[LR134 LR198]

The Committee on Nebraska Retirement Systems met at 1:30 p.m. on Friday, December 4, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR198 and LR134. Senators present: Dave Pankonin, Chairperson; Lavon Heidemann; Russ Karpisek; LeRoy Louden; and Heath Mello. Senators absent: Jeremy Nordquist, Vice Chairperson. []

SENATOR PANKONIN: Good afternoon. I want to welcome you to the Retirement Systems Committee. I'm Dave Pankonin, chair of the committee. Senator Louden is with us so far today. We think we'll have other senators join us as time goes on. But we want to welcome everybody here, remind you about the cell phones off or on manner mode during our public hearing. And we have a couple of LRs we're going to talk about today. The first one is going to be LR198, college savings plans. And this is an LR that Senator Nordquist submitted, and he's not here today, but I think his aide is going to open on that, so we'll have him come forward. And as always, state your name and spell your name for our clerk, Denise Leonard--also have our legal counsel, Kate Allen, with us today. Welcome. [LR198]

ERIC VAN HORN: (Exhibits 1, 2, 3, and 4) Hi, there. Hello? Chairman Pankonin, members of the committee, my name is Eric Van Horn. That's E-r-i-c V-a-n H-o-r-n. I am legislative aide to Senator Jeremy Nordquist, who represents District 7 in the Legislature. Senator Nordquist regrets having an unavoidable conflict and not being able to attend the hearing today. Five-twenty-nine college savings plans offer an incentive for Nebraskans to save for college. Taxpayers who invest in 529 plans can write up to $5,000 of their investment off their state income taxes. At their best, these plans are a great way for parents, grandparents, or anyone interested in helping to plan for a child's future education save for college. Unfortunately, Nebraskans' 529 plans have not been living up to expectations. On April 23, 2009, Morningstar released their list of the best and worst 529 college savings plans in the United States. I have copies of this article for the committee and for the permanent record. As you may notice, Nebraska has two funds listed among the worst five plans in the nation. We're the only state with two plans judged to be among the nation's worst five. This report does not appear to be a blip on the radar. High fees and poor performance have become a trend. A year earlier, Morningstar judged one of these same plans to be among the nation's worst. I'm submitting copies of the Lincoln Journal Star's 2008 coverage of that 2008 Morningstar report for your review as well. As most investment professionals would tell you, Morningstar's analysis isn't perfect, but the reports do show that two of the options we as a state are presenting to our citizens have major flaws. The two plans mentioned in the Morningstar piece--the Nebraska State Farm College Savings Plan and the Nebraska Aim College Savings Plan--have fees that melt away much of the benefits of investing in the plan in the first place. It's worth mentioning that the third 529 plan Nebraska offers, administered by Union Bank&Trust, has been lauded as a well-performing plan. However, providing one good option out of three doesn't meet the standard of excellence for which our state government should strive. Leading up to this hearing, Senator Nordquist and I talked with many local investment professionals. One of these professionals, who asked not to have his or her name on record, due to a company policy, said that many times he or she recommends that his or her clients invest in another state's 529 plan--specifically, Virginia's, which has lower fees, even though that investment will not qualify for the state income tax write-off. Senators, rising tuition costs and a troubled economy makes long-term planning more important than ever. And 529 college savings plans can be a great resource for families wishing to plan ahead. Unfortunately, by offering low-rated plans with high fees, our state isn't doing financially responsible families any favors. As an April 2009 editorial in the Lincoln Journal Star stated, "What good does it do Nebraska families to shelter themselves with financial prudence from the worst of the recession if their tax-advantaged college nest eggs are being scrambled by poor management?" The Legislature should make sure that our citizens can count on state government to select safe, high-quality plans. It's understandable that the current economic climate has proven difficult for plan administrators, but we need to be sure we're taking every step necessary to fix the problem. Senator Nordquist also understands that we may be tied up in long-term contracts that prevent the Legislature or the State Treasurer, who is the trustee of the 529 program, from making the changes needed for immediate improvement. If that is indeed the case, Senator Nordquist hopes that the Legislature will take a look at what led the state to sign such contracts and how these binding, limiting contracts can be avoided in the future. It's Senator Nordquist's hope that this study will shed some light on both why these two Nebraska plans have underperformed their peers and what actions we can take to correct the problem. Thank you. [LR198]

SENATOR PANKONIN: Thanks, Eric. Appreciate your testimony--and see if there's any questions. You know, I appreciate all the material, and I think it's a valid--you've got some valid questions there that--I'm sure we're going to hear from the State Treasurer's office, and I'm sure there'll be some follow-up there. Senator Louden, do you have any other questions? [LR198]

SENATOR LOUDEN: Yeah. Thank you, Senator Pankonin. Eric, can you fill me in on who Morningstar is? [LR198]

ERIC VAN HORN: I will hope that somebody can give a little more detailed answer to that question--somebody sitting behind me. But as far as I'm aware, they are a company that rates bonds and investment assets and judges their quality. [LR198]

SENATOR LOUDEN: Okay. Then you're not--you're--Senator Nordquist aren't that familiar with their--who they are and what they do other than what you read in the paper. Is that what you're telling me? [LR198]

ERIC VAN HORN: Well, I mean, I'm somewhat familiar with them; I can't really speak to the senator's familiarity. But I just know them as a group that works to rate investment options and assets that people can buy. I mean, I don't know much beyond that, quite frankly. [LR198]

SENATOR LOUDEN: Okay. Well I've looked through this material we have, and I didn't find anything on who they were. But I mean, I guess I'd get back to the idea that--what do you say? An expert is a drip under pressure, you know, or somebody that's 50 miles from home. So that's what I was wondering when we start talking about what they've come up--I would like to know, you know, some... [LR198]

ERIC VAN HORN: Sure. [LR198]

SENATOR LOUDEN: ...and they could be very competent people; I'm not questioning that. I just--I don't know, but before I take what they have to say, I would appreciate if I knew a little bit more about them. [LR198]

ERIC VAN HORN: Yeah--and absolutely--and I can put some information together and do my best to provide you with a report on that. [LR198]

SENATOR LOUDEN: Okay, thank you. [LR198]

ERIC VAN HORN: You bet. [LR198]

SENATOR PANKONIN: Senator Mello has joined us. Good to see you today, Senator Mello. I don't see any other questions. Eric, you're done for now. [LR198]

ERIC VAN HORN: Yeah. [LR198]

SENATOR PANKONIN: And we'll see who the next testier is--may have to do some follow-up. [LR198]

ERIC VAN HORN: Thank you very much. [LR198]

SENATOR PANKONIN: Welcome. [LR198]

RACHEL BIAR: (Exhibits 5, 6, 7, and 8) Good afternoon. Good afternoon, Chairman Pankonin and members of the Nebraska Retirement Systems Committee. My name is Rachel Biar, spelled R-a-c-h-e-l B-i-a-r, and I serve as the assistant treasurer for the Nebraska College Savings Program. In regard to your study of Nebraska's 529 plans, I would like to provide you with some updates on the current issues affecting the Nebraska Educational Savings Plan Trust. A number of changes are being made by the State Treasurer and the Nebraska Investment Council to improve the 529 plan options for Nebraskans. And I do have some handouts for the committee. On November 1, 2008, OFI Private Investments, a subsidiary of Oppenheimer Funds, began serving as the investment manager and fund provider for the State Farm College Savings Plan. This change resulted in the reduction of total expense ratios of plan portfolios by an average of 47 basis points. The annual account fee was eliminated, and the average account holder began saving approximately 53.6 percent in total fees. In May 2009 the Investment Council, which monitors all of the investments in the plan, approved changes to the investment portfolios in the State Farm plan as a result of poor performance in the Oppenheimer Core Bond Fund. On August 27, 2009, the Federated U.S. Government Securities Fund: 1-3 Years and the State Farm Bond Fund replaced the Oppenheimer Core Bond Fund and the Oppenheimer Limited-Term Government Fund as the new underlying investments in the portfolios. Nebraska and the others states which had the Core Bond Fund as part of their 529 plans--Texas, Illinois, New Mexico, Maine, and Oregon--have been in settlement discussions with Oppenheimer, OFI, with respect to the performance of the Core Bond Fund. In June 2009 the Nebraska Investment Council authorized the State Investment Officer to negotiate a settlement on behalf of the council within certain settlement authority granted to the State Investment Officer. The Nebraska settlement is being negotiated jointly by the Investment Council and the State Treasurer and is subject to the approval of the Attorney General. Settlement discussions have been progressing, and the states are nearing a final settlement. When an agreement with OFI is reached, the terms will be made public. The Aim College Savings Plan did not meet the quality standards expected by the State Treasurer and the Investment Council. The contract with Invesco Aim expires today, December 4, 2009, and the decision has been made to not renew the contract. With the help of Union Bank&Trust Company, our program manager, all of the Aim accounts and assets will automatically transfer to an advisor account in the College Savings Plan of Nebraska. To simplify the process for investors, the transition, which will be occurring this weekend, will be automatic and require no action by the account owner. The transition to the College Savings Plan of Nebraska provides a number of benefits including lower investing costs for the investor, additional investment options, and enhanced participant reports, as well as improved online access. Based on a five-year composite performance ranking, the College Savings Plan of Nebraska advisor accounts were marked as the sixth-best-performing advisor-sold 529 college savings plan by Savingforcollege.com. in their recent September 30, 2009, rankings. Despite the most recent market decline and financial turmoil in America, college savings plans continue to be a dominant vehicle for parents and grandparents to save for a loved one's college education. As of September, 30, 2009, we have $1.942 billion in assets and 173,383 accounts in all four of our plans. Also as of the end of third quarter '09, there were 10,754 new accounts in all four plans for the 2009 calendar year, and the average account size was $11,199. We are also very pleased with the excellent participation rate by Nebraskans. Our participation rate is 10.31 percent, one of the highest in the country. One of our continuing goals is to reach out to all Nebraskans as we work to increase this percentage. The College Savings Plan of Nebraska offers a diverse menu of investment options. This investment strategy and structure has served the plan and investors well, helping it garner ongoing national recognition from multiple financial publications. With a sound investment structure and investment funds utilized, the performance has compared favorably to investment benchmarks. The College Savings Plan of Nebraska has been a top performer since its inception in 2001 and has received national recognition on an annual basis. On February 25, 2009, Savingforcollege.com released December 31, 2008, performance rankings. Based on the rankings, the College Savings Plan of Nebraska was the top-rated direct-sold 529 plan in the country for five-year performance for Nebraska residents and investors across the nation, and the advisor-sold plan was rated the Number 2 advisor-sold program in the nation. Union Bank's contract as program manager expires in 2011. The goal of the State Treasurer and the Nebraska Investment Council is to provide investors with the best 529 program available. On July 6, 2009, the State Treasurer and the Nebraska Investment Council issued a request for proposals for the investment and administrative services for the College Savings Plan of Nebraska. We have received several proposals, and an evaluation committee has been diligently reviewing those proposals. The committee plans to make its recommendation to the Investment Council and the State Treasurer at the beginning of 2010, with the Investment Council and the State Treasurer selecting the program manager shortly thereafter. We are confident the RFP process for program management of the Nebraska Educational Savings Plan Trust will ensure the College Savings Plan of Nebraska remains one of the top plans in the nation for many years to come. Nebraska families recognize that a college education is one of the most important things we can do for our children to prepare them and to enable them to compete effectively in a global economy, ensuring an opportunity for lifelong success. And the State Treasurer, as trustee of the Nebraska Educational Savings Plan Trust, has been and will continue to be prudent in his efforts to provide the best 529 program to all Nebraskans. Our office will continue to ensure that parents and grandparents saving for college will have access to flexible, solid, and affordable 529 plans. Thank you for your time, and I'm happy to answer any questions related to the plan. [LR198]

SENATOR PANKONIN: Rachel, thank you for your testimony. I also want to note that Senator Karpisek has joined us, and we're glad for that. You know, one of the follow-up questions from the introduction: Obviously you've made some moves; are these contracts with...you've got four different investment vehicles or overall companies you work with. Is that a--that's how it works, right? There's kind of four routes you can go. [LR198]

RACHEL BIAR: Correct. [LR198]

SENATOR PANKONIN: And those contracts, you know, we've had a couple of them turn over. And are they annual contracts? Or do we get into long-term...? [LR198]

RACHEL BIAR: The first contract was with Union Bank&Trust Company for the College Savings Plan of Nebraska, started in January of 2001, and it is a ten-year contract. [LR198]

SENATOR PANKONIN: And that's for the administration. And then they're one of the four investment routes that you can go. [LR198]

RACHEL BIAR: That is correct. Union Bank and Company serves as the program manager, and then they also offer the College Savings Plan of Nebraska direct-sold program and the College Savings Plan of Nebraska advisor-sold program. And then also our TD Ameritrade program--they also administer that plan as well. [LR198]

SENATOR PANKONIN: So besides the overall administration, are the investment parts of that arrangement an annual, or they're all--all of that's ten years? [LR198]

RACHEL BIAR: The program management--which would be the recordkeeping--contract is a ten-year contract. The investments obviously are part of that contract. However, I would note that the Nebraska Investment Council oversees and monitors all of those investments, so those investments do have the opportunity to change if the Nebraska Investment Council reviews them and determines that they need to be changed. So the investments are part of the contract but yet can be changed. [LR198]

SENATOR PANKONIN: On those two that you did change, was that instigated from your office or the Investment Council or jointly, or how--you know, obviously, you had some performance issues, and how did that happen? And how are those contracts structured so you could get out of them? [LR198]

RACHEL BIAR: Well, I'll start with the Aim contract, which actually expires today. The Aim College Savings Plan contract ends today, December 4, and the decision to not renew that contract was a joint decision made by the State Treasurer and the Nebraska Investment Council. So it was a joint decision not to renew that contract. That was also a nine-year contract, and so it just expired. There was not an extension allowed. The State Farm contract--that contract actually changed last November, November of '08, when it used to be distributed by the Aim investments. And then Oppenheimer became the distributor for the State Farm plan in November of '08, when our office, the Treasurer's office, and the Investment Council recognized a problem with the Core Bond Fund, because we monitor those regularly. It was a joint decision to have that replaced. And then the Investment Council approved that change at one of their meetings, to have that Core Bond Fund replaced. [LR198]

SENATOR PANKONIN: I'm going to get a jump on Senator Louden a little bit. Basically I'm going to ask you his question: You had one set of... publication, Morningstar, saying that we have some problems in our plan--it hasn't been as well-performing--and it might be centered in those two that we've just talked about. And then you have your testimony with other groups saying it's one of the better-performing plans. So are both those statements true? [LR198]

RACHEL BIAR: I would say that, in order to answer Senator Louden's question about Morningstar, Morningstar--it is a rating agency that does rate investments. They rate all investments not just 529 plans. However, every year they issue a report on 529 plans, and they do give their opinion on what they believe is the best. There were a lot of things changing in Nebraska's plans at that time, and we just hadn't had the opportunity to make those changes yet; we were working through the process. In my opinion, the State Farm plan truly wasn't mature enough to really give that a good rating, for the

Morningstar rating to name the State Farm plan as the worst plan. It had just changed in November of '08. So in order to give that a rating, I don't believe it was a mature-enough plan to successfully rate that plan. Savingforcollege at that time wouldn't rate the plan, because it wasn't mature enough. It had only been in inception--under the new distributor--for a short time. Joe Hurley is a nationally recognized college savings guru, and he does have the Savingforcollege.com. They have a different set of analysis that they use when they rate plans. I would truly say it is a matter of opinion. We stand behind our program, and it has done well, and we've made changes to the plans that needed to have changes made to them. [LR198]

SENATOR PANKONIN: Thank you. Other questions? Senator Louden. [LR198]

SENATOR LOUDEN: Yeah. See if I got this straight here. The Oppenheimer plans--State Farm--they were part of State Farm deal or what? Because I was reading in your--the portfolios in the State Farm plan is a poor performance in the Oppenheimer Core Bond Fund. Now does State Farm have part of the--operate the Oppenheimer Core Bond Fund? Is that what you're saying here? [LR198]

RACHEL BIAR: They did have the Oppenheimer Core Bond Fund in their portfolio, but that has been taken out. And so now that particular fund has been removed and replaced with those other options. [LR198]

SENATOR LOUDEN: Now you still got State Farm? [LR198]

RACHEL BIAR: State Farm is the State Farm College Savings Plan. And within the State Farm plan, we offer Oppenheimer funds as well as the State Farm Bond Fund. And so State Farm is the actual plan name, and then the investments are Oppenheimer funds as well as the State Farm Bond Fund and a Federated fund now. [LR198]

SENATOR LOUDEN: Well, just what I know about chasing cows and cabling hay--if you got State Farm and you got Oppenheimer mixed up in there, is there a lot of...somebody has to charge a bunch of money to do all this. Are you getting too many people involved there? And there's charges every time one fund goes to the other, or how does that work? [LR198]

RACHEL BIAR: I'll try to answer your question as best I can. Every state--every 529 plan has to have a state sponsor. And then there's a distributor from that state. So State Farm happens to be one of our distributors, and State Farm came to us in--it would have been...the first State Farm plan started in May of 2003, and at that time Aim was the distributor. So it was a State Farm plan. At that time State Farm did not want to have their own funds, because they didn't have enough funds that they could put in a portfolio for a 529 plan. And so Aim was the distributor for that plan. Well, that changed last November, and then they went out for bid, and Oppenheimer became the new distributor. At the time when it started in '08, of November, all of the funds in the plan were Oppenheimer funds that State Farm was providing their clients, and that's what State Farm chose to do. And we were, as the state sponsor, linked to that State Farm plan, and which brought in money, revenue, to the state for the program to the cash fund for the program, and so when that Core Bond Fund was not performing to the level that the Investment Council and the Treasurer wanted it to be, that was then replaced with the State Farm Bond Fund and then a U.S. Federated government fund. [LR198]

SENATOR LOUDEN: Okay, the reason it wasn't performing, then--do you put the blame on Oppenheimer or do you put it on State Farm? [LR198]

RACHEL BIAR: State Farm was not the distributor; Oppenheimer was the distributor. So it was an Oppenheimer fund. [LR198]

SENATOR LOUDEN: What did State Farm get out of it for doing all this? [LR198]

RACHEL BIAR: They get to sell a 529 plan to their clients. You can only receive the 529 plan through a State Farm agent, so those State Farm agents have the ability to provide their clients with a 529 college savings plan--because they can sell that to their clients. And so State Farm is getting the opportunity to sell their name and their plan to their clients that they have that maybe have home insurance or car insurance. [LR198]

SENATOR LOUDEN: And did they charge a fee? [LR198]

RACHEL BIAR: Yes, all plans have a fee charged. Yes. [LR198]

SENATOR LOUDEN: And how much is that? [LR198]

RACHEL BIAR: For the State Farm fee, it is 20 basis points on the A shares. And then on the document that I provided, it will show you then also the age-based tracks and what the average is, and it would be 61 basis points. And then there is no account fee on the State Farm plan. [LR198]

SENATOR LOUDEN: Okay, and is that comparable in price to other ones, or how does that compare to other... [LR198]

RACHEL BIAR: Sure. All across the nation--fees for 529 plans across the nation will vary anywhere from 20-25 basis points all the way to 80--all-in fees--75 basis points...mean everything is paid for, so it really varies across the country. And all of the plans, the structures, are quite different. [LR198]

SENATOR LOUDEN: Um-hum, okay. Okay, well, thank you. [LR198]

RACHEL BIAR: You're welcome. [LR198]

SENATOR PANKONIN: Yes, Senator Mello. [LR198]

SENATOR MELLO: Thank you, Mr. Chairman. Looking at the--some of the news accounts as well as some of your testimony regarding the Aim account. That was a nine-year contract with Invesco Aim? [LR198]

RACHEL BIAR: Yes, sir. [LR198]

SENATOR MELLO: Was there any conversations at all, possibly, or any records that you were aware of at all--maybe back during 2000 or whenever the contract was signed--at all, possibly, that would have given the state more options, would have provided the state maybe, you know, better--some leeway, so to speak? Because I was reading through some of the materials again, and it stated that this was one of the worst college plans for three consecutive years. And if it was based on the contract--is what you're saying--the state couldn't get out of its contract. Was that something that was ever discussed back in 2000 when the Treasurer's office at the time signed this? [LR198]

RACHEL BIAR: I can't speak directly, because I started working in the Treasurer's office in this position in January 2005. So I wasn't around when this contract started. However, to the best of my knowledge, Aim--Invesco Aim and Aim--actually was one of the top fund companies in the '90s... [LR198]

SENATOR MELLO: Um-hum. [LR198]

RACHEL BIAR: ...in the decade of the '90s. They actually performed quite well. They unfortunately struggled in the beginning of the 2000's, and then, hence, their funds did not perform as well as we would have liked. It was a nine-year contract. Nine-year contracts...we were in a long-term contract that we were not able to change until we had that opportunity. And as soon as we had that opportunity, which was this year, we went ahead and made...the contract ends today... [LR198]

SENATOR MELLO: Um-hum. [LR198]

RACHEL BIAR: ...and we just didn't renew it. And it was a joint decision. [LR198]

SENATOR MELLO: Is that common for the--I mean, was that common practice for the Treasurer's office at the time to enter in nine- and ten-year contracts, maybe not look at something maybe shorter-term? [LR198]

RACHEL BIAR: I can't speak for the Treasurer's office, as far as contracts for them, but I can tell you in the 529 industry--the research that I have done and what I have seen across the country...Nebraska's program started in 2001. Legislation was in place in 2000. We were actually one of the latter states to come on board in the 529 industry. A lot of states started their programs in the '90s. So at that time, ten-year contracts were not--nine- and ten-year contracts were not unheard of. Today there are contracts that are 15 years; there are some that are even longer. Then there are some--they're short. I would say the standard contract today is closer to seven years. In this industry, a shorter contract of five years is difficult, just because it takes them a while, especially if they have start-up costs. That was the case when Nebraska started in 2000. This was a brand-new plan; it did have some start-up costs involved, and so, I think, in my opinion, the ten-year contract was signed with all those factors in mind. [LR198]

SENATOR MELLO: Okay. Thank you. [LR198]

SENATOR PANKONIN: Senator Heidemann has also joined us. Rachel, I have another question. The collaboration we have...our state investment officer, Mr. States, is here with us today. And I don't know if he's going to testify, but--and he's new to his position--but what's the collaboration been in evaluating these funds between your office and that organization? Who kind of...how does that work? Is it formal, informal? Do you meet, you know...how does...just tell me a little bit how that works, that collaboration. [LR198]

RACHEL BIAR: Sure. We have had in my time in the Treasurer's office--with two different Treasurers now--we have had a very good communication with the state investment officer and their office as well as the Nebraska Investment Council. The line of communication has always been open. If the Investment Council recommends a change, then our office certainly reviews that. And then, of course, they have the authority to make that decision, because they do monitor those investments and make those final decisions on investments. It has been a very good working relationship in my time that I've been in the Treasurer's office. And it is a very open line of communication, and I think we work very jointly together. And we appreciate the Investment Council's work, because that is truly their role for the 529 plan--for them to review the investments and monitor those. And we give our inputs, but we also rely on them, and we're grateful for their work. [LR198]

SENATOR PANKONIN: Okay, I want to make this clear. Who makes the final decision? [LR198]

RACHEL BIAR: The Investment Council does vote on the decision for the investments. [LR198]

SENATOR PANKONIN: Okay. [LR198]

RACHEL BIAR: They meet on a regular basis. I'm not sure the exact number of meetings they have per year--I do apologize. But we attend those meetings, and they meet on a regular basis. And they--every agenda includes the college savings plan. And if there's something that needs to be reviewed, they certainly take action and review that. And if there is a vote required, they do that. But it is their decision and their vote to change investments in the plan. [LR198]

SENATOR PANKONIN: Okay. Seeing no other questions, thank you. Appreciate you coming today... [LR198]

RACHEL BIAR: Thank you. [LR198]

SENATOR PANKONIN: ...your testimony and your materials. Is there any other testifiers on LR198, college savings plans? Welcome. [LR198]

JAY STEINACHER: Thank you. Thank you, Chairman and senators. My name is Jay Steinacher, J-a-y S-t-e-i-n-a-c-h-e-r. I work with Union Bank&Trust; we're the program manager for the Nebraska 529 program. As Rachel mentioned, also administer the College Savings Plan of Nebraska direct- and advisor-sold and TD Ameritrade 529. In regards to--before I touch on several things, in regards--and I think Rachel touched on Morningstar. Morningstar is a Chicago-based firm, Senator Louden, that rates mutual funds and investment vehicles including 529 plans. Whenever you have subjective ratings, it's maybe not the perfect world, but I think they're looked at as one of the better providers out there. But I think there can be questions. The other firm that Rachel mentioned, Savingforcollege.com, is also recognized as a very reputable firm, as far as rating 529 programs. What I wanted to touch on a little bit today is just give a little background and then be available to answer any questions that the committee may have. But from a background standpoint, it was back in early 2000 in this Education Committee hearing room Senator Schrock introduced the legislation. And I think Senator Schrock along with Tip O'Neill were instrumental in that initial legislation. The senator that really took it under wing and really championed the 529 was Senator Don Pederson out in North Platte, in not only prioritizing the bill but making sure amendments and updates were made to it to keep it as one of the best programs out there. Also would want to mention that early on then-Treasurer Dave Heineman was very instrumental working with the Investment Council to put into place an excellent structure for the Nebraska 529 program. The program launched January 1 of 2001. And I know early on we liked to kind of compare--back then it was the Big Eight, and Nebraska was a big rival with Oklahoma, and Oklahoma had launched their program in

April of 2000. And to put in perspective: The Oklahoma program has been up and running nine months longer than Nebraska; they're twice the size of Nebraska. Rachel mentioned the Nebraska program is $2 billion in size. The Oklahoma program is $315 million in size. So I think Nebraska has a lot to be proud of with what the Treasurer's office and the Investment Council have been able to accomplish and put together for Nebraska residents and citizens. Keep in mind the plan allows anyone to invest, so it's very affordable; there's no required contribution. Some plans require that you invest $3,000 or $500 or $50 a month. The Nebraska program has no minimum required contribution, so it's available to anyone that wants to contribute across the state. We're very thankful for what the Legislature did in regards to...initially the program had $1,000 tax deduction for contributions. Senator Gay and the Treasurer's office were instrumental then in '07 bumping that up to a $5,000 deduction to help families set dollars aside. The plan offers ultimate investment choice, and it's nationally recognized--the College Savings Plan of Nebraska--on an ongoing basis...just recently, December, in Kiplinger's December of 2009, as one of the best three plans in the nation because of its investment choice and flexibility. Not only investment choice and flexibility, but the performance has been very, very solid with the College Savings Plan of Nebraska. I should have mentioned, or I meant to mention when I mentioned Oklahoma at $315 million, since we're now in the Big 12 days, a comparison might have been more appropriate to Texas, and I think Nebraska at $2 billion in size--the Texas program, which started in the early 2000 time frame also, today is $218 million in size. So there's been a lot of positive and right things done with the program. So Nebraska has put together a leading program with a very good plan structure, solid investments, and a creative and strategic marketing plan to elevate it to be a national leader. And when I say a national leader--I mentioned Kiplinger's, December 2009--earlier this year it was the number one- and number two-rated direct and advisor plan based on five-year composite performance by Savingforcollege.com. Last summer, in '08, it was rated the number one plan--direct-sold plan on three-year performance. Kiplinger's has said one of the five favorites. Top three by Morningstar. Wall Street Journal, MSN Money, Bloomberg News, New York Times, SmartMoney, USA Today have all nationally recognized the program just not one or two years--that's a consistent track record over the last eight and a half, nine years for the program. In regards to the changes that have been made, I think the press that you allude to is somewhat unfortunate from the standpoint for the average individual across the state of Nebraska to read headlines negative like that. And when you get to the facts, when those headlines came out, there were 493 people invested in the impacted fund that they wrote the big headline on the front page. And I think that is, to some extent, a disservice to the 1.7 million people we have across the state of Nebraska that maybe read the headline but don't get to paragraph 18 that says: Oh, by the way, the College Savings Plan of Nebraska is rated one of the best. So I think when you look, the changes have been positive that have been made by the Treasurer's office and by the council. Aim plan is terminating today. We're working on transitioning that into the nationally recognized College Savings Plan of Nebraska over this weekend and plan to have that available to those Aim investors starting Monday of next week. The State Farm plan that has had some negative press today I think has 693 Nebraska people that are impacted. But again, I think the council and the Treasurer's office with the changes on the investment side that they have made have been very positive-type changes. So when you look at kind of the ultimate score or grading for the Nebraska 529 program, I don't think and I can't speak for the members of the Education Committee that would have sat in this room back in January-February-March of 2000, but I think it's probably fair to say that none of them would have imagined that a program would have been put together so well designed and orchestrated to have $2 billion invested and over 173 (sic) investor accounts. So I think when you look, the two things to grade a program: Are people utilizing it? And as Rachel alluded to earlier, Nebraska has one of the top two rates of signing up in-state residents, primarily in the College Savings Plan of Nebraska; so people were working jointly to get people signed up and investing for college, which is very important. And the program has had excellent, solid performance over the last eight and a half years. With that, I would open it up to any questions that the committee members may have. [LR198]

SENATOR PANKONIN: Jay, thanks for being with us today. I've got a couple questions. First of all, Denise Leonard has made me realize we didn't...maybe our testifier sheets--are they out there? [LR198]

________________: Um-hum. [LR198]

SENATOR PANKONIN: Okay. They're on the table? [LR198]

________________: Yes, they're back there on the sides. [LR198]

SENATOR PANKONIN: Back on the sides. We may have the page go and grab some, bring them up to the table so that we can have you fill one out. Rachel, we'll have you get one as well, so we have the official record. And I forgot to remind them that they were in the corner; we'll put some on the table. Jay, a question. I could have asked Rachel this too: When they talk about our participation rate is 10.31 percent, one of the highest in the country, how is that participation rate figured? [LR198]

JAY STEINACHER: Good question. That's taking the number of children under the age of 18 in the state of Nebraska, which I believe is 445,000, in comparison to the number of Nebraska-owned accounts. That calculation, 45,000 versus 445,000, is 10.3 percent, which is either first or second in the nation as far as signing up in-state residents. [LR198]

SENATOR PANKONIN: My second question would be...and most of us would have been--I think all of us would have been here when the change was made. You mentioned Senator Gay's bill that took the--now I want to make sure--is it tax credit, tax deduction? It's a deduction. [LR198]

JAY STEINACHER: Yes. [LR198]

SENATOR PANKONIN: But when it went from $1,000 to $5,000, did you see quite a bit of extra interest or higher contributions to the plan? [LR198]

JAY STEINACHER: That certainly created additional interest. I think that was effective May 29 of 2007. Keep in mind, we then hit in '08 with a lot of market difficulties, economic difficulties, a lot of investors kind of scaled back at that point. But initially, and I think on a long-term basis, that was a positive or has a positive impact on the plan, to help people get to the dollar amount they need once their children or grandchildren get to college age to help offset those expenses. [LR198]

SENATOR PANKONIN: I'm just going to give you an example, and it kind of is real-world, from the standpoint of a couple of these plans that didn't do as well. And you mentioned the numbers--the 400 and 700 or whatever those numbers were of how many were in it. Let's say you had a parent, and they had two children--one was 16, one was 12. And they put some money in one of your plans that you guys administer and then one in the Aim or--and one of these plans that didn't perform as well. So you've got one kid that's got $20,000 in his, and the other one's got $2,000. Is there--in your system, can parents equalize that out over time, so that if they, you know, want to even it out a little more for their children--if one plan did better than the others, is there a way to do that? [LR198]

JAY STEINACHER: Parents... [LR198]

SENATOR PANKONIN: Do those plans...in other words, in the same family, if you have two accounts for two different children, but one did better than the other, and every year you wanted to equalize it out or whatever, is there some flexibility that way? [LR198]

JAY STEINACHER: Complete flexibility, from the standpoint whether you want to be conservative or aggressive with your investing and then secondly how much you want to contribute. So if you want to contribute more to one program versus the other, you certainly can; if you want to be more aggressively invested, you can also. Does that answer your question? [LR198]

SENATOR PANKONIN: Well, within a family...say you had three children that were in the plan, or grandchildren or whatever, and you wanted to make some changes where...they weren't in all the same plan, and one of them--let's say, you had one of the three children were in one of these ones that didn't do so well, and now they're switching over to yours. But over the years there's been a discrepancy in the way you wanted to do it as a parent--yet one had $2,000, one had $20,000--could you take $5,000 out of that $20,000, add it to the $2,000 over there within a family? [LR198]

JAY STEINACHER: Yes. I'm sorry, I misunderstood the question. You're exactly right. You can transfer between children or between family members; that goes out as far as to a first cousin, which is important for grandparents. But you can transfer between accounts for children of the same family. [LR198]

SENATOR PANKONIN: Okay. Any other questions? Senator Karpisek. [LR198]

SENATOR KARPISEK: Thank you, Senator Pankonin. Jay, thanks for being here. Are we--what are we doing to market this still? Are we...I hear it on the radio once in a while, but it...you know, I remember it was a big push in 2000. And I don't have one set up for my kids yet, and they're getting closer every day. But what's the strategy there, especially now with a little bit of negative press, which I agree wasn't deserved? [LR198]

JAY STEINACHER: I think on the marketing side is the State Treasurer's office has a close working relationship with the council. We also, as program manager, have a close relationship with the Treasurer's office, and there's a number of things--early on, there was TV, radio, newsprint. We continue to do those things with the Nebraska broadcasters partnership to leverage that. But we're also doing a lot more as far as feet on the street, that we think the easy pickings, the easy accounts--those people have signed up--that now it's kind of one-to-one, grass-roots type of efforts. Doing the service groups, whether it be Kiwanis, Sertoma, Rotary Clubs, doing presentations; getting out to financial advisors, CPAs, attorneys--so there's a multitude of things that we work on jointly and collectively with the Treasurer's office to promote and build awareness of the program. [LR198]

SENATOR KARPISEK: Just thinking, is there...would there be any way of just...crazy idea--maybe the hospitals, when they deliver, to put into their package to take home? [LR198]

JAY STEINACHER: Excellent comment. We've worked with hospitals. That's one of our stops in every community that we do. We've also tried to have the Bureau of Vital Statistics include something with the birth certificate. And they have said no to including something in. And not certain why, because I think everyone starting at that age...but that's excellent idea, and we have done some of that, and we need to refocus those efforts along with alumni groups, any type of group--day-care groups, pediatrician offices, etcetera, anywhere that there's exposure to children or children are present, YMCAs, etcetera--with their sports teams. We want to expand and explore all those avenues to make this as broad as possible, because college isn't getting any cheaper. [LR198]

SENATOR KARPISEK: No. And with the, you know, the budget crunches now and schools going to raise tuition probably, it's great to start there, and it'll help us all out, so thank you. [LR198]

JAY STEINACHER: Thank you. [LR198]

SENATOR PANKONIN: I've got one more kind of technical question, from a tax standpoint, Jay...would be: I'm thinking back to IRAs, and you had for a year--let's say it's 2009, you'd have till April of 2010 to make your contribution and still be able to deduct it on your taxes for '09--you know what I'm talking about there. Is that true in this plan? It has...Rachel is shaking her head back there. But you have to do it, for calendar purposes... [LR198]

JAY STEINACHER: It has to be by December 31. And if you were suggesting potentially a change to allow people to do up till April 15 with a legislative type of change, I think that'd be a positive, because we do get the question: I'm filing my taxes, can I still contribute for this year? We get that question. But it is a 12/31, we have to tell them. And the other question is: Why can't I as the grandparent contribute to the account that the parent owns and still get the tax deduction? And in Nebraska, it's only the account owner that gets the deduction, not anyone that contributes. So those would be the two things taxwise that we probably get questions on. [LR198]

SENATOR PANKONIN: Okay, those are good comments--and I see Kate is writing them down--because those are the type of things why we have these hearings, to maybe get an idea about something that could, you know...although Senator Heidemann is over there concerned about less revenue, so we've got to be careful. But it also talks about...this is...we have, you know, somewhat cross purposes here. You know, we...this is something that does cost the state money, but, on the other hand, as Senator Karpisek has said, it helps the state because there is going to be more-limited resources available for scholarships, or there'd be tuition hikes. And, obviously, if could get people to do it on their own, it's...has a lot of good things about that. So I appreciate you coming. Any other questions for Jay? [LR198]

JAY STEINACHER: I think one interesting point as far as...if you go back, and I may be off just a little--$25,000 or $50,000--but when the bill was passed, the only dollars the state had to appropriate was around $350,000. Otherwise the cost of the Treasurer's office, the cost of the Investment Council, the program is self-supporting, so that there's no type of dollars coming out of the general budget, as far as support of the program. [LR198]

SENATOR PANKONIN: But there is the tax deductions. [LR198]

JAY STEINACHER: Tax deduction does have a cost to it. [LR198]

SENATOR PANKONIN: That...less revenue. Yeah, it's a cost. [LR198]

JAY STEINACHER: Correct. [LR198]

SENATOR PANKONIN: Right. [LR198]

JAY STEINACHER: Thank you very much. [LR198]

SENATOR PANKONIN: Thank you. Appreciate you being here. Okay, we have another testifier. Come on forward. Thank you. And we do have the testifier sheets now, so you can take one and fill it out and turn it in to the clerk a little later, if you could. That'd be great. [LR198]

GERRY FINNEGAN: (Exhibit 9) I'll be sure to do that. Thank you, Mr. Chairman. My name is Gerry Finnegan. I'm a investment advisor here in Lincoln, and I'm here to testify because I have an extensive body of clientele that actually use this program and just as an homage to Jay and Union Bank solely, in the Union Bank direct-sold plan here in Nebraska. I've got a little biographic information here to pass around, just so you know my bona fides. Senator Louden, I don't think I qualify as an expert, because my office is only five blocks from here. But I am an investment advisor. I've been doing private practice now for a little over 20 years. Total experience in the industry: a little over 30 years. Donald Rumsfeld several years ago, famously, at a press conference was talking about the war in Iraq and the uncertainty with warfare and talked about the things you know, the things you don't know, and the things you don't know that you don't know. There's a fourth thing there that's even more ominous than that. And that's the things you think you know that aren't really so. And I wanted to address that just a little bit here today. When I make a presentation to groups, there is a--it's a PowerPoint that I do, and I have a little acronym that I use, and I...one of the frames is called The Grim Realities of Parasite Drag. Now for those of you that are familiar with aviation will know that parasite drag is the kind of drag that is induced by an aircraft that has nothing to do with generating lift. Induced drag comes from generating lift, and you have to have that; that's good. Parasite drag is from having an inefficient airframe--antennas hanging out and so forth. It's a pretty good analogy when we are talking about how we go about using investment products. And while I use Morningstar--they have some very good data on it--Morningstar, unfortunately, devotes about two-thirds of its page to irrelevant information. That is, the past performance, past investment results, past returns of the funds. They will award a five-star rating if a fund had good investment returns over the last period of time. This is an improvement. Up till five or six years ago, they had a system that was actually harmful. They would award a five-star rating to a fund with good previous investment results. And in any given quarter, it would be all gold funds or all real estate funds. They wised up a little bit at the beginning of this decade and decided they were going to award their five stars within categories, so that small-capitalization domestic value funds would have their own grouping; it would only be the best out of that. That was a good move, so now their five-star rating is no longer harmful, it is simply useless. And if I reason it is useless, you have probably come across the statement that shows up in investment prospectus that past performance cannot guarantee future results. Now the history of that comment is kind of interesting. Late 1960s, a newly minted Ph.D. at University of Chicago did his dissertation on a paper that was so important it was published. And what he did is he went back for 15 years to see how investment results predicted future performance. And his name is Michael Jensen, and the results of that were very interesting, because what he found out is it had no predictive value. Looking to see how well a fund has done in the past has no correlation as to how it does subsequently. Now as you might imagine the Securities and Exchange Commission got really interested in that, because mutual funds were advertising their past performance. And the SEC said: Huh-uh, you can't be doing this; you've got to let people know that this is irrelevant information. Well, in the negotiations it went back and forth. The SEC gave ground, and what resulted from that was a statement that stood into the mid-'90s that basically said that in very murky terms: Past performance is not indicative of future results. In the 1990s we started inserting the word "cannot guarantee future results," because your clientele would say: Well, of course, nothing is guaranteed, but isn't this great information? Past performance is irrelevant information. Okay. There are some things that do predict how something will do in the future. And one of the reasons that I steer my clients solely into the Union Bank direct-investment program is because the funds that they have meet the two criterion that are required if you are going to expect to have good performance over time. The funds they have exactly match the asset class benchmark. It has a correlation of 100 percent. And I'm talking about the Vanguard index funds that they use. They also have the advantage of being extremely low-cost. There is very little internal friction--parasite drag; that's important. Those two considerations overwhelm any other consideration. Over time, if you were only doing those two things, you will never beat your investment benchmark, but you will beat virtually every other investment out there that isn't doing that. I don't want to come down too hard on Morningstar. There are some others that--Value Line, which you may know from evaluating stocks, also did this for mutual funds, never caught up with Morningstar. But Lipper Analytical Services, the Donoghue report, the Kiplinger report, and the Weisenberger report are other ones that give evaluations on mutual funds. A couple of other things, and then I'll field your questions. And you'll forgive me--I didn't really write up my notes here; I'm actually going off a presentation of things that I have done in the past. Cost is the most important thing that is under your control. So if there was any guidance that I would try and give the 529 program here, it is the costs and expenses that are outside the fund themselves--really need to work with a sharp pencil on those to keep those down. Also, we need to be careful about using the fund's expense ratio and the all-in calculation, because "all-in" implies "that's everything." And, in fact, it is not. There is costs that are capitalized--and, in fact, costs that can be shifted out of the expense ratio so they don't show up and give you a better expense ratio but still have drag on the portfolio. There was a report that came about three years ago that showed 44 percent of the total expenses of a fund, on average, are shifted out of the expense ratio and don't show up. So these are some items that I think are important or worthy of consideration. And as we go forward, I would hope they would be looked at very thoroughly in giving Nebraskans a choice on what it is they're able to do. [LR198]

SENATOR PANKONIN: Mr. Finnegan, thank you for being here today. And after hearing all that engineering talk, it's easy to see why you had a B.S. in engineering from the U.S. Naval Academy. But I appreciate your perspective and the detail that you brought to the discussion. I've got a question on the expense--the part you talk about the expense ratios, about 44 percent, maybe, being out of that ratio. Would those be, like, 12b fees and whatever? [LR198]

GERRY FINNEGAN: No. No. Those would be all-in. The way it works is: Let's say I'm running a fund, and I have a 1 percent expense ratio. And I realize that's below the average, but the average is awfully high; I need to bring this down. So I go cut a deal with the broker that I execute through, and I say: Hey, Mr. Brokerage Firm, instead of me buying this research, if you give me free research, I can knock my expense ratio down by 0.2 percent. And if you let me have rent in your headquarters for free, I can knock it down. I can get my expense ratio down to 0.6 percent--looks a lot better. And in exchange for that, I will let you inflate my transaction costs. Now this is completely legal. But I am overpaying for the internal transactions to buy and sell. Now this is called a soft-dollar transaction. Those are not incorporated in the all-in costs. [LR198]

SENATOR PANKONIN: So--and how would us as consumers know about that when we're picking funds and look at expense ratios? I mean, I'm talking about--I've done that and thinking that's...you're right. It's an important determination over the long term how you'll do, if the expenses are 3 percent versus 1 percent; it's huge. But how do you know that? You don't, then. [LR198]

GERRY FINNEGAN: Yeah, you've got to dig it out there. In addition to the prospectus, there's something called a statement of additional information that is--has a little more detail that is left out of the prospectus. Frequently it's included in there, not as a percentage but as a total dollar cost. And you can kind of use a little Kentucky windage to figure out about what percentage is. [LR198]

SENATOR PANKONIN: So as a person who advises others on buying these plans--and I take it you have been recommending--you mentioned that. [LR198]

GERRY FINNEGAN: Yes. [LR198]

SENATOR PANKONIN: You recommend these plans often. How do--do you do this, or do you feel that the Union Bank is doing it, or the Investment Council is doing it, or...? [LR198]

GERRY FINNEGAN : No. No, I do that myself, because it's... [LR198]

SENATOR PANKONIN: And what's your observation from doing it yourself on our plans? [LR198]

GERRY FINNEGAN: I think it ought to be publicly disclosed in the prospectus is what I think. [LR198]

SENATOR PANKONIN: Yeah, but how do you think that the Nebraska college savings plans are...how do they fit in that criteria? [LR198]

GERRY FINNEGAN : Well, the Aim plan--when I looked at it, I immediately dismissed it because the costs were so high. Okay. The internal costs--the kind of drag that you have for somebody that's going to be paying for his senior year in college--where that fund has been there for 20 years, you would have lost 30 percent or 40 percent of the value of your investment just because of those internal expenses. [LR198]

SENATOR PANKONIN: So is your recommendation that the Investment Council and the Treasurer's office take these factors into account? Is there some way that we can ensure, as legislators, that that's happening or you as a person that's selling to other consumers? How do you...what's your recommendation? [LR198]

GERRY FINNEGAN : What I would recommend there is...let me direct you--and I wish I had brought it with me. I don't, but I can get it for you, and I can tell you what it's about. There was a very thorough study that was done by Wake Forest and University of Florida that came out about two years ago. And the methodology that they used--they looked at every domestic equity fund, and they're the ones that came up with this 44 percent figure. If I can find the name of that paper and get you steered in that direction...that methodology--it was sound methodology. And that is what I would recommend they do. [LR198]

SENATOR PANKONIN: Okay. Well, and we...likewise--on your testifier sheet, make sure you have your contact information. And our committee counsel may be in contact with you on some of that...because I think that is important--expense...for what people--you know, they...citizens of the state are trusting that the state is going to be a...you know, help them do a good job of investing for college for their children or grandchildren or nephews, nieces, whatever. And I do think we need to be efficient and up-front on these expenses, because expenses are...and Senator Louden always brings up that makes a huge difference over the long term too. [LR198]

GERRY FINNEGAN: One other thing I would like to say, if I could, that it has just come to mind there was a study that came out of Des Moines--it was Drake--or maybe from Ames, and this was about five years ago. And it caught my interest because what it did is it took again all domestic equity funds and how they did over a 1-, 2-, 3-, 5-, 10-, and 15-year time frame. I immediately went to the 15-year time frame, because I wanted to see over a long term what kind of investment performance--and there was a statistic that really jumped out at me. And that was of the 445 funds that had a 15-year history, 141 had beaten their benchmark. Now that raised a red flag right away for me, because in any given year, about a third of all funds--only about a third--will outperform the appropriate benchmark. In ten years, less than 10 percent will; 20 years, less than 2 percent; 30 years, tenths of a percent can beat an unmanaged benchmark. It is a 15-year record. And fully a third of them were beating their benchmark. So I went back, and then it hit me what it was; there's something called "survivorship bias" that comes out in this information. You're only looking at the survivors; you shouldn't be comparing the 141 that beat the benchmark to the 445 survivors. You needed to go back to every player in the game 15 years ago; there were 5,100 at that point. And of those 5,100, only 141 had beaten their benchmark. I'm sorry, it was an aside, but I thought it was an important thing to bring out. [LR198]

SENATOR PANKONIN: And later you'll tell us which ones those are, right? [LR198]

GERRY FINNEGAN: Yes. Yes, if you... [LR198]

SENATOR PANKONIN: Okay. Okay. Any other questions? We thank you for taking the time to come today; it was helpful information. And please fill out the testifier's sheet; we may want to follow through with some of those points you made. [LR198]

GERRY FINNEGAN: Sure will. Thank you. [LR198]

SENATOR PANKONIN: Anybody else on this particular--LR198? Seeing none, we'll close the hearing on LR198 and then open a hearing on LR134, which is our annual PERB review. And I think Phyllis Chambers is here, director of NPERS, and will present testimony on behalf of the agency. Good afternoon, Phyllis. [LR134]

PHYLLIS CHAMBERS: Good afternoon. Mr. Chairman and members of the committee, I'm Phyllis Chambers, C-h-a-m-b-e-r-s, and I appreciate the opportunity to come before the committee today. I'm happy to report the plans are all doing well. And you recently heard, on Nov. 16, our actuary report on the funding of all the plans. So I'm not going to cover that today. What I thought I would do instead is talk about a couple items--technical items--that we'd like the Retirement Committee to address in the 2010 Legislative Session. The first item would be a clarification of the service credit for military members in the school plan. And I will preface my comments by saying that Joe Schaefer, our legal counsel, is not here today. Unfortunately he couldn't be here. But he is the most knowledgeable about this subject. Just a brief history: There have been several different federal acts that are regarding military service credit for retirement. And they are the federal Servicemen's Readjustment Act of 1944 and the Veterans' Readjustment Act of 1952. These acts granted retirement service credit up to a maximum of five years for time served. We no longer have any employees who would really qualify under these two acts. Currently we are using USERRA, and this is the Title 38 of the U.S. Code, Chapter 43, that applies to military service. It states that any employee who is re-employed on or after December 12 of 1994 shall be treated as not having incurred a break in service by reason of his or her military service. And such military service shall be credited for purposes of determining the member's accrued benefits, and the employer shall be liable for funding any obligation of the plan. The act says that the employer's liability should be at the rate of the employee that they would have received had they been working. And the USERRA rules are different for defined-contribution plans and defined-benefit plans. Presently this is how we handle the DB plans. For the judges and Patrol, we issue service credit, but no make-up contributions are made. And so there are no contributions required by the employee or the employer, per the statute. The state makes up any difference, if there is any. And that could be incorporated in, like, the annual contributions when it's calculated by the actuary. So it's absorbed by the plan. We'd like to request a clarification of the school statutes that would provide this same type of service credit to be granted to the members of the school plan consistent with the judges and Patrol. And the plan would then absorb the cost. And presently the employer is required to pay contributions in or fund the benefit, but we would like to see that also be the state would fund the benefit. And there are several reasons why we think this might be a better way to go. Military service credit applies to very few members in our plan. We might have two or four a year. And two of them might be school, two of them might be State Patrol. We've never had a judges member apply for a military service credit. So it's a really small amount of members, and this would be negligible to the school plan, with the size of the school plan the way it is. We'd also mentioned that service credit really is all that matters in the school plan--the DB plans. The contributions--it doesn't matter what contributions are being paid in or made up, because their benefit is going to be based on their service credit, years of--their age, and their three highest years of salary. So it wouldn't matter if the state did subsidize that. And it would be easier to administer the service credit, so that the employers wouldn't be having to make up these contributions and also for us to administer. And also the way our IT system is set up right now, it's possible that you could have a member coming back from military service and they would go to work in another school, and you could have an employer--the previous employer--paying contributions in and the current employer paying in contributions, and our system isn't set up to handle that; it's not that it couldn't be. We build in these circumstances for audit purposes, so that we try to prevent mistakes. And then when we try to force the system to do things that it isn't meant to do, we create more problems, and obviously that creates programming costs, too, to have to change all that. With the state and county plans, we do ask the employee and the employer to make up the contributions. And the reason we do that is obvious, but the balance in their account in the state and county plans is what the member's benefit is made up of. So they need to have those contributions put in. Service credit doesn't do them any good. It's the dollars in their account that make the difference. So the member must return to work within 90 days of re-employment and notify NPERS within one year of returning that they wish to contribute. And then we set up a make-up plan. And then the employer will match what they make up. And they can only make up what they would have received had they been employed. There is a...also, I've spoken with Kate a little bit about this, but there are a few other items in the military service that we'd like to make consistent and some things that are outdated, using those older acts. So, hopefully, we can clean up the military service provisions in all the plans in the coming legislation--legislative session. The other item I would like to discuss is clarification of the school statutes as it pertains to substitute teachers. A big issue for us is participation rules and making sure that people who are eligible to be in the plans are in the plans. And if you look at our audits from the state auditors, you will notice that we always have audit points that deal with people not being in the plans that should be. So one of the things...and often that is attributable to defining whether a person is permanent, temporary, part-time, full-time, a substitute, a seasonal employee. There's all these definitions. And we've got multi-employer plans, and so you've got all these HR people trying to determine whether somebody should be in the plan or not. We presently have been working on the county plans to make those rules more consistent. And we're going to be meeting next week at the NACO meeting--the Nebraska Association of County Officials--and giving them an updated employer manual that will include some of those new rules that we've--hopefully will help them in determining who should be in the plan. We rarely have any problems with the judges or State Patrol, because they have one central reporting administrative branch that they send their reporting information in to us. And they do a great job; they know the rules, and they know the people in their plans. And so we don't have any problem with them. But when it comes to the state agencies, the county, and all the different schools, that's where we see a lot of our problems with people not being in the plans. So if we could get some assistance with some of the language and clarification of some of those terms, that will help us in giving them guidance as to who should be in the plan. And, hopefully, we'll have fewer audit points. And it will help them, and it helps the members. Because when we have to go back and have a member make up two years of contributions, that comes out of their payroll, and sometimes that might, you know...there's only so much that can come out of the payroll by the time you do all the other withholding. So I will be talking with Kate and Jo (phonetic), and they're familiar with some of these items, and they're working on the language, and they'll be presenting those to you for the coming session. And other than that, I don't have anything further today unless you have any questions. [LR134]

SENATOR PANKONIN: Seeing none, we thank you for coming. [LR134]

PHYLLIS CHAMBERS: Hey, great. [LR134]

SENATOR PANKONIN: And as in the past, we'll look forward to working with your office and Jo (phonetic) on these issues, and, hopefully, we can come to good conclusions and get it done this year. [LR134]

PHYLLIS CHAMBERS: Great. All right. [LR134]

SENATOR PANKONIN: Thank you... [LR134]

PHYLLIS CHAMBERS: Thank you. [LR134]

SENATOR PANKONIN: ...Phyllis. Is there any other testifiers on LR134? I don't see any, so we will conclude that hearing. And that concludes our hearings today. We appreciate you all being in attendance, especially the senators. Thank you. [LR134]