[LB365 LB679]

The Committee on Nebraska Retirement Systems met at 12:15 p.m. on Tuesday, March 27, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB365, and LB679. Senators present: John Synowiecki, Chairperson; Tom White, Vice Chairperson; Philip Erdman; Lavon Heidemann; Russ Karpisek; and LeRoy Louden. Senators absent: None.

SENATOR SYNOWIECKI: Welcome to the Nebraska Retirement Systems Committee. We have two hearings set for today, LB365, and LB679. As members of the committee come in we will introduce them. At this time present is the Vice Chair of the committee, Senator Tom White, from Omaha. I'm John Synowiecki. I'm from Omaha. Laurie Vollertsen is the committee clerk, on my far left. As noted, we only have two bills today. If you plan to testify on a bill, I would ask that you fill out the sign-in sheets that are available at the doorway there, at each doorway. And when you come forward, please place that sheet in the box here. Print your information legibly so that it can be readable and can be entered accurately into the permanent record. Following the introduction of each bill I'll ask for a show of hands to see how many plan to testify, and we will hear proponent testimony, followed by opponent testimony, then any neutral testimony on either of the two bills. I'd ask that if you do have a cell phone that you disengage the ringer so as to not interrupt our proceedings. Senator Phil Erdman is just now being seated to my immediate left, from Bayard, Nebraska. LB365 was introduced by myself, therefore the committee hearing for LB365 will be presided over by the Vice Chair of the committee, Senator Tom White. [LB365]

SENATOR WHITE: Senator Synowiecki. [LB365]

SENATOR SYNOWIECKI: Senator White, members of the committee, I am John Synowiecki, I represent District 7 in the Legislature. Today I bring LB365 for your consideration, it's a bill to change the Judges Retirement Act provisions relating to early retirement. LB365 would allow a judge to retire at age 62 and elect to receive a reduced monthly retirement income in lieu of a deferred vested annuity. A judge electing to retire at age 62 would have his or her earned retirement amount reduced by 9 percent, if at age 63 they retire 6 percent, and if at age 64 a 3 percent decrease or reduction. It is my understanding that the supporters of the bill will ask to hold this legislation until an actuarial study can be completed. There will be individuals testifying after me to provide a more in-depth analysis of this legislation. Thank you for your consideration. [LB365]

SENATOR WHITE: Any questions for Senator Synowiecki? Seeing none, thank you, Senator. [LB365]

SENATOR SYNOWIECKI: Thank you. [LB365]

SENATOR WHITE: First proponent, please. And how many proponents? And any opponents? Neutral? Thank you. [LB365]

PAUL O'HARA: Senator White, members of the Retirement Committee, my name is Paul O'Hara, that's O-'-H-a-r-a. I am a registered lobbyist appearing today on behalf of the Nebraska Association of County Judges. Rule 5, Section 15 of the Rules of the Legislature require that any bill that is going to propose an increase in any benefits to the retirees of the...any of the state systems must be introduced in the 90-day session. So that is why LB365 is being introduced this session, even though it's being asked to be...we're asking the committee to hold this until next year. The second requirement is that no bill can be advanced essentially from the committee in the same rule, unless there's been an actuarial study showing the impact on the retirement plan. So LB365 is an early retirement bill. It would reduce the actuarial penalty from, in the case of someone retiring at age 62, from 28 percent down to 9 percent; age 63 from 20 percent to 6 percent; and age 64 from 10.5 percent down to 3 percent. We did an actuarial study in 2003 and found that this benefit would cost $92,370 a year. So there's very little impact. And what we'd like to do is in the next session, the 2008 session we will have, in December the year before, the full actuarial study by the actuary who will report to this committee. We will know then the soundness of the retirement plan for the judges, and also what the reserves and surplus would be. If at that time it appears that there is a sufficient soundness and surplus, and if we would then talk to members of this committee, if there is interest, we will go ahead and pay for the actuarial study and then pursue it in 2008, asking only that you hold this bill until 2008 when all this could be done. I'd be happy to answer any questions you may have. [LB365]

SENATOR WHITE: Senator Louden has joined us. Any questions for Mr. O'Hara? Senator Erdman. [LB365]

SENATOR ERDMAN: Paul, as you've outlined, there is a substantial reduction in the penalty. Is there an issue now, is that...I mean, I understand this bill has been before the committee before. But obviously, we haven't addressed it yet. Has the issue compounded itself? I mean, what...obviously the opportunity to allow them to retire early may provide for more opportunities for people who actually want to continue doing it without recognizing a penalty would be a value to the court system. But I'm...kind of, what is the observation that we're trying to solve here and how do we accomplish that, in your humble opinion? [LB365]

PAUL O'HARA: One of the reasons why it has such a very small fiscal, not fiscal note, but actuarial finding as to its cost, $92,370, it's going to be something around when we do that again, is because they don't think that very many judges will take that early retirement with that actuarial penalty. But I believe that within the judicial system there are a number of judges who, for whatever reason, are ready to leave the bench, need to leave the bench or could be burned out or it would be in the best interest of the system that they be given that opportunity, and they're not doing it now. They're not retiring if they're going to take a 40 percent hit in their retirement benefits. If this makes that a little easier, then it would be a worthwhile policy. [LB365]

SENATOR ERDMAN: Just the only other question I would have is, the 3 percent a year that you've come up with in this bill, is there a basis for that or is that just kind of an idea that's been floated before, and that's what was used here or is there an independent reason why that percentage was used? [LB365]

PAUL O'HARA: Someone else chose the 9, 6, and 3 percent decremental decreases. And I know that although the issue may have been before this committee, I think that at the time that we did the actuarial study we chose at that time to do the spousal benefit. And I believe you were here at that time, when the spousal benefit was chosen by the committee as the benefit that they wanted to give to the judges, which was significantly more expensive, but at the time there seemed to be the ability, with the new fees that were coming in, to sustain that kind of a benefit. So this has not really been one that has been pursued. I don't know that it was selected for anything other than an ease of administration or that it was a simple...I know that a number of judges would like to have no penalty. But we also know that some senators would like to make sure that there is some accounting for that decision to retire early. [LB365]

SENATOR ERDMAN: Thank you. [LB365]

SENATOR WHITE: Senator Heidemann has joined us. Any further questions for Mr. O'Hara? Yes, Senator Louden. [LB365]

SENATOR LOUDEN: Sorry, Paul, I got here late. And I probably need a little bit of information here. At the present time, if they retire at 62, what is their salary or what is their benefits, what percentage are their benefits cut by? [LB365]

PAUL O'HARA: At age 62, their benefit would be cut by 28 percent. The actuarial penalty would be, roughly, 28 percent. You'll have, in your senators fiscal note, an example of what would happen with a retiree at a normal retirement benefit. And it will show you what the decrements are in each of the years, under 65, that retirement could occur. [LB365]

SENATOR LOUDEN: Now, the reason that you are changing it to 9 percent is to try and get judges to retire or is it because that's what the judges want to do? What's the reasoning for introducing this legislation, I guess? [LB365]

PAUL O'HARA: As we had just discussed that a moment ago, there are a number of judges within the system, whether it is because they have been there for a long time, whether it is...for whatever reason, health or anything else, that want to be off the bench, that should be off the bench, they're not going to do it right now with the penalties that are in the law. We want to perhaps make that easier for those who perhaps should be retiring, want to and are ready to. [LB365]

SENATOR LOUDEN: Now, would that have anything...if there were judges that were reprimanded or something like that, does that have anything to do with any of this? [LB365]

PAUL O'HARA: There is a separate section of the law, and it's Section 24-721 and 722 that specify what happens during a disciplinary procedure against a judge. And Senator Chambers, you may recall, a number of years ago put in there that certain things could not occur for...a judge could not retire during the pendency of a disciplinary action. I believe that is also in there. [LB365]

SENATOR LOUDEN: Is that in this bill? [LB365]

PAUL O'HARA: No, that has nothing to do with this bill, except that there is one mention of 24-721, in an early line of the bill. But that's the...it only just says, except as provided in 24-721, a judge may retire. Section 721 says that during disciplinary procedure they cannot retire. [LB365]

SENATOR LOUDEN: Okay, thank you. [LB365]

PAUL O'HARA: You're welcome. [LB365]

SENATOR WHITE: Any further questions for Mr. O'Hara? Seeing none, thank you. Next proponent, please. [LB365]

BILL MUELLER: Senator White, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska District Court Judges Association. As Mr. O'Hara has advised the committee, we are asking or we are going to ask Senator Synowiecki to just hold onto this bill because of Legislative Rule 5, Section 15, it is a requirement that in order for a retirement benefit to be increased, to be enhanced, a bill must be introduced during the 90-day legislative session. We have no intentions of asking the committee to enhance the benefit of judges. We did want to make sure that we'd complied with that rule. So really, LB365 is, as I would describe it, a placeholder. And we would ask that the committee hold the bill, let us see what the next year brings as far as the balance in the Judges Retirement Fund and let us talk to you about possible enhancements of retirement benefits. I'd be happy to answer any questions the committee may have. [LB365]

SENATOR WHITE: Any questions? I have one. The judges I know, one of the things that would cause them, in my experience, to want to retire earlier often is a spouse who retires or whose health is deteriorating. They either want to spend more time with them or they wish to move to a climate that is more suitable for their health conditions. Is that one of the factors? [LB365]

BILL MUELLER: Absolutely. And when you look at the penalty for someone retiring early, I mean retiring at 62, losing 28 percent of your benefit, that's just not an option to most people. Even if they want to retire at that point, losing 28 percent of your benefit is just not viable option. And remember, judges retirement is based on years of service. So the longer that they serve, up to 20 years, determines what their benefit is. So we're not talking about people coming into the system for two or three or five years and then retiring at this full benefit. Their benefit is only based on how many years they've served and what their last, I believe, three years salary was. We're not affecting that. All we're saying is, if a judge decides to retire before they are 65, we are still going to impose a penalty, but instead of 28 percent, as Mr. O'Hara testified to, we're going to penalize them 9 percent. [LB365]

SENATOR WHITE: Any other questions in light of that? Senator Louden. [LB365]

SENATOR LOUDEN: Yes. Bill, I'm sure you've played the odds and know how to figure odds. Somewhere around there's a system set up so that a different age group, as you retire and as you draw your benefits then you're living longer on benefits. And as you get to the tail end of your, like at 65 or something like that, your chances of dying, I mean there's a percentage out there. Have you worked those percentages on this thing? [LB365]

BILL MUELLER: We have not, but we will. And I certainly am not an actuary. I assume that's why there is this penalty. Because when people start drawing the benefit earlier, the system will pay out more money over the life of that judge. But that certainly is something that we'll look at. We believe that the penalties in place now are too much of a penalty. Whether the right number is the numbers that we've included in this bill, I'm with Mr. O'Hara, I don't know where we came up with these numbers. But before we come back here asking you to enhance the benefit, we will know what the penalty numbers are and why those are reasonable penalties. [LB365]

SENATOR LOUDEN: Okay, thank you. [LB365]

SENATOR WHITE: Senator Karpisek has joined us. Senator Erdman. [LB365]

SENATOR ERDMAN: Bill, there's one comment in the fiscal note I'll share with you, and then get your feedback, and see if you concur, and if you do that you would also take this under consideration. It says, if there are also increased benefits to the spouse of a plan member that will also impact the plan, this impact would need to be included in any actuarial study. [LB365]

BILL MUELLER: Absolutely. As Mr. O'Hara testified, I believe, two years ago the Legislature adopted a spousal benefit for judges. Prior to that time, we didn't have one. What the Legislature did at the request of the judges is increase the judges contribution rate from 6 percent to 8 percent, and then provide them the spousal benefit. So if you do make a change here, I would guess that it would affect the spousal benefit. That's what we'll find when we hire an actuary to do an actuarial report. As members of the committee know, in order for this actuarial report to be done, our judges actually have to write a check out of their pocket and pay this actuary. Those would be questions he or she would address. [LB365]

SENATOR WHITE: Any further questions? Seeing none, thank you. [LB365]

BILL MUELLER: Thank you. [LB365]

SENATOR WHITE: Any additional proponents? Any opponents? Any neutral testimony? Seeing...Senator Synowiecki waives closing, and that concludes the hearing on LB365. [LB365]

SENATOR SYNOWIECKI: Thank you, Senator White. We'll now proceed to the public hearing for LB679, a bill introduced by Senator Avery. Senator Avery, welcome to the committee. [LB679]

SENATOR AVERY: Thank you. Thank you, Mr. Chair. I am bringing before you a bill, LB679, that would authorize the Board of Regents of the University of Nebraska to set appropriate contribution levels that the university can pay to its employees retirement accounts. I want to make one thing very clear before I go farther. You all know that I was a long-time member of the faculty at the university. I am no longer on the faculty. I would not personally benefit from this legislation. In fact, it would have absolutely no effect on my benefits because the university is no longer contributing to my retirement plan. I wish they were, but they are not, and that is the way it ought to be because I am now officially retired. The bill will give the university additional authority to create its benefit packages for employees and it will help the university to be more competitive, I think, in the marketplace for nationally recognized faculty and staff. Current statute sets the maximum amount the university can contribute to employee retirement plans at 8 percent of base salary. This bill would remove that cap and allow the Board of Regents to set the amount of university contributions independently, without having to come to the Legislature every year or so for additional authority. The primary reason for this bill, as you will hear from others who will testify after me, is that the university needs flexibility to remain competitive. There was a recent study done by the University of...Ohio State University, a survey of benefits of major universities. And it showed some very interesting data. Those data showed that many of our peer institutions already provide far more attractive benefits than does the University of Nebraska.

Minnesota, Colorado, Iowa, Iowa State all contribute 10 percent or more to their retirement funds. In fact, Purdue University contributes 15 percent. The University of Nebraska competes with these institutions for top researchers, for teachers of the first caliber. We have to...I think we need to give the regents the necessary tools to compete in this global marketplace for the best talent available. This proposal merely grants the Board of Regents the authority to use its discretion and best judgment to determine how best to compensate its employees to ensure high quality academic programs now and into the future. It does not set a limit and it does not, in fact, require any additional expenditure. My understanding is that we were...the Legislature gave the authority for the Board of Regents to increase the contribution to 8 percent, and it was there for a long time, and for most of that time until just last year, I think, the university chose to only fund it at 7.5 percent, just raised it last year. This would just give the Board of Regents more discretion in how they manage the benefit packages for faculty and staff. With that, I would end my testimony and ask you to advance this to General File and take any questions. [LB679]

SENATOR SYNOWIECKI: Thank you, Senator Avery. Questions? Senator Erdman. [LB679]

SENATOR ERDMAN: Senator Avery, thanks for bringing this bill back. This is the third time, I think, I've heard it. [LB679]

SENATOR AVERY: Yeah, I think it's been around. [LB679]

SENATOR ERDMAN: Two questions for you. When we talk about the peer institutions of the University of Nebraska, we're generally talking about the institutions that have been selected by the Board of Regents to be their peers: Purdue, Iowa, Minnesota, Iowa State. I think there are ten institutions that are generally referred in that list or something like that, is that accurate? [LB679]

SENATOR AVERY: That's...I think that's correct. There are a number of different lists of peer institutions, the faculty has one, the Board of Regents has one, I think the administration has one,... [LB679]

SENATOR ERDMAN: And depending upon what you're... [LB679]

SENATOR AVERY: ...individual faculty may have others. [LB679]

SENATOR ERDMAN: And depending upon what you're trying to accomplish, your peer institutions may be different? [LB679]

SENATOR AVERY: That, I think, is probably true. [LB679]

SENATOR ERDMAN: Okay. The only other question is, as I read the fiscal note it states that for approximately every 1 percent increase in the employer contribution, the total cost to the university would be $6.8 million for all funding sources. The last line on the fiscal note from the University of Nebraska's individual, Mr. Dave Wagaman, says that approximately $2.7 million of the $6.8 million could be state General Funds. Do you have any concerns about potentially putting this in law above the cap that it currently is, and essentially forcing the state to pay this increase based on a negotiation between the university and their employees, which we have no control over? [LB679]

SENATOR AVERY: The state wouldn't be forced to do anything if the Board of Regents didn't decide that there was a need to increase the contribution. What I'm asking you to do is take the cap off. [LB679]

SENATOR ERDMAN: But if they do choose to go above the cap, which they finally... [LB679]

SENATOR AVERY: There would be a fiscal implication, yes. [LB679]

SENATOR ERDMAN: ...which they have finally reached, and we have...generally the funds that we pay for have different ties and I'm just making sure that it's clear that there could be a potential implication? [LB679]

SENATOR AVERY: There could. [LB679]

SENATOR ERDMAN: But as it stands today, there is not. [LB679]

SENATOR AVERY: There is not, you're right. [LB679]

SENATOR ERDMAN: Thank you. [LB679]

SENATOR SYNOWIECKI: Any additional questions from the committee for Senator Avery? Senator Louden. [LB679]

SENATOR LOUDEN: Yes, thank you, Senator Avery, for testifying today on this. What is the employee contribution now at the university? [LB679]

SENATOR AVERY: I think it's 5.5 percent. [LB679]

SENATOR LOUDEN: Okay. [LB679]

SENATOR AVERY: There is, by the way, I think limits on what faculty can contribute. [LB679]

SENATOR LOUDEN: Okay. [LB679]

SENATOR AVERY: It might be higher than that. [LB679]

SENATOR LOUDEN: Okay. And do they also contribute to Social Security? [LB679]

SENATOR AVERY: Yes. [LB679]

SENATOR LOUDEN: And this is more or less...would this be considered like a 401K? [LB679]

SENATOR AVERY: Yes. [LB679]

SENATOR LOUDEN: Or do they go into a retirement type fund, and it's a retirement fund? Which is it? Is it a 401K or retirement fund? [LB679]

SENATOR AVERY: It's similar to a 401K. Upon retirement you have access to...there are two parts of their retirement fund. One is called TIAA, which is an annuity, and you cannot really do much about that. You can take out 10 percent a year, over a 10-year period, and invest it in what you want, after you retire or you can, during your period of employment, if you decide you don't want your money in the annuity side, you can take it out at, again, 10 percent a year over a 10-year period and put it in other parts of the university retirement plan. We are a part of a national retirement plan that was first established by an endowment by Andrew Carnegie for teachers. Because at the time he set up the endowment, there were almost no retirement plans for teachers at any level. The second component to the retirement plan is called CREF. And the CREF part is mostly stocks and bonds, and you have a lot of leeway in how you can distribute your retirement money through that side. But it is...it works very much like a 401K. When you retire, you can chose to continue to have your money in TIAA-CREF, as they call it, and have your payout come through that or you can take it all out. But then there are limits on what you can do with the TIAA part. And you can roll it over into an IRA and control it yourself or have a private financial counselor do it for you. [LB679]

SENATOR LOUDEN: Okay. You most nearly answered my second question, too, because I was...my question would have been, who operates this fund that these teachers put into this? [LB679]

SENATOR AVERY: It's operated, it's one of the, if not the largest, I believe it is the largest retirement fund in the entire country, it's worth several billion dollars. It has the low cost for managing the fund of most funds. Maybe Van Guard, I think, might have a little bit lower cost, but this is a very low cost fund that is not too aggressive, but it performs very well and is subject to very careful management rules by a board of directors that are elected by the participants. [LB679]

SENATOR LOUDEN: But it's no one from the university or the state of Nebraska that manage that fund? [LB679]

SENATOR AVERY: No, it's a national... [LB679]

SENATOR LOUDEN: It's a national. [LB679]

SENATOR AVERY: Yes. [LB679]

SENATOR LOUDEN: Okay, thank you. [LB679]

SENATOR SYNOWIECKI: Thank you, Senator Louden. Any additional questions? Senator Heidemann. [LB679]

SENATOR HEIDEMANN: I apologize, but I missed it. You talked about being comparable to other universities. Could you go through that just real... [LB679]

SENATOR AVERY: I can. There are a number of institutions with which we compare ourselves, peer institutions, that exceed what we now contribute or even are allowed to contribute to university faculty employees. Minnesota is one, that's at 10 percent or more; Colorado is at 10 percent or more; Iowa and Iowa State are at 10 percent or more; Purdue is at 15 percent. It can be a very important recruitment tool if you can say to a...say you've got a first magnitude scholar, somebody that is coming in here that is going to do research on biotechnology that might be able to contribute to the development of drought resistant plants. That's important to this state. Maybe you don't have enough in your basket of things you can offer that faculty member to offer the top dollar in salary. You might be able to make up the difference in a better retirement package. [LB679]

SENATOR HEIDEMANN: Are we higher than some comparison universities? [LB679]

SENATOR AVERY: No, we are actually quite low, 8 percent is pretty low today. When I first came here, I think we were at 5 percent. [LB679]

SENATOR HEIDEMANN: Are there some below us though yet? [LB679]

SENATOR AVERY: You know, you might want to ask some of the people who will come after me about that, because I don't really know. My guess is there probably are not very many who are below us of any in our peer group. I would say, if you go to Drake University in Iowa they might be below us because...but they're not our peer group. They're not a major research one institution. [LB679]

SENATOR HEIDEMANN: And you talked about Iowa and Iowa State, I think you said at 10 percent. Do you know what the faculty pitch in at Iowa and Iowa State? [LB679]

SENATOR AVERY: No, I don't. But generally faculty, there are limits on what the faculty can contribute. It might be at 7 percent. In fact, I may have misspoken earlier when I answered the other question about 5.5. I think we might actually be at 6 or 7 percent. [LB679]

SENATOR HEIDEMANN: Okay. [LB679]

SENATOR AVERY: But you do have the option, within the retirement package, if you want to put additional money of your own into something that is similar to an IRA, as they are called SRA's, you can do that. But that's a fairly recent change in TIAA-CREF's procedures. [LB679]

SENATOR HEIDEMANN: Okay, thank you. [LB679]

SENATOR AVERY: For a long, long time, TIAA-CREF was a very conservative, very tightly managed retirement fund that the participants had almost no ability to move money around. You were really restricted. They've, under pressure from participants, they have had to liberalize those rules a lot. And it's beneficial to retirees. Although a lot of that changed so recently it didn't help me much. But I'm here in the Legislature making big bucks now, so I don't really have to worry too much. (Laughter) [LB679]

SENATOR SYNOWIECKI: Yeah, a much better retirement plan, too, huh? Any additional questions from the committee? Seeing none, thank you, Senator Avery. [LB679]

SENATOR AVERY: Thank you. [LB679]

SENATOR SYNOWIECKI: We'll now accept proponent testimony on LB679. Proponent testimony. [LB679]

SENATOR AVERY: Mr. Chairman, I have another meeting I'll waive closing. [LB679]

SENATOR SYNOWIECKI: You waive closing? For the record, Senator Avery has waived closing. We'll now entertain proponent testimony, from proponents of LB679. Welcome. [LB679]

MILES BRYANT: Thank you. I appreciate the chance to speak to you again. As Senator Erdman points out, this has been around a few times. And I came here before you a couple years ago with a similar proposal. My name is Miles Bryant, M-i-l-e-s B-r-y-a-n-t, and I am a proponent for this bill. I don't want to undo Senator Avery's speaking for this bill, but I want to try to give you a couple pieces of information that he may not have...I don't think he did. The history of the retirement benefit at the university, as nearly as I can determine, is that in the early sixties the university started to participate in TIAA-CREF, which as we've heard is the plan that we're using right now. At that time the Unicameral wrote into the statute a 6 percent contribution by the university to the employees. And I want to point out, we're not just talking about faculty, we're talking about this is the university system, so it's not just UNL and it's not just faculty, it's employees, and a 6 percent contribution by the employees. So there was a 12 percent contribution into the initial TIAA-CREF plan. It stayed that way for many years. At that time, the Unicameral wrote into the regent's statute, the statute we seek to amend, this cap of 8 percent. It's taken a long time for us to get to this cap, but we're there now. Last year the university regents authorized a contribution of 8 percent. So as we might say in bridge, we're now booked. We can't go any further. The arguments that Senator Avery gave you about competing nationally are realistic arguments and eventually are going to come to hurt the university. I'll give you an example. I'm in the Department of Educational Administration at UNL. We're currently doing a search for an assistant professor. We have candidates for that job from Michigan, Stanford, Penn State, University of Pennsylvania, University of Wisconsin, Illinois Champaign-Urbana, all top institutions in our field. And these people are going to be competing for jobs in other places. I hope we can attract some of these young people who, if we're lucky, will stay here and contribute to this state and the university for 30, 35, 40 years. So we make a tremendous investment in these people. And they in turn give us wonderful service. We're going to have trouble competing in this marketplace, if you will, if we're not able to compete with benefits. And you know, you asked the question about where we're at right now. In '04-05, I think my data is correct, I think we were dead last with one of our peer groups. I'm sorry, we're dead last, with the exception of the University of Missouri. Missouri has an interesting system, they contribute 2.2 percent of the final average salary. And that's what you get for your retirement benefit at age 65. But we're behind Purdue, Minnesota, Ohio State, Colorado at Boulder, Iowa, Iowa State, Colorado State, Illinois Urbana, and Kansas. So those are institutions that we fall behind. You also asked the questions about peers. Well, let me also suggest to you that the Medical Center, in '04-05, was also dead last in their peer group, and that includes Minnesota, Iowa State, Colorado Health Science Center, Iowa, Kentucky, Tennessee, Illinois, Oklahoma Health Science, Kansas Medical Center. The Medical Center was dead last. UNO, and UNO has as peers Cleveland State, Portland State, Arkansas, Colorado, Northern Iowa, and Wichita State. Only two institutions were below that: North Carolina Charlotte, and Missouri St. Louis. So we don't look very good, we don't look very competitive compared to our peers. I did this last time and I want to speak to it again. Because we have to, as was testified to on the earlier bill, because we have to do this in a long 90-day session. There is a time frame here that is worrisome. If this is not addressed at this time, then the next opportunity will be in 2009, so that will impose this cap for another couple of years, and the university regents, should they seek to find some way to fund an increase, are going to be unable to do so without coming to the

Unicameral and asking for a change in the statute. So it really ties the hands of the people that are in charge of figuring out what's the right way to provide for competitive employee benefits for the University of Nebraska. The last thing I want to say is that you all have a statement about the principles of sound retirement planning. And I'd like to just speak to each of those very quickly. The first one is that the proposed legislative changes have to be actuarially sound. Which of course is what part of the testimony for the previous bill was about. We're not proposing any dollar amounts that are attached to this. Obviously, there is the potential for some increase. But the regents, if they are authorized to do so, would have to figure that out at the time. So there is no...I think Senator Avery mentioned this, there is no monetary direct result of changing this statute removing the cap. Your second principle is that when retirement provisions are added, amended, deleted, changed, it has to be uniform among the various public retirement systems covering different groups of employees. And I want to point out to you that right now the university employees are not treated equally to other employee groups. And my case for that is that the state college system, that retirement plan written into this statute, there's no cap on those employees, the State College Board, trustees are able to determine that. Your third principle is that the retirement change would have to apply equally to all. Well, it would. Everybody would be eligible for whatever the regents come up with. The fourth one suggests that benefit adequacy should be based upon the income replacement needed to retain...maintain same standard of living. And that's what would be the desire of allowing the regents to be competitive in this. And finally, there is a fifth principle about Social Security benefits that would be taken into account. And there's no implication of this or Social Security benefits. I do have a list of peers. There are several different lists of peers. I don't know if you have that information. I'd be happy to leave it, if you need it. Thank you. [LB679]

SENATOR SYNOWIECKI: Thank you, Mr. Bryant. Any questions from the committee? Senator White. [LB679]

SENATOR WHITE: Mr. Bryant, when the university adjusts the retirement amount, can they do it for that individual professor who, you know, is going to solve the genetic code so we can have drought corn that will produce 160 bushels an acre, or does it go across the board? [LB679]

MILES BRYANT: It goes across the board. [LB679]

SENATOR WHITE: So what you want us to do is, in order to get the top ten scholars, is for every percent, go up, spend $6 million. Does that seem the most cost-effective manner to recruit and maintain those really high-end scholars that you want? [LB679]

MILES BRYANT: Well, I'm not talking about the high-end scholars. I'm talking about the whole system. [LB679]

SENATOR WHITE: I think Senator Avery was saying we need this to get the really high-end, and the letter just passed out, the high-end scholars to remain competitive that we want. And it just occurs to me to be a very expensive and awkward method of trying to compensate those individuals because if we want them to get an extra 2 percent on their retirement, we have to give it to everybody in the system. Doesn't that strike you as not really a good argument for this? [LB679]

MILES BRYANT: It doesn't because the really top end scholars have already established themselves, are given lots of other incentives to come here. [LB679]

SENATOR WHITE: So we don't need it? [LB679]

MILES BRYANT: We have Orthmeyer Funds. Well, I'm not making that argument, okay? I'm making an argument that if this doesn't change, the university is going to be in a very uncompetitive position and I would predict, in a very short period of time. [LB679]

SENATOR WHITE: Thank you. [LB679]

SENATOR SYNOWIECKI: Any additional questions? Senator Heidemann. [LB679]

SENATOR HEIDEMANN: Just out of curiosity, you said the state college board had no cap. Do you know where they're at with their contribution? [LB679]

MILES BRYANT: I don't. [LB679]

SENATOR HEIDEMANN: Okay, I just was curious. [LB679]

MILES BRYANT: Yeah, I don't know where they're at. [LB679]

SENATOR HEIDEMANN: Thank you. [LB679]

SENATOR SYNOWIECKI: Any additional questions from the committee? Seeing none,... [LB679]

MILES BRYANT: Thanks very much. [LB679]

SENATOR SYNOWIECKI: (Exhibits 1 and 2)...thank you, Mr. Bryant, for your testimony. I might comment for the record that we received a letter from the Executive Committee of the University of Nebraska at Kearney, Education Association, and the University of Nebraska at Kearney Faculty Senate, indicating its formal support of the bill. The correspondence is signed by a Doctor Roger Davis of the University of Nebraska at Kearney, Education Association, and a Doctor Scott Darveau, President, University of Nebraska at Kearney Faculty Senate. Any additional proponent testimony? Please come forward. Welcome. [LB679]

JAMES SHAW: Thank you. Senator Synowiecki and members of the committee, my name is James Shaw, J-a-m-e-s S-h-a-w, and I am a professor at the University of Nebraska at Omaha, where I also currently serve as president of the Faculty Senate. The two witnesses who have already appeared before you have made some of the points I've been planning to make. I'll try not to belabor them, but I will also try to punctuate some of what they've said. Please accept my thanks for this opportunity to address the committee regarding LB679. Dr. Greg Karst, my colleague and president of the Faculty Senate at the University of Nebraska Medical Center, was unable to join me in a trip to Lincoln today. But he did ask that I convey his agreement with the remarks I'm about to make. LB679 would permit the University of Nebraska Board of Regents to set its contribution to employee retirement accounts at a percentage it deems appropriate. Under present law the percentage is capped at 8 percent. LB679, as you know, would remove the limitation. In discussing LB679 with my colleagues, I heard strong support for the change. UNO and UNMC both search nationally for new faculty, and we find the candidates carefully review the total package of compensation we offer. While salary garners the most attention, our retirement and health related benefits must also stand comparison to those provided by other universities. Speaking from personal experience, I have family in California who I visit once or twice every year, and they have noticed that when I'm looking at The Sacramento Bee I'm making some notes about real estate prices for comparable amenities for what I have in Omaha and such. Even for institutions like UNO and UNMC, it's important that when we're recruiting we're able to get on the candidates radar screens as not only being sound academic institutions, but institutions where they can see themselves being compensated appropriately. And as you well know, we're very fortunate in Nebraska to have a good quality of life and standard of living, a good cost of living, and we really do promote that. But that only goes so far. You know the total compensation package still has to be in line or competitive with what candidates may be able to get elsewhere. The change enacted by LB679 would permit the Board of Regents to respond with more flexibly to changes in the competitive landscape and would help ensure that UNO and UNMC remain attractive institutions for both new and continuing faculty. We also think it bears remembering that UNO and UNMC hire many staff for nonfaculty positions and their compensation also must stand comparison to that offered by local educational institutions and businesses. We think that LB679 would prove a significant help to the Board of Regents as it addresses such concerns. Clearly, as some have questioned already today, the Board of Regents would incur greater costs should it raise its contribution to employee retirement accounts. However, in our estimation such an increase should be evaluated in the context of the structure of the retirement plan itself. We participate in a defined contribution program as opposed to a defined benefit program. Much like a 401K retirement plan, the board's financial commitment ends with its contribution, and employees are responsible for selecting how their retirement funds are invested. As I'm certain this committee is well aware, many public employee retirement plans have, in recent years, found themselves underfunded when their investments have not covered their defined or guaranteed benefits. The University of Nebraska does not face this problem because the Board of Regents exposure ends with its contribution. In our view, the Board of Regents already manages a carefully structured retirement program which reflects sound stewardship of its resources. And we think that the Legislature can depend on this to continue after the passage of LB679. Thank you again for this opportunity to address the committee. We appreciate your efforts to ensure that Nebraska retirement systems are structured and managed to the benefit of both employees and the state. We think that LB679 represents a wise change to current law, and we commend it to your consideration. I'd be happy to try to respond to your questions. [LB679]

SENATOR SYNOWIECKI: Thank you, Mr. Shaw. Any questions from the committee for Mr. Shaw? Seeing none, thank you for taking the time today for your testimony, appreciate it. [LB679]

JAMES SHAW: Thank you very much for hearing me. [LB679]

SENATOR SYNOWIECKI: Additional proponent testimony for LB679? [LB679]

RON WITHEM: Senator Synowiecki, members of the Retirement Committee, my name is Ron Withem, W-i-t-h-e-m, here representing the University of Nebraska. I know your time is short with this room, so I will just indicate that on behalf of the university we support this legislation. We do not think that there needs to be a cap in statute. As a matter of fact, for most of my employment with the university we have not paid at the full cap allowed by state statute. We paid at 7.5 percent, even though the 8 percent was needed. We think we'll be careful with these funds, like we think we are with all other funds. But in cases of needing to be competitive, we do need to have the flexibility to increase this contribution when and if it appears to be necessary. With that, I'd respond to any questions you might have. [LB679]

SENATOR SYNOWIECKI: Thank you, Mr. Withem. Any...Senator Erdman has a question. [LB679]

SENATOR ERDMAN: Ron, thanks for coming back. Very aware of what the issue is here. I guess the question that comes to mind is that since the university has just gone to that 8 percent now, and we've been in this scenario for a number of years, when the university had the ability to use this tool for better recruitment, why wasn't it used sooner? Obviously, there are probably some financial reasons. And I guess, can you either today or at some point, give us some concrete examples of folks that chose not to come here because of the contribution rates, and where they ended up going. Because I'm trying to connect kind of what I'm hearing, but you know the information that was just handed out from our peer institutions is from '04, university had set it at 7.5, so technically they had flexibility there to go to that higher rate. It may go to what Senator White is asking. But I guess I'm trying to get my hands around understanding the issue from the past, and then looking forward, understanding state colleges don't have a cap, they passed a note to Senator Heidemann, and he was surprised, I think, at that as well. But there are different discrepancies between the plans. And my question is, if it's that big of a tool, why didn't the Board of Regents use it before? And then are there examples that we can look at and say, this would have helped us, and this was the determining factor? [LB679]

RON WITHEM: The latter question, I'll have to get back to you. And my guess is they probably won't have a lot of very specific sorts of examples, but I can give you some general picture on the competitiveness. As to why the board didn't go to the full 8 in the past when they had the flexibility to do so, it was a spending decision that the board made. They had X amount of resources, and Y amount of needs. I believe the 8 percent came about through collective bargaining. University has two of its campuses where the faculty is unionized, and we negotiate contracts with them. And then those settlements tend to drive what we pay the other two campuses. And I believe going from the 7.5 to 8 was a product of the collective bargaining two years ago, not the most current one. [LB679]

SENATOR ERDMAN: And just to further with the contribution rates, the employer is 8 percent, and the employees, we've heard different numbers. Do you know what that number is? [LB679]

RON WITHEM: Five and a half is my recollection, I'll check on that to make absolutely certain, but I believe it's 5.5. [LB679]

SENATOR ERDMAN: So the total contribution on the employers behalf is 13.5? [LB679]

RON WITHEM: Thirteen and a half percent. [LB679]

SENATOR ERDMAN: Do you know what our state colleges are at? [LB679]

RON WITHEM: I do not. [LB679]

SENATOR ERDMAN: Okay. Thanks. [LB679]

RON WITHEM: Thank you. [LB679]

SENATOR SYNOWIECKI: Any additional questions for Mr. Withem? Seeing none from the committee,... [LB679]

RON WITHEM: Thank you. [LB679]

SENATOR SYNOWIECKI: ...thank you. (Exhibit 3) Additionally, for the record I'll note that a correspondence has been received from Gregory Karst, Ph.D., Professor, Physical Therapy Education. And he's president of the University of Nebraska Medical Center Faculty Senate, correspondence received in support of LB679. Additional proponent testimony? Seeing no additional proponent testimony, any opponent testimony? Seeing no opponent testimony, neutral testimony? Seeing no neutral testimony, knowing that Senator Avery has closed his...or has waived his closing, the public hearing for LB679 is now closed. Thank you for your participation. And that will conclude the public hearings for the Nebraska Retirement Systems Committee. [LB679]

Disposition of Bills:

LB365 - Held in committee.
LB679 - Held in committee.

Chairperson | Committee Clerk