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Nebraska Retirement Systems Committee  
February 06, 2012

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[LB867 LB1082]

The Committee on Nebraska Retirement Systems met at 12:10 p.m. on Monday, February 6, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB867 and LB1082. Senators present: Jeremy Nordquist, Chairperson; LeRoy Louden, Vice Chairperson; Lavon Heidemann; Russ Karpisek; R. Paul Lambert; and Heath Mello. Senators absent: None.

SENATOR NORDQUIST: (Recorder malfunction)...Allen, and our page today is Alex. We'll start over here to my right with senator introductions.

SENATOR KARPISEK: I'm Russ Karpisek, District 32, from Wilber.

SENATOR LOUDEN: LeRoy Louden, District 49, from Ellsworth.

SENATOR LAMBERT: Senator Paul Lambert, District 2, Plattsmouth.

SENATOR HEIDEMANN: Senator Lavon Heidemann, District 1, Elk Creek, southeast Nebraska.

SENATOR NORDQUIST: And Senator Heath Mello from District 5 will be joining us shortly. Just a couple reminders, please silence your cell phones. There's testifier sheets in the back corners. If you're going to be testifying, please hand those to the clerk. When you come up to testify please state and spell your name. If you don't want to testify, but would like your position on a bill recorded, there are sheets in the back to do that also. We will start first, the first of Senator Karpisek's two bills. First, LB867.  
[LB867]

SENATOR KARPISEK: Thank you, Senator Nordquist and members of the Retirement Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB867 is a bill that would give Lancaster County the authority to reduce the employers' pension match under Nebraska Revised Statutes 23-1118 from 150 percent to 100 percent of the employees' contribution for employees hired after June 30, 2012. I bring this legislation at the request of the Lancaster County Board of Commissioners--and since I'm the newest member of the Lancaster County senators--who expressed two specific reasons which they can elaborate on more following my testimony. These two reasons include, first, a strong desire to bring personnel costs down, and second, to bring the retirement plan more into line with the private sector. It is the second reason that most interests me. I know of no private-sector employer who is providing 150 percent match on contributions to retirement plans. It is my understanding that this legislation, based on information provided by Lancaster County to our Fiscal Office, will provide an immediate savings of over \$42,000 in 2012-13 and \$119,000 in 2013-14. This is a real savings that the county

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can bank on immediately. As I mentioned, a representative of the Lancaster County Board of Commissioners will follow me in testimony, and I encourage you to direct your questions to them, but I would be glad to answer any questions that I can. [LB867]

SENATOR NORDQUIST: Thank you, Senator Karpisek. Any questions from the committee? Seeing none, thank you. We'll take proponent testimony. Welcome. [LB867]

KERRY EAGAN: (Exhibit 1) Thank you. Good afternoon, Chairman Nordquist and members of the Retirement Systems Committee. My name is Kerry Eagan, that's K-e-r-r-y E-a-g-a-n. I'm the chief administrative officer for the Lancaster County Board of Commissioners, and thank you for the opportunity to testify on behalf of the county in favor of LB867. I think Senator Karpisek covered the major points, and I do have a copy of my testimony that's being passed around so I just would like to hit the major points very quickly. There are two reasons for this. The first is that our county board members hear time and time again in the community say that 150 percent match is just out of line with what's paid in the private sector, and it does not seem fair to the commissioners that the taxpayer subsidies are paying for a higher pension; and they think it should be brought more in line with the private employers, and it's unfair to similarly situated property taxpayers. Second, it's an additional tool that we'll need going forward to keep our budget under control. Eighty-five percent of our budget is personnel costs, and eventually this could result in a savings of \$1.13 million based on today's payroll costs. It will take awhile to achieve that, but this year alone, if it was in effect on July 1, would be \$42,000, and then it would compound after that, of course. So I'd like to thank Senator Karpisek for introducing this on behalf of the county, and are there any questions for me at this point? [LB867]

SENATOR NORDQUIST: Thank you, Mr. Eagan. Any questions from the committee? Senator Mello. [LB867]

SENATOR MELLO: Thank you, Mr. Eagan. I guess it's maybe more just for historical purposes, how did this statute come into place in regards to requiring a county...? I mean it's unique in the sense of having one specific county in state statute being required to provide a certain level of retirement contributions. How did this come about, so to speak, legislatively? [LB867]

KERRY EAGAN: Oh, I'm sure it's a convoluted approach to it, but it basically started out as a county with a city of the primary class, and it was...there are two different pension systems: the state pension system that counties can be members of and then there was this separate Statute 23-1118, and it was the separate one. And I think Douglas County also has a pension under this, but it is a defined benefit-type pension, and I don't know why it speaks in terms of counties over 150,000 but less than 200,000, and at the time that was only Lancaster County. You know, it was in 1996 that the 150 percent mandate was put in place. [LB867]

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SENATOR MELLO: Was the 150 percent mandate put in place...what was the reason or rationale, I guess, legislatively? I mean none of us were here at the time. Why did the Legislature do that? [LB867]

KERRY EAGAN: The request was from Lancaster County, so I guess all things come around if you wait long enough. The reason for that was that county employees were working side-by-side with city of Lincoln employees who were getting a 2:1 match with no limit on the percentage other than IRS limits for deferred income. So the board wanted to make that a little more equitable and it was a request from our employee assistance group that it be raised from a 1:1 match under that statute to a 150 percent match not to exceed 13 percent of income. [LB867]

SENATOR MELLO: So the original intention of why the county proposed this was more for competition, in a sense, to keep qualified or highly skilled employees working for the county instead of losing them to the city because of benefits packages? [LB867]

KERRY EAGAN: Yes, Senator. That would be a fair statement. And also just at the time the public salaries weren't as high and this was a way viewed as making it a little more equitable or more commensurate with public...or private salaries which today I don't know if that's entirely the case for similarly situated positions. But the budget situation is such that the board is looking for any tool available. And as I understand it, the statute would be discretionary that the board could lower it to a 1:1 match, and even in doing so I think it would require negotiations with the union, because the union contract presently requires a 150 percent match. So it would still have to be negotiated. The one other point I would like to make on it, too, is that the way LB867 is drafted, there's a minimum but there's no maximum. And I don't know if it intended to adopt the maximum prior to July 1 of 2012, but I think it would be a little clearer if it's intended between 100 percent and 150 percent match, and so I would note that. [LB867]

SENATOR MELLO: Okay. Real quick...I guess one...I guess one last question in the sense of the legislative history behind this. Does the Lancaster County board or the human resources department of the county, do they do any kind of comparative analysis in regards to public employees and benefit packages that public employees get in comparison to equivalent private sector employment, job...I mean job qualifications or job titles, so to speak, that help dictate some of your human resource management and benefit packages? [LB867]

KERRY EAGAN: They don't do too many comparisons to the private sector for, number one, that information is hard to get because its private. Also for purposes of the Commission of Industrial Relations, most of the positions are in the public sector. So our comparability studies which will look at pension, benefits, medical, wages, and you know, other financial terms of employment, will look to the public sector more than the

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private sector. [LB867]

SENATOR MELLO: Okay. All right, thank you. [LB867]

SENATOR NORDQUIST: Thank you. Any additional questions? Seeing none, thank you. [LB867]

KERRY EAGAN: Thank you. [LB867]

SENATOR NORDQUIST: Any additional proponent testifiers? Welcome. [LB867]

MICHAEL KOBERLEIN: (Exhibit 2) Thank you. My name is Michael Koberlein, M-i-c-h-a-e-l K-o-b-e-r-l-e-i-n, and I'm here today representing the Lincoln Independent Business Association. A lot of the comments that I have are consistent with Mr. Eagan's. I will note that specifically one of the reasons that we're testifying today is because this 150 percent match is not equitable when you consider the average of the private employee...or the private sector employees. Just in the research that I've done I have noticed that there are 30...there is a survey that was done in 2011 and the survey was done by PLANSPONSOR, which is a very credible employee benefits company, and they found that out of a pool of 7,000 providers in a survey that they did, 31.7 percent of those employers gave less than a 50 percent match; 30.7 percent gave exactly a 50 percent match; and 27.3 percent gave 51 percent up to a full dollar-for-dollar match. And so with those numbers you can see that at 150 percent it doesn't really comply with what's going on in the private sector. I would say in addition to that, there was a Bureau of Labor Statistics study that says that the most generous employers give 100 percent match. And so when you consider that and recognize that Lancaster County is giving 150 percent match, I think you can see that that just seems to be inequitable between public sector and private sector. I would also say that this bill, it's not going to affect any other counties just because it's drafted specifically for Lancaster County. And as Mr. Eagan suggested, there's not going to be any mandate here. It's just giving another tool to the Lancaster County board in negotiations with unions to determine whether or not they want to reduce a retirement match or do something else. It's completely within their discretion. So I would respectfully request that this committee pass LB867 on to General File. [LB867]

SENATOR NORDQUIST: Okay. Thank you. Any questions from the committee? Senator Mello. [LB867]

SENATOR MELLO: I guess...I appreciate your testimony and I guess it...just some of the underlying research or information that I asked Mr. Eagan for a little bit too. Are you aware of any businesses that you've been able to do researchwise in Lancaster County that has the same number of employees...or I would say a comparative number of employees that Lancaster County has? And because I see that you cite some Bureau of

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Labor Statistics, as well as a Web site that's done a survey, but the question is obviously the devil is in the details in the sense of doing surveys of employers that have six to seven employees and trying to utilize what their benefit packages are in comparison to a public county the size of Lancaster where--I should have asked Mr. Eagan this--the number of employees they employ. I think you're talking apples and oranges. So do you have any research that's singled that out in regards to comparables that we can see apples to apples, so to speak, within Lancaster County's size and other employers? [LB867]

MICHAEL KOBERLEIN: Well, I would say in terms of the number of employees, you have roughly 800 employees in Lancaster County, and within the survey that PLANSPONSOR conducted there was several employers that had about 1,000 employees. And so I don't know if that helps answer your question, but there's certainly within the survey that they did there were several businesses that were around the same amount of employees. [LB867]

SENATOR MELLO: Okay. Do you know where those businesses were located at? [LB867]

MICHAEL KOBERLEIN: I don't. The specifics of that survey, they basically indicate within the methodology they used businesses that use their services. [LB867]

SENATOR MELLO: Okay. All right, thank you. [LB867]

SENATOR NORDQUIST: Great. Any other questions from the committee? Seeing none, thank you. [LB867]

MICHAEL KOBERLEIN Thank you. [LB867]

SENATOR NORDQUIST Any additional proponent testifiers? Seeing none, we'll move on to opponent testimony. Any opponent testifiers? Welcome. [LB867]

JOY SHIFFERMILLER: Good morning. I do not have prepared remarks for you all this morning. I'm Joy Shiffermiller and I am an attorney for the AFSCME Local 2468, the union that represents most of the laborers of Lancaster County. There are also unrepresented people that work for Lancaster County. We have approximately 300 members that are within the bargaining unit that is the AFSCME Local 2468, and then there's two other unions that would be involved, two other FOP unions really. One works in the jail as jailers and I believe the other one works for Lancaster County sheriff's deputies. The interesting part of this legislation to me is that we just completed or tried to complete negotiations with Lancaster County, and our contract, the AFSCME contract was up or subject to renegotiation as of September 1 of this year. There are many areas that people focus on when you negotiate union contracts. Some of those

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areas would be the treatment of the workers and, you know, whether they could be treated fairly or equitably, things like that. Another area is obviously wages. This year the union came forward in March and indicated that we were not interested in asking to increase our wages and we wish to freeze the contract as it were for another year. We didn't hear anything back from Lancaster County until maybe a day past the date that we were supposed to have negotiations...or be advised that they intended to negotiate. The reason I give you this background is simply that this is the first...we first heard that Lancaster County was coming before the legislative body to try to change this match that has been set out in statute for quite some time, we first heard of that in November. I will tell you that the union in Lancaster County did not reach an agreement this year on a contract, but the retirement piece is one piece of the whole. The workers for Lancaster County have wages. They have...there are other benefits that are available to them, and I think no one would argue that, you know, there are adequate wages and adequate benefits paid from time to time. It just seems to me unusual that the Lancaster County would want to come before this body and try to reduce this when they didn't even raise the amount of wages and benefits. I mean this was never discussed during union negotiations, which to me is very unusual and I would submit should have been a mandatory subject of bargaining, though it is set by statute. So for Lancaster County to come before this board and try to encourage you to change the retirement seems to me improper. I mean certainly when you look at the various wages and benefits that are available to county employees, I've heard Mr. Eagan testify that he believes that this brings the retirement in line with private-sector work, but I think you have to look at the whole package. And the employees of Lancaster County basically get their wages capped at a certain very few years into their employment, and after that point they have to look to longevity pay, which is one of the benefits that was specifically discussed with Lancaster County and between the union and the county about whether or not longevity pay would be cut this year. They also have to look at other benefits. So I think you really cannot compare the public-sector job with the private-sector job, because as Mr. Eagan indicated, these jobs primarily are not in the private sector. So to say that certain small employers that may have six or seven employees don't match the retirement like Lancaster County matches the retirement, really is not a comparison at all. Further, I submit that if they really had dollar figure numbers to come before this body with, they would do so. It is a fact that Lancaster County currently, as I indicated, there's litigation pending at the CIR on how much the wages and benefits ought to be. So, I mean, the retirement issue has never come up and the reason it didn't come up is obviously because it's a legislative function. But I suspect that if this body were to change the amount of the retirement, it would become, you know, a part of the pool. I would simply ask that the body not adopt this legislative bill. I think the state retirement system, which you can look at, I believe is still at 1.5 percent match, but to be honest with you I would have to look to be sure. The city people is more than a 1-for-1 match. I believe it is currently at 1.3 to 1. And when I'm talking about the city, I mean Lancaster County has it's largest city, Lincoln, and I believe that those employees do enjoy a greater than 1 percent match. So it would be our position that you should decline this bill and not adopt

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the legislation that's being put forward. There really isn't a comparison in the private sector to the jobs that you're likely to come up with. I believe the employees of Lancaster County try to do a good job and do their best to keep personnel costs and tax costs down, and you have many employees that have worked for Lancaster County for many years and they are loyal employees that have earned the benefits that they have, and hopefully Lancaster County will look forward to keeping good employees on the payroll in the future as well. So if there are any other questions. [LB867]

SENATOR NORDQUIST: All right. Thank you. Senator Mello. [LB867]

SENATOR MELLO: Thank you, Senator Nordquist, and thank you, Ms. Shiffermiller. I have a couple questions. I don't disagree with some of your premises in regards to just some of the questions I asked earlier in the sense of I think at times we have a tendency to forget that public positions are different than private-sector jobs. I've yet to find a private-sector security guard who can arrest me or pull me over and take me to jail, but nonetheless. A couple questions regarding the bill, the legislation only affects new employees. So I think to some extent that is part of the clarification the county has went forward that this would not impact any existing county employees now. It's only new hires, so to speak, as they move forward. And if the underlying premise of why the Legislature passed this was to provide more of a competitive compensation package to keep existing employees, so to speak, from leaving to go to the city of Lincoln, obviously times do change; compensation packages do change; government does change. Isn't this almost to some extent a modernization of the problem that originally existed was now, in theory, solved so we're providing a little bit more flexibility to the county to be able to do this with new employees moving forward? [LB867]

JOY SHIFFERMILLER: Well...and that's an interesting question. Now I will state that as far as knowledge...it's my understanding the reason they made it applicable to new employees is because it's a defined benefit plan, and I think there may be some question, though certainly it's not my speciality area of work though I am an attorney. I don't know whether you could modify the existing employees' benefit and say, well, from here on forward we're going to make you...we're going to give you a 1:1 match. So my question...so, first of all, I'm not sure that they could have done that and made it so that it applied to the other employees. And I guess when you consider what Mr. Eagan indicated about the way we present it and we're having difficulties because we want to be sure that our employees get the same as the city of Lincoln, was his example. When you have two snowplow drivers working side by side, and one person gets 1.5 percent and one person gets 1 times match, it seems to me that it would be difficult to justify doing that with people that are working there, I mean if I follow your question. I mean it just seems to me like that's a very "encumbersome" situation. And bookkeeping, I think it would be a nightmare. [LB867]

SENATOR MELLO: Do you...I guess another component, as looking through this, and I

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know Senator Nordquist actually brought a bill forward that allowed employees to move to a cash balance to move from the defined contribution plans to cash balance plans. I don't know if that also impacts the counties. I know it does impact the state. But knowing that you represent one of the bargaining units, doesn't this provide just essentially more flexibility for the bargaining unit to essentially negotiate your contracts and make any increase over 100 percent of the retirement to be part more of the negotiations or the bargaining chip, so to speak, between the units and the county? I mean it doesn't mean...in my interpretation, at least, was that this doesn't mean that the county still couldn't provide 150 percent match if they choose to, but it's now...anything over 100 percent now is part of a negotiation in the sense that, in theory, by doing this you may have as a bargaining unit more latitude to bargain wages and other aspects of the benefits packages for employees and not solely have it rest with the defined contribution plan at 150 percent match. [LB867]

JOY SHIFFERMILLER: Right. I do agree that...I guess the point of it is the law has been that it's a 1.5 times match, okay? That was the law when we were negotiating our contract last summer. It is a fact that if we have the ability to negotiate that, that that would all come within negotiations and then the county and the unions or the individual employee would have to negotiate their situation. And that's the way it is with...you know, I don't believe it's in statute that they have to pay longevity pay, for example. So, you know, yes, then it would fall back to the unions. And I guess the point of it is, you know, we were not...our advice was not sought about eliminating it. And the current statute is not to eliminate it or to make it...it's my understanding Lancaster County initially proposed or the bill they wanted to get behind was a 1:1 match, flat out, without any negotiation. And our point is, on behalf of the union, you know, obviously we don't want to reduce it from 1.5 times. That's our point. But certainly if there is legislation that gives that flexibility, that is where it will go back to is union negotiations, if there's flexibility in there. [LB867]

SENATOR MELLO: I guess my question is to try to look at the other side of the coin, so to speak, that because it's in statute that it's a mandatory 150 percent match by providing that flexibility of anything over 100 percent could still be given out, that other aspects of a bargaining unit's benefits packages, including their wages, could see an increase, so to speak, by reducing if a county so chose to negotiate and kept...you know, hypothetically, gave the AFSCME bargaining unit 100 percent match, a 1:1 100 percent match, but chose instead through the negotiation process with the unit... [LB867]

JOY SHIFFERMILLER: Right. [LB867]

SENATOR MELLO: ...to increase wages, increase other benefits because it was one that maybe employees preferred instead of the 150 percent match. So I guess my question is, this flexibility can be used to...it's not just purely, I would say, to benefit the



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county. It does give a little bit more flexibility on the negotiating table for the bargaining unit if the bargaining unit so chooses to go after other aspects of their compensation packages besides just, you know, knowing that the retirement package, so to speak, is at a baseline level regardless, and that the county has to negotiate from a...so to speak, negotiate from a position that this has to be met first before anything else because state law says that. [LB867]

JOY SHIFFERMILLER: Right. Well, true, but then when you layer...add a layer to that, that this new law only would apply to new hires after July of 2012, I'm not sure how that would look in the union contract, because our union contracts generally establish this is how much retirement is. I mean, right now, today, our union contract says that bargaining unit members are entitled to a 1.5 times match. I mean that's...it's in line with state law, but it is also part of our union contract. And if you change the state law to say that they can negotiate...you know, as the language says, that you can...anywhere from 1 times to 1.5 times, then that gives the union people an opportunity to negotiate the amount. But when you have people that already get 1.5 times, I'm not sure...I think it makes it pretty cumbersome to try to negotiate with the new people that are hired, if you follow me. Because as I said, the two snowplow drivers sitting side by side, we represent all snowplow drivers whether they're hired before or after...I mean at some point they do become union members after they've worked for six months, the probationary period. And we're in a situation where we're supposed to represent all of our employees equally. And if you have some people that are under the statute getting the 1.5 times match and new people that are able to negotiate anywhere between a 1 times to a 1.5 times match, it just seems to me then are we going to pay that person...when you talk about the flexibility, then to talk about longevity or the amount paid for health insurance, for example, or whatever, or their wages, there are probably people that would also rather have that money in their wages and forget about retirement. Let's worry about today and forget about tomorrow, so to speak. I think to a certain extent it benefits the citizens of our state to put money aside in the retirement rather than to say that, you know, you could negotiate that away and take it today instead of, you know, I will eat a hamburger today instead of tomorrow, so to speak. So I think that retirement is a very...it's a good benefit to have, but it is also something that as a legislative body you ought to, you know, you consider, you know, having people have some money set aside for their retirement is a good thing. [LB867]

SENATOR MELLO: Thank you. [LB867]

JOY SHIFFERMILLER: Okay. [LB867]

SENATOR NORDQUIST: Thank you, Senator. Any other questions from the committee? Seeing none, thank you. [LB867]

JOY SHIFFERMILLER: Thank you. [LB867]

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SENATOR NORDQUIST: Any additional opponent testimony? And seeing none, any neutral testimony? Seeing none, Senator Karpisek, would you like to close? [LB867]

SENATOR KARPISEK: Thank you, committee. And, Senator Mello, the reason that I brought this bill is exactly what you have said. I felt that they can negotiate these things, and as you said, just because it says that it can be between 1 and 1.5 doesn't mean that it's going to be 1 but will be negotiated. And again it is only the new hires. It's not everyone that's there now. I'm a little bit confused on the city/county thing, but I'm sure we'll look into that as we go. But again, that's why I brought the bill. I think we all know on this committee how retirements can be stressful on a budget and absolutely we want the people to have a good retirement plan, but also want the counties or whoever is administering them to have some flexibility, so. Thank you. [LB867]

SENATOR NORDQUIST: Thank you, Senator. That will close the hearing on LB867. And I'll turn it over to Senator Karpisek to open on LB1082. [LB867 LB1082]

SENATOR KARPISEK: Thank you, Chairman Nordquist, members of the Retirement Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. I've introduced LB1082 to increase the retirement contribution rates for law enforcement in first-class cities. First-class law enforcement retirements are currently under a defined contribution plan with a 6 percent employer/employee match. In comparison to other law enforcement retirements across the state and our surrounding states, this rate is at the bottom. LB1082 would keep the plan as a defined contribution plan and make the contribution equal among both parties. I have left the enhancement number x-ed out in the hopes that law enforcement and the cities can come to an agreement on an enhancement plan, and I know there has been already a lot of discussion on that. There may be some concern that an increase could affect the levy lid of some cities. Law enforcement is committed to altering their budgets to avoid any levy lid exceptions. There are experts behind me that can speak to the history of first-class retirement negotiations and to the specifics of where Nebraska first-class city law enforcement compares to other agencies and states, but I would be glad to try to answer any questions for you now. Thank you. [LB1082]

SENATOR NORDQUIST: Thank you, Senator. Any questions from the committee? Seeing none, we will begin with proponent testimony. Welcome. [LB1082]

JOHN FRANCAVILLA: (Exhibit 3) Good afternoon, Senator Nordquist and members of the committee. My name is John Francavilla; that's J-o-h-n F-r-a-n-c-a-v-i-l-l-a, and I'm the president of the Fraternal Order of Police, State Lodge, representing approximately 2,800 law enforcement officers in 46 law enforcement agencies across the state of Nebraska. I'll be brief today on my testimony as I have prepared written testimony for you to review. I am here in support of LB1082, and we have been here, the Fraternal

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Order of Police, in the past, speaking in regards to enhancing the retirement plans for cities of the first class police officers. Our original bill when we first sat down was to bring a defined benefit plan which would bring us in line with not only law enforcement agencies across the state of Nebraska, but also in line with every state surrounding the state of Nebraska. We're the only state without a defined benefit plan; we have the defined contribution plan. Once we looked into the original bill to go to defined benefit, we saw that there were costs involved that would be amounts that the cities would not be able to handle due to their budgets, as well as past service unfunded liabilities. So we moved from the defined benefit plan and we sat down with the League of Municipalities and worked on increasing the contribution rates for our defined contribution plan. During that time, we were asked by members of the Legislature to not only have the Fraternal Order of Police involved, but to bring all law enforcement agencies into the program. Members from the Sheriff's Association, the Chief's Association, as well as the Police Officer's Association of Nebraska met as a unified committee of law enforcement officers to work towards one common goal: to increase the retirement benefits for our membership. We are asking the Legislature today to sit down with us and work to enhance those first-class city defined contribution plans. We thank Senator Karpisek for bringing this bill forward. As we have said in the past, we have worked towards this, we have negotiated for this bill, and we hope today, now, that we can come to an agreement and move forward on it. In 2009, for reference, we had LB426 with AM373. That was a mutual agreement not only by law enforcement but the League of Municipalities that changed our defined benefit plan from 6 percent contribution to 9 percent contribution equally by both employee and employer, and that was to be phased in over a four-year period. Due to circumstances beyond our control, that bill did not move and we went back to the drawing board, and we sat back down with the members of our organization. Today, I'm here again in regards to LB1082 and to support it. We are willing, as we have been in the past, to sit down with our employers and negotiate. One concern was the lid limits, and we know that our membership in the negotiation talks are willing to move on that issue. We want to make sure that we have a retirement plan in place, and during our careers we're willing to work with our employers in order to have compensation in other areas adjusted so that we know in our retirement we would have the funding there available so that we can still retire and enjoy a life after the law enforcement career. With that said, I do have some examples and information if you have any questions for me. [LB1082]

SENATOR NORDQUIST: Thank you, Mr. Francavilla. Any questions from the committee? Seeing none, thank you. [LB1082]

JOHN FRANCAVILLA: Thank you. [LB1082]

SENATOR NORDQUIST: Any additional proponent testifiers? Welcome. [LB1082]

STEVEN YOUNG: (Exhibits 4 and 5) Good afternoon, Senators. Senator Nordquist,

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committee members, thank you for taking time to hear us. I would like to thank Senator Karpisek for introducing this bill. I'm all about brevity. I'm going to let you read at your leisure my written submittal here. The only thing I would like to discuss is...and I've got to give you a little background. I'm a 30-year member of the... [LB1082]

SENATOR NORDQUIST: Okay, could I get you to state and spell your name for the record? [LB1082]

STEVEN YOUNG: Oh, you might need that. I'm sorry. Steven Young, Y-o-u-n-g, second vice president of the Fraternal Order of Police, 30-year member of the Papillion police department, affectionately known by my fellow officers as a pre-'84. They say that tongue in cheek, I'm sure. I've negotiated just about every contract the city of Papillion has been involved in, and I know that numbers sometimes lie and liars use numbers, but at some point in time you've got to get a visual of what we're asking for here. And on the last two pages of my testimony I've put what is currently in place and what is being proposed. Currently, with the 6 percent, 6 percent match, an officer making \$50,000 a year, which I think is pretty comparable, and when I see my arrays he is obviously not going to start at \$50,000, and he might end up a little higher than that if he serves...if a 25-year-old serves 35 years with the police agency, contributes 12 percent, he's not going to come up with 50 percent of his salary. He's not going to make 50 percent of his salary. Now there's obviously some rate of returns there of 5 percent. I did them at 7 percent. They would make enough to yield 50 percent of their salary. You know, I know the opponents of this are going say, well, the way you get to that is you buy an annuity. That's how the current law is written. It's very specific as to what kind of annuity you can purchase. There's little flexibility. There's no annuities plus 5, plus 10, no money is in there to allow that, but just so you get a kind of a random picture of the other proposal was that our current proposal or something that we've tossed around, the 9 percent, 9 percent match, or 18 percent. A police officer starting at age 25, having to work by state law until age 60, with the rate of return...would reach a rate of return of 50 percent with a 5 percent return on that money. Yeah, 5 percent is low. I think the norm is 8 percent. But I will tell you I'm a 30-year member of the police department who will not make that because of either poor early management of our funds or whatever the situation, but I'm not going to get anywhere near \$900,000. I'll tell you, I'm at \$300,000 right now. There's issues and you'll read them in my written testimony with this law that need to be addressed. And I've been a pension plan member. I've been the president of our police pension plan for eight-plus years. We have twice, through bank acquisitions, had to change vendors, and recently went out for a request for proposals and got a very good education on our police pension plan. And there are some issues that we need to address, but the big one at this point is the match, and we've got to be able to get the officers up to where they can at least retire at a reasonable return on their money. That's my brevity. [LB1082]

SENATOR NORDQUIST: All right. Thank you. Mr. Young, just for the record: So this

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would be the breakdown here is the second page? I don't think we received any written testimony in the form of copies, the cover page, so. [LB1082]

STEVEN YOUNG: There's no cover? [LB1082]

SENATOR NORDQUIST: No cover page, so. [LB1082]

STEVEN YOUNG: Okay, I'm sorry. I'll get that to you. [LB1082]

SENATOR NORDQUIST: Yeah, please do. Yeah, if you would for the record, that would be great. How are like your...how are the funds managed for your account? [LB1082]

STEVEN YOUNG: I'm glad you asked that. Ironically enough, for first-class cities the pension plan is managed by a member, committee members, consisting of four police officers and two at-large members. I'm a police officer. I can pretty much discuss state statute with you till the cows come home. I wasn't real good about finances, and our predecessors weren't either, but it became a learning experience. We've gotten a lot of advice. There's a lot of expense involved with attorneys and accountants. A lot of annual and quadrennial reports that are required, whose cost comes out of, if not a forfeiture fund set aside by the pension plan, it comes out of the participants' bank account. We were fortunate enough in Papillion to have a little bit of money set aside in a forfeiture account that so far the attorneys' costs and the accountants' costs and stuff like that haven't had to come out of the participants' plan. And I don't even think they would realize when it did, but at some point in time if that forfeiture fund goes down to zero, it will have to. [LB1082]

SENATOR NORDQUIST: Um-hum. All right. Any additional questions? Senator Mello. [LB1082]

SENATOR MELLO: Thank you, Senator Nordquist, and thank you, Mr. Young, for your testimony. I guess it was just a follow-up question from Senator Nordquist. Do you have any city personnel that sits or assists you at all in a partnership role, so to speak, with your pension board or help you oversee your pension program at all? [LB1082]

STEVEN YOUNG: No. [LB1082]

SENATOR MELLO: Is that something that your union has ever considered doing, is bringing in, whether it's a city finance director or the city leadership, to provide assistance in any way they can to...? [LB1082]

STEVEN YOUNG: You know, I...and I'm sure to some degree they would be willing to. But it is such a generic plan that...and I laugh. We've got to get you a copy of my written testimony. Our attorney, at one point in time we asked for if we should be filing with the

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IRS for compliance, get a letter of compliance from the IRS? And he says, no, because we're a government operation...or a government pension plan, we don't need that IRS letter. And he goes, I don't think they would understand it if we did. (Laugh) So I don't know if he was...I think it was pretty much tongue in cheek. [LB1082]

SENATOR NORDQUIST: Great. [LB1082]

STEVEN YOUNG: But all our direction right now comes from our plan manager, First National Bank, who happens to be ours, and our attorney. [LB1082]

SENATOR NORDQUIST: Okay. Great. Any additional questions? Seeing none, thank you. [LB1082]

STEVEN YOUNG: Thank you. [LB1082]

SENATOR NORDQUIST: Additional proponents? Welcome. [LB1082]

JEREMY KINSEY: Good afternoon, Chairman Nordquist and members of the Retirement Committee. Thank you very much for allowing me this opportunity. My name is Jeremy Kinsey; that's J-e-r-e-m-y, Kinsey, K-i-n-s-e-y. I'm a cop. I serve as the vice president of the Fraternal Order of Police, State Lodge, and I'm also the president on my local FOP lodge. But simply, I'm a cop in Nebraska. I've been a cop in this state for 18 years, and just to become a cop I had to apply, I had to wait months before an opening was even available. I had to take written tests, physical tests requiring me to run, jump, climb, sprint, drag, crawl, kneel and roll. I took oral board examinations, a psychological test, a medical test, and a polygraph examination. I had to stand before the Civil Service Commission and be interviewed, and I also had to sit in the chief's office and be interviewed just to get the job as a cop. And for most of us, we had to do this a number of times before we were even selected to be a police officer. But before all that I could even call myself a cop, I had to attend the Nebraska Law Enforcement Training Center for several months to learn how to write reports, testify in court, drive fast, fight bad guys, and become proficient in the use of firearms, all this just to attain the state law enforcement certification allowing me the opportunity to attempt to pass a three-month field training program. I'm now finally a cop. Each year I have to train some more, certify on high-speed driving, defensive tactics, and firearms training. Why? Because I, and we, my fellow officers behind me, have a very unique job. What profession in America other than that of a member of our armed forces has to wear a bullet-resistant vest to work every day and carry a gun? What other profession has to be able to make that life-and-death split decision? Not many, I tell you. What I'm getting at is, us cops, we have a very unique and oftentimes dangerous job. I work for a first-class city located in the middle of the Omaha metro area that employs 34 sworn officers. Out of those 34 sworn officers, three of them--the chief and two captains--have desk jobs. The rest of us are out there day after day, on the streets, working patrol and answering

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all their emergency calls for service. Or we in the detective bureau chase down the bad guys day to day, and they're the worst of the worst. My chief and two captains are relatively young guys and they have a number of years to go before they're eligible to retire. And considering their positions, they're not likely to leave those positions any time soon. That leaves the rest of us, the already aging department, to chase and fight the bad guys for a long time to come. Most of us will not see a command assignment and be able to ride out our sunset years of our profession behind a desk. Instead, we'll be putting on our bullet-resistant vests, strapping on our guns, and heading out on the streets protecting the citizens that we swore to protect. But the catch is, most of us will be doing this well into our sixties, because, quite honestly, we'll just not be able to afford to retire. At the relatively young age of 41, I'm just now starting to realize that this is a young man's game. Recently, in a meeting with our state FOP leaders, a very prominent politician in our state made the comment that he understood that police officers have a very unique and difficult job and that we have a shelf life. Now you've heard testimony from John Francavilla and Steve Young giving you a historical perspective of our work on the previous bills. The cops of this state came together and sat down at a table in good faith and negotiated solutions to better improve the retirement for police officers in this state. I'm sure today you'll hear from opponents to this bill that they really do wish they could support this bill and attempts to enhance retirement benefits for police officers, but at this time they cannot support it because the timing is either not right or due to the economic climate of municipalities in this state. Trust me, I get it. We all get it. Public employee benefits and, in particular, police officer benefits, just seem to be a four-letter word these days. But please understand we are not talking about underfunded public employee retirement systems here. Understand that there's no golden egg or economic gold mine for us police officers of the first-class cities when we retire. There are no stock options. There's no bonuses. Unless it's been negotiated with the municipalities that employ us, when we retire we retire with no medical benefits and no way to bridge the gap until Medicare and Social Security kicks in, if it's even there when we decide to hang up our badges. Now I'm not trying to make you feel bad for us cops. None of us here would want you to feel bad for us. There's not a fellow cop in this room that wouldn't tell you that we aren't doing the most noble profession on the planet, and some of us, I'm sure, if we had the means to do it, would do it for free. But the reality is, we don't have the means. But you have the opportunity to see that this bill sees its way out of committee with your endorsement. We ask that you carefully give that consideration and give us the opportunity to enhance our retirement before our shelf life runs out. Thank you very much, and I'll stand for any questions from the committee. [LB1082]

SENATOR NORDQUIST: Thank you. Any questions from the committee? [LB1082]

JEREMY KINSEY: Thank you. [LB1082]

SENATOR NORDQUIST: Seeing none, thank you. Any additional proponent testimony?

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Seeing none, any opponent testimony? Welcome. [LB1082]

LYNN REX: Thank you. Senator Nordquist, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we are here in opposition to this bill, but I would like to give you a little bit of perspective in terms of the background and in terms of why we are where we are today. First of all, in 1982-83, the League was facing, and cities across the state were facing, unfunded liabilities with cities of the first class. Their pension benefit had been mandated in 1965 by the Legislature. There was no money given, so cities started out in the hole to begin with, in 1965. By 1982-83, we had cities that had such unfunded liabilities that we had to look at how we were going to deal with this. And again, cities could have done probably a much better job in doing the management of that. Some cities did do a really good job. Some cities, like Fremont, thought that they were fully funded, changed investment advisors, and found out that, in fact, they had multimillion-dollar unfunded liabilities just by virtue of the assumptions changed by the actuarial analysis. That resulted in, in 1982-83, negotiations with first-class city police officers and first-class city firefighters, which resulted in negotiated agreements and passage of LB237 and LB531, which did the following. The short version is, it gave those officers hired before January 1, 1984, the greater benefit of either what they would have under the defined plan, or anybody hired after January 1, 1984, would get the defined contribution plan. But there were some pre-'84 officers that actually have a better deal under the defined contribution plan, but they get the greater benefit of. With that, over a period of years there really were no changes made. I think, Senator Nordquist, in your younger days, and you're still a very young guy, you were working as legal counsel for this committee, and Senator Erdman introduced LB371. That was a bill in 2007 which had a defined benefit plan as part of it. The League opposed that measure. In the fall of 2007, there was an interim study hearing on that, and Milliman and Associates presented a report to this committee. The numbers alone were so staggering that, frankly, at that point we didn't go out and even do our own actuarial analysis. We did hire Donn Jones, who is a former actuary for this committee, to review it. And he came back to us with his reports and confirmation of issues. But what occurred in 2007 was we opposed that bill. And we were asked by Speaker Flood and others to sort of look at what we could do to try to negotiate. And so in the fall of 2007, we began negotiations. And with respect to that, LB426 came out of that as has already been noted. And essentially...actually I'm kind of...I need to back up here just a little bit, because what happened in 2008, we did begin those negotiations...2007 we began the negotiations. We continued negotiating. And in March 25, 2008, the League...we had been negotiating with officers, many of them in this room today, a couple of them in this room today anyway, John Francavilla and others. And we worked really hard on that. The League came up with a proposal that would, in fact, enhance the defined contribution plan for first-class city police officers from 6 percent to 9 percent over a period of years. And on March 25, 2008, that was presented to them at that meeting, which was at the League office. What occurred is that they then I think discovered or learned that the defined benefit plan, even though



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folks had been saying that that was fully funded, the officers themselves found out, at least a couple of them told me that was the meeting they found out it was not fully funded and did not have past service benefits. So they went back to their folks, and on April 2, 2008, they came back to us and said, no, they would not accept the League's proposal for this enhancement. Notwithstanding, we continued meeting off and on in the fall of 2008. That resulted in introduction of LB426 in 2009. LB426 in 2009 was introduced by Senator Pankonin. That bill was for...actually the bill itself was just a vehicle bill; it really didn't have anything in it. The amendment itself is what actually put in the negotiated agreement, which was signed by both parties on January 16, 2009. And we worked for two years. The League worked hard, these officers worked hard for two years, in 2009 and 2010, to try to get that negotiated agreement out of this committee. We couldn't get it done. Why that happened I don't know. I know in a meeting that we had in Senator Pankonin's office and I know...I think Kate was there as well, the Governor's Office--a representative from the Governor's Office was there, and indicated the Governor would not support having the lid and levy exception outside of it. We absolutely have to have that in order to fund something like this. So we worked hard...and the officers worked extremely hard with the Legislature to try to pop up that bill out of committee in 2009 and 2010. Frankly, I've been with the League since 1978 on a full-time basis. I have never had a bill before with a negotiated agreement that we couldn't get out of committee. This is the only bill we couldn't get out of committee. And timing, unfortunately, is everything, because then the market crashed, the Legislature last year eliminated state aid to municipalities--and we weren't alone--counties and NRDs. So now we find ourselves in a position that even though this is a bill we would like to be able to support, we really can't because of financial implications for municipalities. What I can share with you is that when we had the negotiated agreement which was signed by both parties on January 16, 2009, first-class cities, the majority of them did support that. I had authority from my board to support that. But we did have cities--Fremont, North Platte, Kearney, Grand Island, and Hastings--oppose that bill then. And the reason for their opposition continues to this day even on this bill, which is that their concern is that by isolating officers that you have police officers then set aside as a, in their view, a special category, and therefore how do they try to make this the same for other employees; and if they give it to police officers, they're going to have to give it to other folks. That's their position. I understand that position. Other cities, La Vista and others have said that as well when we discussed this at our fall meeting, when Speaker Flood came over to talk to us on October 28, 2011, about the importance of working on this issue. And at that point I will tell you that one of the issues that came forward, too, was what Papillion has done and what we are suggesting that our cities do, because Speaker Flood asked us, well, would be willing to let cities do this on an optional basis; in other words, phase this in from 6 to 9 over an optional-type framework? And Gary Clatterbuck, who we hired...he's an attorney with Baird Holm law firm, and we asked him, can we do that, because we thought that's something we could really bring to our members and for their consideration. And he said under federal law you cannot. And we have a letter that I would be happy to submit to the committee if

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you'd like to see it. We have already submitted it to Speaker Flood and I'm sure the officers behind me already have it. The answer is, no, you can't. When it's a state-mandated program of this nature, you can't have it...you can't...it cannot be on an optional basis. And all the in's and out's of that are outlined, and the legal reasons, in that letter. However, there is an option and that's what Papillion has done which is to have a 457 plan. And with a 457 plan, cities would be able to do this on an optional basis. And we're encouraging cities that want to do this to move forward. When the proposal was how can we deal with the negotiated agreement we had on January 16, 2009, and now because of the economy as well...the economy, as well as just what the Legislature has perhaps been forced to do, but what we've experienced with our cuts in state aid, as well as other programs. It's not just that. When LB846 passed dealing with the roads issue, and Senator Loudon, maybe...I know you're aware of this, I'm sure probably all of you are. Cities and counties took a \$14.7 million hit that summer because of the change of date of when the wholesale rate of gas went in. We're just catching up from that. So it's not just the state aid to municipalities; it's everything all included here. So at the end of the day, most regretfully, we're here because we can't support this at this time, and I think the operative words are "at this time." I don't think there's any question that not only police officers but other employees deserve to have their benefits increased, in my view. That's my view personally, I will just tell you that is the case. So, in essence, we do think that this option is something that we're encouraging cities to do. Papillion again has done this for many years. I think that maybe is the way to go. And with that, I'd be happy to answer any questions that you may have. [LB1082]

SENATOR NORDQUIST: Thank you, Lynn. Questions from the committee? Senator Heidemann. [LB1082]

SENATOR HEIDEMANN: Just to state, if I remember right, when LB846 passed it was short-term paying long-term gains. So actually you're going to gain from LB846 in the long run. [LB1082]

LYNN REX: Well, we're hoping...I mean at this point we're...I believe we've now broken even on that, but... [LB1082]

SENATOR HEIDEMANN: And LB846 has been in existence for probably three years? [LB1082]

LYNN REX: That's correct. There was an opportunity, though, to change the date, Senator, so that we wouldn't have had any \$14.7 million loss. But we start out in the hole to begin with, so with that loss on top of it, it absolutely complicated the world. [LB1082]

SENATOR HEIDEMANN: So three years of loss and then from this point on there will be a gain. [LB1082]

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LYNN REX: It will be very...it's not significant. It's...we're not looking at huge gains here. LB846 was a bill to stabilize the funding base, predominantly for the state of Nebraska for the Department of Roads, and it did that. Because with the Department of Roads, as you know, they get to make up the difference with the variable tax. That's not the case for cities. [LB1082]

SENATOR HEIDEMANN: They don't get to. They have to come to the Legislature to do that... [LB1082]

LYNN REX: Well, that's true. You're right. [LB1082]

SENATOR HEIDEMANN: ...and we have a little hesitancy to ever do that. [LB1082]

LYNN REX: You're correct. That's true, they have to come to the Legislature. That's correct. [LB1082]

SENATOR HEIDEMANN: I was involved with LB846 a little bit, and I always remember that there was some pain right away, but in the long term both the cities and the counties were going to come out ahead. And I just wanted to... [LB1082]

LYNN REX: We're supposed to get a little bit more than what we were getting. [LB1082]

SENATOR HEIDEMANN: Yeah, I just wanted to clarify that. [LB1082]

LYNN REX: Yes. But at the end, I mean right off the chute, we took a major hit. And that's...by the way, nobody could have predicted that either. It's like the market. I mean, nobody could have predicted in the fall of that year that the wholesale price of gas was going to take a hit. But those are all issues that have come into play. And, Senator Mello, one of the issues I wanted to raise with you in response to one of the questions you had. If you look on page 22 of this bill, and this is really not the purpose of this hearing, but on page 22, 23, this outlines the Retirement Committee, during our negotiations in 1982-83, changing from a defined benefit plan to a defined contribution plan with the officers getting the greater benefit of that. This established the Retirement Committee process for investments. And you'll note on that, that it's a six-member committee: the officers get four; the cities get two. And what cities have done is they have almost...almost to a city, they don't put on a city councilmember--I don't know what they did in Plattsmouth when you were mayor there--but they put on an investment advisor; they put on someone from the bank; they put on somebody that's a certified investment...so that's why, when you were asking are there any city representatives, the city representatives are the professional investors. And that doesn't mean the officers can't do that. In many cases, the officers have also put on investment folks. And there's no question, this was a major, major part of what we negotiated in '82-83. They wanted

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to have local investment directive authority over funds that they had, and I understand that. [LB1082]

SENATOR NORDQUIST: Great. Any additional questions? Seeing none, thank you. [LB1082]

LYNN REX: Thank you very much. [LB1082]

SENATOR NORDQUIST: Any additional opponent testimony? Seeing none, any neutral testimony? Seeing none, Senator Karpisek. [LB1082]

SENATOR KARPISEK: Thank you, Senator Nordquist and members of the committee. I think we have heard that everybody agrees that we would like to give them more...and just how we get there. And, obviously, we've been working on it for quite some time, so hopefully we can keep the talks open. I appreciate both sides trying to work together and get something done that is agreeable, because I definitely understand also the part of we want to pay them more, but where do we...how do we do it and where do we get the money. So I appreciate your time on this bill. [LB1082]

SENATOR NORDQUIST: Thank you, Senator. Any final questions? Seeing none, thank you. [LB1082]

SENATOR KARPISEK: Thank you. [LB1082]