[LB303 LB324 LB611]

The Committee on Nebraska Retirement Systems met at 12:15 p.m. on Wednesday, February 14, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB303, LB611, and LB324. Senators present: John Synowiecki, Chairperson; Tom White, Vice Chairperson; Philip Erdman; Lavon Heidemann; Russ Karpisek; and LeRoy Louden. Senators absent: None.

SENATOR SYNOWIECKI: Good afternoon, everyone, and welcome to the Nebraska Retirement Systems Committee. We'll have our public hearings today for LB303, and we're going to have a combined hearing today on two State Patrol Systems bills, LB611 and LB324. I'm John Synowiecki. I'm from Omaha. Like to introduce the remainder of the committee. To my far right is Donn Jones, he's the committee actuary. To his immediate left is Senator LeRoy Louden, from Ellsworth; Senator Tom White, who is the Vice Chair of the Nebraska Retirement Systems Committee. To my immediate right is Jeremy Nordquist, he is the research analyst of the committee. To my immediate left is Senator Phil Erdman, from Bayard; Senator Lavon Heidemann will, I believe, be joining us as the hearing goes on. Senator Russ Karpisek is from Wilber, Nebraska. And the committee clerk is Laurie Vollertsten. If you plan to testify today on any of the bills, you will need to fill out a sheet, which is located on the table in the back of the room. When you come forward to testify, place the sheet in that box right there, and print your information legibly, please, as we are attempting to make a record here. Following the introduction of each bill, I will ask for a show of hands to see how many people plan to testify on the bill. We will first hear proponent testimony, followed by opponent testimony, and then any neutral testimony on any of the bills. When you come forward to testify, please clearly state and spell your name, your first and last name for the benefit of the transcribers. Again, we are establishing a public record here with this hearing. Please disengage all your cell phones and so forth, so as to not interrupt today's proceedings. Reading someone else's testimony is not prohibited, although we will entertain and accept written testimony. With that, LB303 will be the first bill. It is a bill that I am introducing, therefore, Senator Tom White, the Vice Chair of the committee, will preside. [LB303]

SENATOR WHITE: The hearing for LB303 is now open. May I have a show of hands of those who will speaking in favor of this bill. Any opposed to this bill intending to speak? Any neutral? Thank you. Please proceed, Senator Synowiecki. [LB303]

SENATOR SYNOWIECKI: Thank you, Senator White, members of the committee. I am John Synowiecki. I represent District 7 in the Legislature. Today I bring LB303 for your consideration. This is a bill brought to me by the members of the State Troopers Association of Nebraska. It establishes a Deferred Retirement Option Plan, otherwise known as DROP, and would provide an added benefit to their retirement system. The State Troopers Association has paid for an actuarial study in order to assure that this bill will, at a minimum, be revenue neutral. Interestingly, these studies have actually shown that the plan will save the state over $80,000 annually, if the DROP program is adopted. The DROP will allow members to have their monthly retirement benefits deposited to their DROP account, earning interest while simultaneously continuing to work. During this period, however, members do not earn additional credit for retirement. The member would choose how to invest the money in the DROP account. At the end of five years or any time before five years, the member must actually retire. At this point the member's monthly pension benefit will be paid directly to the member, not to the member's DROP account, and the member will have access to the money accumulated in his or her DROP account. The purpose of this program is to provide a way for members to accumulate additional savings while continuing employment. Other state and local governments have implemented similar programs. Originally popular with police and fire plans, DROPS now exist for teachers and general public employees as well. There is no rigid structure that must be followed for DROP programs. The design of these programs varies greatly, and they are usually crafted to meet the needs of each group of employees and their employer. This particular program was drafted closely after what the Lincoln Police and Fire Department's provide to their members. All members of the State Patrol Retirement System are eligible to participate in the program when they become eligible for normal age and service retirement, and members can enter the DROP program anytime after becoming eligible. The members retirement benefit is determined at the time of DROP enrollment, and will not increase due to salary raises, promotions, additional years of service or pension enhancements. Furthermore, the COLA provided for in the State Patrol Retirement System will not take effect until after the DROP period. The member continues actively working and receiving a pay check, as well as retaining his or her employment rights, privileges, and benefits. A member may stop working and actually retire or the state may terminate the member's employment in the same manner as before enrollment in the DROP participation program. The program can be very advantageous to a member who is interested in assembling a nest egg for themselves and their families and providing a jump-start into retirement. I want to thank you, Senator White, and members of the committee, for your consideration of the bill. [LB303]

SENATOR WHITE: Does anybody have any questions for Senator Synowiecki? Seeing none, will you reserve your right to close? [LB303]

SENATOR SYNOWIECKI: Yes, I will. Thank you, Senator. [LB303]

SENATOR WHITE: First proponent, please. Please state and spell your name. [LB303]

KORBY GILBERTSON: (Exhibit 1) Good afternoon, Senator White, members of the committee. For the record, my name is Korby Gilbertson. That'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 LB303. Last week in committee, you heard a similar bill to this that was presented on behalf of other law enforcement agencies in the state of Nebraska. And a lot of the discussion that went on during that hearing was about trying to get everything in order and make sure that everything is actuarially sound before a bill actually comes before the committee. This particular bill, LB303, is something that the State Troopers Association has been working on for about three years now. And we are finally at the point where we have, I think, crossed all the T's and dotted all of the I's, gotten the actuarial studies done. We have had three done this fall to make sure that everything that we put in this Legislation would actually work, once it was up and running. I can give you a copy. I have a copy for the committee of the actuarial study. And actually, we have someone from Buck Consultants who will be following me. Koren Holden, from Buck Consultants will be up behind me to talk specifically about the actuarial study. But I did want to show you that in Senator Synowiecki's opening statement he referred to the fact that this DROP plan has actually showed that, although it is a benefit enhancement, it actually ends up saving the state approximately $83,000 a year. And that would be an ongoing savings, not just first year savings. When we started this, we had hoped that we could find a way to have the bill drafted that it would be revenue neutral, not cost the state any money. And so I'm happy to say that we've gone beyond that and actually can save the system some money and make this work even better for the members. I think Senator Synowiecki explained very well what the DROP does. I know that you heard a lot about it...what they do last week also. And so I'd be happy to answer any questions, if you have them. [LB303]

SENATOR WHITE: Any questions? Seeing none, thank you. [LB303]

KORBY GILBERTSON: I also...I'm sorry. I also wanted to mention that Mr. John Cripe is here. He administers the Lincoln Police and Fire Department's plans. He's not here on behalf of the city of Lincoln, but we asked him to come, so that if you had any questions about how these work, once they're in action, that you could...he could answer those questions for you. Thank you. [LB303]

SENATOR WHITE: Thank you. Next proponent, please. Good afternoon. Would you state and spell your name, please. [LB303]

KOREN HOLDEN: (Exhibit 1) Good afternoon. My name is Koren Holden, that's K-o-r-e-n H-o-l-d-e-n. I'm with Buck Consultants. And I'm here testifying as a proponent for LB303 in association with the State Trooper's Association. I would like to direct all of the senators to the January 10 letter that's been passed out to you. And I'll just quickly go over our assumptions for the study in regards to the DROP program or the Deferred Retirement Option Plan, that has been proposed under LB303. I will go over the assumptions, plan features, and a few numbers. And I'll be happy to answer any questions any of the senators may have. To start, the retirement plan features that were included in our study considered that members would need 50 years of age and 25 years of service before being allowed into the DROP plan. The maximum DROP period would be five years. And this states that at each DROP anniversary date there would be a decision by the retiree to either retire or not. Under LB303, I believe, they are able to make that decision at any point in time, not just upon their anniversary. The account will be self-directed. And when I say the account, that would be the DROP account where the benefit payments are being deposited for self-direction, therefore there's no actuarial impact of this provision for the plan. And the member-employer contributions would cease upon entering the DROP program. Also, I want to make note that under the self-directed investment choices that would be given to the DROP participants, there is also no guaranteed return assumption under the plan. For the actuarial study we used all the data, otherwise plan provisions and assumptions and actuarial methods that were in place as of the July 1, 2006 valuation, except we did change the retirement utilization rates that we anticipate. Currently, we do not anticipate that people will leave at first eligibility or not all participants would leave. But we have changed this assumption for the DROP program to recognize the increased cost for people leaving at younger ages. If you turn to the exhibit, as I stated before, everything is shown here as of...all the calculations are as of July 1, 2006. And we will concentrate on the current plan and the third column over, titled Study 2. That is what aligns with LB303. Initially, we were asked to cost-out the impact to the system under two scenarios, one of which would be that the COLA would continue during the DROP period; and the second study would be that the COLA would cease upon entering the DROP program. So if you'd concentrate on the Study Number 2, that's what aligns with LB303. As you can see, there are 822 members in the plan currently, 331 of which are in pay status, so they are retirees, beneficiaries or disabled retirees; 14 deferred vested, people that will receive their contributions or benefit at a later point in time, and 477 actives; 19 of these 477 actives, as of July 1, 2006, would have been eligible for the DROP plan. So we assume that they would all leave under the DROP plan for the purposes of this study. And also the other assumption is that they would remain in the DROP program for an average of four years. And that is an ongoing assumption. Therefore the covered compensation under the plan, the annual covered compensation considered here is about $24 million in total. But for the 19 people that would leave immediately, that would exit about $1.3 million of the total covered compensation. And this comes into play a little bit later on, so I wanted to point that out. If you look at the total present value of the plan, under item number 6 there, in comparison with the ongoing plan or the ongoing valuation results there's a savings of about $3.4 million. However, there's also a reduction in the present value of future normal costs because of the drop of the number of people and drop in considered compensation, and it ultimately results in a little bit of an increase of unfunded actuarial crude liability, so it would drive up the amortization payment slightly. However, the normal cost would drop. And what it boils down to is a percentage of pay, the overall required contribution would be a little bit higher. And considering the current 13 percent coming from the members and 15 percent coming from the state, it would result in a slight increase. And if you would look at like item 8h, there's a slight increase in the additional contribution required from the state. However, 15 percent of a smaller covered compensation more than makes up for the difference of the small increase that you see here on item 8h. So it would net out, as you can see below the additional state contribution would be $918,000 as opposed to $813,000, so it would increase about $100,000 in that arena. But there's a savings of close to $200,000 or about $188,000 as a percentage of the compensation, the required employer contribution, if you will. So it nets out to a savings, over the current ongoing funding of the plan, of about $83,000 annually. And so...and this is what we would expect on an annual basis. And this is...can be represented as a projection into the future because of the change in the assumption for retirement rates and the length of period of time in the DROP program. At this point in time, I'm happy to answer any questions the senators may have. [LB303]

SENATOR WHITE: Any questions? Yes, Senator Louden. [LB303]

SENATOR LOUDEN: Yes, just to clarify this for my own information. When this person would reach age 50.50, 25 years in and go into this DROP plan, they would cease to contribute to the retirement plan, is that the way I read that? [LB303]

KOREN HOLDEN: Yes, both the members and the state or the employer. [LB303]

SENATOR LOUDEN: Okay. But they could continue to work for the next five years, but their...and receive their benefits, but they would go into this DROP plan? [LB303]

KOREN HOLDEN: Yes. [LB303]

SENATOR LOUDEN: Okay. And who administers...who is this DROP plan? Where does that money go? Or I mean, is this going to be a state plan or can it be...go down to the local Edward Jones and put it in or where does it go? [LB303]

KOREN HOLDEN: The DROP accounts would be administered by a third party administrator or recordkeeper. [LB303]

SENATOR LOUDEN: It would be whoever they would choose? [LB303]

KOREN HOLDEN: I will let somebody else answer that question, if you don't mind. It would have to be...the work would have to be bid out, either to the current recordkeeper that currently does work for the state and county plans or it could technically be a different third party administrator. But that would be... [LB303]

SENATOR LOUDEN: What's the advantage for that? Does that mean that that money that's put in there, it's tax-free anyway, isn't it? I mean, it isn't taxable, is it? So what's the advantage of putting it in a DROP plan rather than them going ahead and just drawing it out and putting it in something of their own? I guess, why the DROP plan? Why not just... [LB303]

KOREN HOLDEN: ...to allow them to continue working. These are very typical plans throughout local county governments. And the...it allows the actual entity to set up the accounts where the benefit payments would be made and for the member to actively continue employment. And it's, in many cases, as will be testified to a little bit later, it allows for the entity itself to...it allows the employment...employer ability to gauge the workforce of the need to retain some people with special skills. [LB303]

SENATOR LOUDEN: On this DROP plan is there someone that's going to administer this account? Will they be charging a fee to do that? [LB303]

KOREN HOLDEN: They could possibly, but the fee would be paid by the member, is how I understand it, how the bill is written. [LB303]

SENATOR LOUDEN: Right. [LB303]

KOREN HOLDEN: And the member would be under the total obligation to, you know, pay the related fees or for gains or losses within the fund itself. There's no guaranteed investment return. Many DROP plans that have been in across the nation, early on, I think the major mistake, if you will, is that within the program there was some kind of guaranteed rate of return. And therefore when the capital markets kind of went belly-up through 2000 through 2003, the plan was still...all these DROP plans were in place with these guaranteed rates of return were still on the hook for granting this interest on these DROP accounts when the overall trust fund itself was not making those kind of returns. So it allows to keep the money within the trust structure for the tax advantage. It allows the person to receive monthly benefits while continuing employment, and allows the employer to better gauge the coming and going of employees and the retirement patterns of the employees. [LB303]

SENATOR LOUDEN: Okay, thank you. [LB303]

KOREN HOLDEN: You're welcome. [LB303]

SENATOR WHITE: Any further questions? Seeing none, thank you very much for coming today. [LB303]

KOREN HOLDEN: Thank you. [LB303]

SENATOR WHITE: Next proponent. Please state your name and spell it. [LB303]

JOHN CRIPE: John E. Cripe, C-r-i-p-e. [LB303]

SENATOR WHITE: Thank you. [LB303]

JOHN CRIPE: I'm here on behalf of the legislation. My official title with the city, although I'm not representing the city today, is the classification and compensation manager, and police and fire pension administrator. Doesn't fit on a card very well. But I administer the police and fire pension, I have since 1990. We instituted a DROP plan, we started doing the research in 1999, started the implementation in 2001-2002. We had a projection that if 16 members of the police or fire department would take advantage of it, it would be a break-even proposition. Since the implementation we've had an average of 70 people on the DROP, that results in a savings or annual savings of about $213,000 a year, for the last five years, almost six years. I think the total that I projected out yesterday, if all things...it's easier to go backward than it is going forward. So going back the last five or six years to see what payroll would have done, had the same raises occurred for just the payroll that was in place that normal cost was attributed to, we would have saved about $1.2 million over the course of that time. It does really set up a unique set of circumstances. The DROP plan is considered by the IRS to be a trust within a trust. So it is, in some instances, a defined contribution as part of a defined benefit. Therefore the funds really stay as part of the overall plan. Our plan is administered by a third party. We did a search of the market to find a third party administrator. We had four or five people who came forward. We selected a local vendor that could give advice and could represent the employees. The employees are able to invest those funds. And at the end of their DROP period they are able to roll those funds into an eligible IRA, to purchase annuity or to withdraw the funds and pay the taxes. So it really has set up a pretty good opportunity for the employees. On the other side of the coin, it has created some predictability for management. Once somebody enters the DROP plan they are giving a retirement, in fact, date to us so that we know when their last possible date is. As of October 2006, we reached our five-year point. So everybody who enrolled initially had to have separated from the plan and they had done so over that period. But it does give the management team an opportunity to forecast the needs of their department and to start replacing folks on a more regular basis. It creates some more predictability with regard to the management structure. The costs are real, the savings are real. The plan did not change our normal cost contribution, it was roughly 18 percent ten years ago, and it's 18 percent today, that's the employer-employee contributions together. Our contributions aren't as high as your contributions in the state as we do not have a true COLA, so the COLA costs are significantly more. So our plan is a little bit cheaper to operate than the state plan. So I think I've covered the overall aspects of the DROP. I know when folks first read the language it almost looks like it's too good to be true. That was true for me when I read it in 1998 and 1999, and we did a considerable amount of research before we proposed the legislation. And it took us a number of times before we could demonstrate that it would be cost-neutral, when in fact it was a cost-savings. So I really think it is to the state's advantage, both the management and to the employees. And I certainly would entertain any questions that you would have. [LB303]

SENATOR WHITE: Any questions? Yes, Senator Louden. [LB303]

SENATOR LOUDEN: When these people contribute to this DROP plan, are they contributing such as they do in their retirement? Everybody contributes to the DROP plan and it's, I guess, a communal way of making money or does each individual have their own separate account inside of that DROP plan? [LB303]

JOHN CRIPE: Each individual have their own account. And the their contribution is only their monthly payment for retirement purposes. Once you retire, their monthly payment is frozen at that rate, so to speak. And it would not increase over the term of their five-year DROP period. That monthly contribution is deposited into an account directly for that individual, and that account is maintained on their behalf. It is directed or invested by the employee, and then their results are the future outcome of that investment, and so it is individualized. And whenever they do retire in fact or separate then they are able to determine what vehicle is most appropriate for them, based on an IRA or an annuity or a cash withdrawal. [LB303]

SENATOR LOUDEN: What's the advantage over this DROP plan rather than each individual taking his money and going out to an investment firm and bringing his money in every month? [LB303]

JOHN CRIPE: Well, you have two issues. First of all, the employee is not separating their employment, so they're still receiving the benefit, and so is the state, of their knowledge and skill and their opportunity to still work in their environment. So those factors are positives. These are deferred, tax-deferred if you put it into this account. If you drew it as a monthly benefit, you'd be paying taxes up front. So this is deferred during the period of the DROP. And if you'd roll it to an IRA or purchase an annuity it's deferred even further. So there are some tax advantages for not drawing it, and there are some positive instances where the state has an opportunity to retain somebody who otherwise might leave. And you have some predictability for training purposes. [LB303]

SENATOR LOUDEN: Okay, thank you. [LB303]

SENATOR WHITE: Any further questions? Seeing none, thank you again for your time, sir. [LB303]

JOHN CRIPE: Thank you. [LB303]

SENATOR WHITE: Next proponent, please. [LB303]

JESSICA SCHNELL: Good afternoon. My name is Jessica, J-e-s-s-i-c-a, Schnell,S-c-h-n-e-l-l. I am a sworn officer with the Nebraska State Patrol, currently assigned as an investigator in the Headquarters Troop. I am also the legislative liaison for the State Troopers Association of Nebraska, and today I'm here to represent them. As a representative of the State Troopers Association of Nebraska, I would like to express our full support of the DROP initiative. This program really benefits everybody involved, the troopers, the Patrol, the state of Nebraska. Over the last several years contribution rates have increased, yet the benefits have gone unchanged. Even with corresponding contribution rates, the DROP program really allows the trooper to gain more flexibility and control in their retirement. It allows the Patrol to preplan their needs, and it creates a savings for the state of Nebraska. This program is really a win-win dynamic for everybody. And so I would just like to express my support again, and on behalf of the State Troopers Association thank each of you for your time and consideration. I hope that you'll forward this to the floor of the Legislature. [LB303]

SENATOR WHITE: Any questions? Thank you for your comments. [LB303]

JESSICA SCHNELL: Thank you. [LB303]

SENATOR WHITE: Additional proponents? [LB303]

BRYAN TUMA: (Exhibit 2) Good afternoon, Senator White and members of the Nebraska Retirement Systems Committee. My name is Colonel Bryan, B-r-y-a-n, Tuma, T-u-m-a, superintendent of the Nebraska State Patrol. I'm here to testify in favor of LB303 which proposes to amend the Nebraska State Patrol Retirement Act for the purpose of creating a Deferred Retirement Option Plan or DROP program, for State Patrol officers. Today, I would like to address some of the dynamics impacting law enforcement in general. In addition, I would like to address some of the specific issues confronting the Nebraska State Patrol and how the proposed DROP program might alleviate some of those issues. Not unlike a lot of law enforcement agencies nationwide, the State Patrol experienced significant growth during the seventies and the eighties, not only in the scope of our duties and responsibilities, but also in the number of officers and employees hired. Due to this period of growth many years ago, the agency is now in a position of losing many of these officers to retirement. Compounding this issue is the fact that many law enforcement agencies experience difficulty competing for a rather limited pool of qualified applicants. The competition between law enforcement agencies to attract qualified applicants has promulgated considerable employment and benefit packages in this sector of public employment. Ultimately, the ability of agencies to attract and hire qualified applicants is challenged, on the other hand, by the ability of the agency to retain these same employees. In today's workplace the young employee expects to be challenged, to have opportunities, and to exercise options. The employer must constantly evaluate workplace issues in order to provide options and create an environment conducive to the expectations and demands of a more fluid workforce. The Nebraska State Patrol is an agency in transition. I would like to offer some perspectives on what is occurring in our agency as it relates to retirement issues. Over the past 18 months considerable effort has been devoted to the assessment of career development issues in the State Patrol. Our primary concern relates to the fact that 50 percent of our current supervisors and managers are eligible for retirement in the next five years.

Obviously, our efforts are focused on the identification and development of new leaders within the agency. The introduction of a DROP program would aid in the retention of most of our senior and most experienced. Typically, retirement in general terms will impact those officers who occupy supervision or command level positions. One aspect of the career development program includes mentoring opportunities as a means of enhancing the exchange of skills, knowledge, and abilities between tenured individuals and those employees who have a desire to move along a preferred career path but lack the knowledge and experience. The introduction of a DROP program would also aid in the retention of personnel who possess a high level of subject matter expertise in specific and focused law enforcement fields of application. These persons not only fulfill specific needs for the State Patrol, but also provide services to statewide local law enforcement in their specialized fields. Under this legislation, there is an incentive for these officers who possess a unique skill set and level of expertise in focused areas to remain employed by the agency and continue to provide services, as opposed to entering the private sector and provide the same services as private contractors. The retention of tenured officers also facilitates better planning for their eventual departure. Right now, officers are eligible to retire at age 50, with 25 years of experience. In some cases, the officer recognizes the potential income increases associated with collecting retirement benefits and seeking other employment opportunities. Once the right opportunity presents itself, the officer makes a sudden departure from the agency with little notice in order to pursue other income and professional opportunities. The DROP program would provide significant financial incentives for the officer to carefully plan a departure from law enforcement. This situation would add stability to the ranks of the supervisory and command group, yet present a clear expectation for officers to consider retirement options and departure dates. This translates to better planning for the recruitment, hiring, and training of new officers. Finally, we view a DROP program as part of an established wage and benefit plan offered by progressive law enforcement agencies that actively and aggressively compete for the limited pool of qualified law enforcement applicants. New persons entering the workforce embrace change and opportunity. Traditionally, law enforcement attempts to take a long-term approach to the development and retention of employees. In order to retain qualified personnel the agency must consider benefits intended to focus on long-term financial considerations that effectively compete with less lucrative short-term financial opportunities. I do not profess to have a complete financial overview of the DROP program. Therefore, while the agency recognizes several benefits associated with the retention of officers through a DROP program, we encourage the Nebraska Retirement Systems Committee to hold LB303 and complete a long-term actuarial study to ensure that the DROP program would not inadvertently become a burden to the new employees entering the Patrol or the state's General Fund. I've also attached a sheet to my testimony to address some technical concerns from our review of the bill. Thank you for your consideration and I would attempt to answer any questions you might have. [LB303]

SENATOR WHITE: Any questions? Yes, Senator Louden, go ahead. [LB303]

SENATOR LOUDEN: Yes, Colonel Tuma, thank you for testifying today. Am I reading this correctly that when a person was 50 years old and had 25 years of service, they would not have to... [LB303]

BRYAN TUMA: No, they would not have to retire. [LB303]

SENATOR LOUDEN: They could work for another five years and still draw their pay like they always have been doing for the last 25 years? [LB303]

BRYAN TUMA: Yes, under the current retirement system, the statutory requirements, they can work until age 60. At that point they have to retire. [LB303]

SENATOR LOUDEN: Now, if they elect though to do this DROP program, they would still draw their regular wages. And they would also draw their benefits, too, to go into this DROP program? [LB303]

BRYAN TUMA: Yes. My understanding of the proposal, we would pay their regular salary. They would be able to collect any income increases. They would collect their vacation, sick leave, and holiday pay, just like any other employee. They would continue to work until they elect to retire. [LB303]

SENATOR LOUDEN: But they wouldn't receive...what about the benefits that the state pays into their retirement? That part would cease when they did that? [LB303]

BRYAN TUMA: Right. Our officers do not pay into Social Security, they pay only to the retirement system. [LB303]

SENATOR LOUDEN: But does the state... [LB303]

BRYAN TUMA: So at that point, if they DROP, then the state would discontinue paying that share,... [LB303]

SENATOR LOUDEN: ...that share. [LB303]

BRYAN TUMA: ...that share, and the officer would not continue to pay into the retirement system as well. [LB303]

SENATOR LOUDEN: Okay. I'll ask you the same question. What would an officer gain by doing this? [LB303]

BRYAN TUMA: Well, currently the way I view our situation is we have officers who reach that age 50. They have some options they can exercise. They can continue to work for the Patrol and defer on their retirement. In a lot of cases those folks have opportunities to leave the Patrol, collect that pension, and go out into the private workplace or go to another law enforcement agency, and in most cases significantly increase their income. The DROP program, as I see it, would allow us to retain that experienced employee that we have contributed to their training and to their professional development. In a lot of cases these are employees who offer services not only just to the Patrol, but to the law enforcement community at large. We continue to reap the benefit of those employees and their experiences. But the employee would benefit significantly as well and would offset maybe that desire or that inclination to leave at age 50, but continue or consider to continue their career for another five years. And that would give us more time to plan for their eventual departure. [LB303]

SENATOR LOUDEN: You feel that there would be quite a little participation in this? [LB303]

BRYAN TUMA: I think given the financial prospects, I think a lot of officers would have to give it very serious consideration. There are some people who will leave no matter what. They have family issues or some other type of personal issue where they are going to retire at age 50 and leave the agency. But in most cases, I would say in the vast majority of cases, most people will give this a serious look, and would probably stay. [LB303]

SENATOR LOUDEN: Okay. One more question. If they do this, then they are more or less set up. They're probably going to have to work for five more years? [LB303]

BRYAN TUMA: Right. [LB303]

SENATOR LOUDEN: Okay. If they don't go in the DROP program and work for five more years, will their benefits increase at the end of five years? In other words, would their retirement benefit be higher than if they go into this? [LB303]

BRYAN TUMA: Yes, it would be subject to any wage increases, and that would enter into...their last three years, 75 percent of that pay, that average. [LB303]

SENATOR LOUDEN: Okay. That was the reason I was wondering, if anyone...if you're going to work for five more years, why not stay where you're at to get your salary increase and your benefit as you do, so that you would have higher benefits at the end of five years rather than to go into this? [LB303]

BRYAN TUMA: I think the DROP program would offer you significantly greater financial rewards at the end of five years than simply staying for the, you know, maybe it's a 3 to 5 percent increase, cost of living. Even if they were to retire and collect the COLA, I still don't see that they could recoup as much money. They need to participate in that

DROP, I would think, in order to achieve the greatest financial reward. [LB303]

SENATOR LOUDEN: Okay. Then you're telling me that their investment would probably perform better than what the retirement investment is for the... [LB303]

BRYAN TUMA: Yes, because they're going to continue to collect their wage that they are currently paid. And they would continue to get a cost of living increase on that wage, but all their retirement benefit would go over to the investment program. And they would not only put their investment in, but have the potential for, you know, some type of equity being built up from the investment opportunities. [LB303]

SENATOR LOUDEN: Okay, thank you. [LB303]

SENATOR WHITE: Any other questions? Yes, Senator Heidemann. [LB303]

SENATOR HEIDEMANN: Just to clarify because I don't understand how all this works. The State Patrol does not pay into Social Security? [LB303]

BRYAN TUMA: No. [LB303]

SENATOR HEIDEMANN: And when...because they pay into retirement, that's the reason they're not paying into Social Security, is that correct? [LB303]

BRYAN TUMA: I think they're granted an exemption because they contribute to an employer-defined retirement program. I believe that's the answer. But, no, we do not pay Social Security. [LB303]

SENATOR HEIDEMANN: I was just curious, when you're in this DROP program, you're literally not paying into any retirement. And everybody recognizes...that's legal according to...I mean, you wouldn't have to pay any Social Security or anything at that time, because you're not paying into any other retirement? [LB303]

BRYAN TUMA: That question came up before our testimony this afternoon. And I don't want to speak for Mr. Cripe, but that question was put to him. And I believe the answer is that we do not have to contribute to Social Security, we're not required to, if you enter the DROP program. [LB303]

SENATOR HEIDEMANN: Okay. That was just a thought. Thank you. [LB303]

BRYAN TUMA: Yes. [LB303]

SENATOR WHITE: Senator. [LB303]

SENATOR KARPISEK: Thank you, Senator White. Thanks for coming in, Colonel. It's great to see the top come in. I am a little concerned. What if their investments do poorly? And as we saw the stockmarket after 9-11, and then they say, oh boy, we should have left it where it was. I mean, is that just their tough luck? [LB303]

BRYAN TUMA: Well, I think it's an investment, so you always take that risk. But I also look at our retirement program now. You know, that money is invested. We did see a shortfall in some of our investments over the last several years. We're recouping that now. I think we're working our way out of it. But I think you stand that risk, no matter what. You know, the good thing would be they still have a job, they can work. So the opportunity to invest, I think, would pay off. But there is the potential that they could lose some money, yeah. [LB303]

SENATOR KARPISEK: I'm all for giving as many different options as we can and letting them choose. My main concern is so they...when they're done, at the end, when they retire, they have a good living and can still live well. That's my number one concern. So thank you, sir. [LB303]

BRYAN TUMA: Yes, sir. Thank you. [LB303]

SENATOR KARPISEK: Thank you, Senator. [LB303]

SENATOR WHITE: Thank you, Colonel. Any further questions? Seeing none, thank you. [LB303]

BRYAN TUMA: Thank you. [LB303]

SENATOR WHITE: Further proponents? Opponents? Seeing none, neutral? No further witnesses. The hearing on LB303 is declared closed. Oh, I'm sorry, Senator Synowiecki, do you wish to close? [LB303]

SENATOR SYNOWIECKI: Okay, thank you, Senator White. We'll now proceed to a hearing on two bills, combined hearing. LB611, which is introduced by the Retirement Systems, and LB324, which was introduced by Speaker Flood at the request of the Governor. When you testify in either proponent, opponent or neutral fashion or categories, please indicate if there is any different testimony relative to each individual bill. And identify and categorize which bill you are advocating for or an opponent for and so forth, for the record purposes, if you would, please. Jeremy Nordquist, the research analyst of the committee, will open on LB611; and then we'll move to the introduction of LB324. [LB611 LB324]

JEREMY NORDQUIST: Good afternoon, Senator Synowiecki and members of the Retirement Committee. I am Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I am the research analyst for the Retirement Committee. Today I introduce LB611 for your consideration, a bill to change Nebraska's State Patrol retirement contribution rates. LB611 is the first of two bills you'll hear today that will change the current employee and employer rate...retirement contribution rate set in statute. The current employee contribution rate for the State Patrol is 13 percent, and is scheduled to fall to 12 percent on July 1, 2007. LB611 would set the employee contribution rate at 14 percent. The current employer contribution rate is 15 percent of compensation, and is scheduled to fall to 13 percent on July 1, 2007. LB611 would set the employer contribution rate at 16 percent. According to the actuarial study completed for the current year, the State Patrol system has an unfunded accrued liability of $13.6 million, and requires an additional state contribution of $813,159 for FY '07-08. By allowing the contribution rates to fall to the scheduled levels currently set in statute, the state will likely be responsible to continue to make additional state contributions. According to the estimates provided by the Retirement System, LB611 will provide an additional $1.19 million in contributions over the rates that are scheduled to take effect on July 1. Also being considered today is LB324, which maintains the current rates at 13 and 15 percent. LB324 would generate $711,000 in additional contributions. Based on the actuarial study, the State Patrol plan requires 31.38 percent of compensation for fiscal year '07-08. LB611 would get us to a total of 30 percent. LB324 would maintain the current 28 percent, and no legislative action would allow the total contribution to fall to 25 percent. LB611 and LB324 merely gives the committee a couple options to consider which addresses the future funding of the State Patrol Retirement System. Thank you, Senator Synowiecki and committee members, for your consideration of LB611. [LB611 LB324]

SENATOR SYNOWIECKI: Thank you, Jeremy. Any questions from the committee? Seeing none, we'll now have the opening on LB324. [LB611 LB324]

GERRY OLIGMUELLER: (Exhibit 3) Good afternoon, Chairman Synowiecki and members of the Retirement Systems Committee. My name is Gerry Oligmueller. My name is spelled G-e-r-r-y O-l-i-g-m-u-e-l-l-e-r. I'm the state budget administrator. I'm here today on behalf of Speaker Flood to introduce LB324 and on behalf of Governor Heineman to offer testimony in support of LB324. LB324, introduced by the Speaker at the request of the Governor, is part of the Governor's biennial budget recommendations. The bill eliminates existing statutory language that will reduce both the employer and employee retirement contribution rates in the State Patrol Retirement System plan on July 1, 2007. Existing law, as Jeremy pointed out, will reduce the current employer retirement contribution rate from 15 to 13 percent of each officer's pay. Existing law will also reduce the current employee retirement contribution rate from 13 to 12 percent on July 1, 2007. These reduced contribution rates included within the current law will generate insufficient revenue to cover the expected normal cost of the accruing benefits for the State Patrol Retirement System plan, as determined from the annual actuarial analysis of the plan completed this last fall. Instead, LB324 would continue to assess the current employer retirement contribution rate of 15 percent of each officer's pay and the current employee retirement contribution rate of 13 percent of each officer's pay. Maintaining the currently assessed retirement contribution rate is expected to fully fund the normal cost of the accruing benefits for the members of the State Patrol Retirement System plan. The Governor's budget recommendations include funding to reflect the recommended higher employment contribution rate of 15 percent during the budget biennium in the appropriations provided to the State Patrol. I urge you to support LB324. Thanks for your consideration. I would be glad to answer questions. [LB611 LB324]

SENATOR SYNOWIECKI: Thank you, Gerry. Any questions from the committee? Senator Louden. [LB611 LB324]

SENATOR LOUDEN: Yes, Gerry, on LB611 they state that they're $813,000 or so short, and they're talking about 14 and 16 percent, and you're talking about 15 and 13. Will that make up the $813,000 difference? [LB611 LB324]

GERRY OLIGMUELLER: Well, our recommendations in the biennial budget package for fiscal year 2007-2008 actually include the required additional state contribution of $813,000. That was determined in the most recent actuarial report. And then I would offer, in addition to that, our recommendations included in that budget package also set aside an equivalent amount in the event that were needed during fiscal year 2008-2009. Of course, that won't be determined until the subsequent actuarial evaluation that's done at the end of the current fiscal year, so this upcoming fall. [LB611 LB324]

SENATOR LOUDEN: Now, if I understand this correctly, you're telling me that you guys with your budget, you're going to pony up the money they need, so that they'll only have to have a 15 and a 13 percent benefit contribution? [LB611 LB324]

GERRY OLIGMUELLER: Well, they currently have a 15 and 13 percent contribution in the current year, and that additional $800,000 is required as of July 1 of 2007. And, yes, we have included that. And whether or not there is a need for an additional contribution on July 1, 2008 is yet to be determined. I guess we're feeling comfortable with those contributions, the contribution rate at 15 and 13, taking into account that we actually have set aside some funding in the event that is needed. The market also has been performing more favorably, of course, than it has in the recent past. And, as the Colonel pointed out, the plan is gaining a more favorable financial position in that regard. So we're feeling comfortable with that recommendation. And that's, you know, what we advanced as part of our budget recommendation. [LB611 LB324]

SENATOR LOUDEN: Okay, thank you. [LB611 LB324]

SENATOR SYNOWIECKI: Gerry, let me kind of, if I can conceptually understand this. [LB611 LB324]

GERRY OLIGMUELLER: Sure. [LB611 LB324]

SENATOR SYNOWIECKI: If we...if LB324 is adopted, which maintains the current contribution rates as it is currently,... [LB611 LB324]

GERRY OLIGMUELLER: Right. [LB611 LB324]

SENATOR SYNOWIECKI: ...at 15 and 13, we'll still need a General Fund appropriation? [LB611 LB324]

GERRY OLIGMUELLER: Yes. [LB611 LB324]

SENATOR SYNOWIECKI: And if we allow the sunset to come into play, and that General Fund appropriation is in the ballpark around $800,000,... [LB611 LB324]

GERRY OLIGMUELLER: Right. [LB611 LB324]

SENATOR SYNOWIECKI: ...do you have any calculation of what would happen if we don't enact LB324 and the sunset is allowed to occur? [LB611 LB324]

GERRY OLIGMUELLER: Well, I think we would still require the $800,000 appropriation for fiscal year '08. If you do not eliminate the sunset, it's likely that you'll have a required contribution in fiscal year '09. And the question is, will it be $800,000, will it be something smaller or greater than that? [LB611 LB324]

SENATOR SYNOWIECKI: Okay. [LB611 LB324]

GERRY OLIGMUELLER: Your chances of it being greater increase if you don't remove the sunset on the rate, contribution decline. [LB611 LB324]

SENATOR SYNOWIECKI: Any other questions from the committee? Senator White. [LB611 LB324]

SENATOR WHITE: Thank you for coming. [LB611 LB324]

GERRY OLIGMUELLER: Sure. [LB611 LB324]

SENATOR WHITE: There are cases in the Nebraska Supreme Court indicating that with regard to these type of pension fund obligations from the state or cities that before the state or city can increase obligations or maintain them, there must be some type of benefit extended to the beneficiaries, because many of them, the pensions, at least according to the interpretation of the courts, I guess that's the one that matters, where the state took the risk that the market would not perform adequately to fund the future liability, but promised a defined benefit. Assuming that applies to this pension fund, and I don't know whether it does or not, but if we assume that, what corresponding benefit is being given to the Troopers who participated in this plan? [LB611 LB324]

GERRY OLIGMUELLER: Well, yeah I'm not familiar with those particular cases, although I've heard of them. One of the concerns we had certainly to address, and did address as part of putting the recommendation forward, was to visit with the State Troopers Association of Nebraska and gain their concurrence with the need for the contribution rates to be at 15 and 13 percent. [LB611 LB324]

SENATOR WHITE: So in this case the beneficiaries, through the Troopers Association, have agreed that this is acceptable? [LB611 LB324]

GERRY OLIGMUELLER: Yes. [LB611 LB324]

SENATOR WHITE: Excellent. Thank you. [LB611 LB324]

SENATOR SYNOWIECKI: Any other questions from the committee? Thanks, Gerry, for your testimony. We'll now entertain proponent testimony. Proponent testimony for LB611 or LB324, and if you could differentiate your positions. [LB611 LB324]

KORBY GILBERTSON: Good afternoon, Chairman Synowiecki, members of the committee. For the record, my name is Korby Gilbertson, 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 LB324 and opposition to LB611. Just to give some history to members that are new to the committee, the State Troopers Association has always been very involved in the benefit increases, contribution increases regarding their retirement plan. As was earlier said, you know this might change based on next year's actuarial study. That's why this is an ongoing process, that's why we're here every year saying, yes, we think there needs to be a contribution increase or here we'd like to look at these benefits and see what needs to be done. I think that Senator White brought up a good point, this is something that's been brought up in the past that state statute does say, if you have a contribution increase there needs to be a corresponding benefit increase. We have consciously not challenged that because we have always operated in good faith with this committee and have always said we were willing to pay for the benefits we get, and we will take our hits as the market deals them. Two questions that were brought up...two issues that were brought up between LB611 and LB324, LB324 does fund all of the normal costs of the retirement plan, and that is our primary focus. The last actuarial study showed that the normal costs are around 27.9 percent. So 28 percent covers that, and that is our primary concern at this point. And we have always said if there is some time where the normal costs come in above that, we are willing to step up to the plate. Just as we had hoped, when you see the sunset, this was done two years ago in the hopes that the market would turn around enough that we could go back down to where we were before. The teachers, by the way, were lucky enough that that happened; who would have ever thought they could make up a $13 million hole in one year? Well, we weren't quite so lucky. But when you look in the out years, we are at the end of the smoothing for the five years, for the early 2000's, when the market was not very good. So we are hoping by next year we will be looking at a much more favorable picture. And for that reason we are supporting LB324 with getting rid of the sunset, looking at the 15 and 13 percents, and hoping that we can stay there and cover all the normal costs and eventually then also address amortized, unfunded amounts in the program. With that, I'd be happy...oh, and one other question I thought I should address was whether or not if the sunset did not pass or did not get taken away, I think the actuarial study showed between like $1.3 million or $1.5 million, so it is a significant difference if the sunset would go into effect. So with that, I'd be happy to try to answer any questions. [LB611 LB324]

SENATOR SYNOWIECKI: Thank you for your testimony. Is there any questions from the committee? Senator Erdman. [LB611 LB324]

SENATOR ERDMAN: Korby, just so that it's clear, LB324 doesn't just extend the sunset, it eliminates it? [LB611 LB324]

KORBY GILBERTSON: It eliminates it. [LB611 LB324]

SENATOR ERDMAN: So we will be setting that as a permanent rate, as opposed to what the existing laws, and that was a temporary rate increase. So this is an ongoing rate increase, until the Legislature would choose to reduce that or adjust it? [LB611 LB324]

KORBY GILBERTSON: That is true. [LB611 LB324]

SENATOR ERDMAN: Okay. [LB611 LB324]

SENATOR SYNOWIECKI: Seeing no other questions, thank you, Korby, for your testimony, appreciate it. [LB611 LB324]

KORBY GILBERTSON: Okay, thank you. [LB611 LB324]

SENATOR SYNOWIECKI: Any additional testimony relative to LB611 or LB324? Any additional proponent testimony? Any opponent testimony? We have already heard opponent testimony on LB611. Is there any additional opponent testimony as to either bill, LB611 or LB324? Seeing none, neutral testimony will be entertained by the committee. Neutral testimony on LB611 or LB324? Seeing none, that closes the hearing for both bills, LB611 and LB324. And that concludes today's public hearings for the Nebraska Retirement Systems Committee. Thank you. [LB611 LB324]

Disposition of Bills:

LB303 - Advanced to General File, as amended.
LB324 - Advanced to General File.
LB611 - Held in committee.

Chairperson

Committee Clerk