKI: Appreciate it. Any other testifiers? [LB468]

ORRON HILL: (Exhibit 2) Thank you, Chairman Kolowski and other members of the Retirement Committee. I promise to make this brief. My testimony will be very similar to that under LB467. I've provided you the written copy of the testimony. We are obviously concerned about funding level, unfunded liability, the additional required contributions, and the projections. Subject to your questions, that's all I would like to say to make sure we're out of here in a timely manner. [LB468]

SENATOR KOLOWSKI: Thank you. Any questions for Mr. Hill? Yes, sir. [LB468]

SENATOR GROENE: That 93 percent, that's pretty high. I mean currently the judges plan is 93 percent. [LB468]

ORRON HILL: Yes, and that mirrors what Senator Nordquist... [LB468]

SENATOR GROENE: At what point does the actuary said we got to add money? [LB468]

ORRON HILL: Well, it's because of the unfunded liability that you can see there in the \$11,596,73 range that we're looking at, and over the long term 30 year. The additional required contribution for this year was about \$750,000. And so making up those additional required contributions is why they're looking for money. [LB468]

SENATOR GROENE: All right. I'll go talk to you later. [LB468]

ORRON HILL: Yes, Senator. [LB468]

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SENATOR KOLOWSKI: Anything else? Anyone else? Mr. Hill, thank you. Any other testifiers? Thank you very much, this hearing is closed at this time. Thank you. [LB468]