[LR628]

The Committee on Nebraska Retirement Systems met at 10:00 a.m. on Tuesday, December 18, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR628. Senators present: Jeremy Nordquist, Chairperson; LeRoy Louden, Vice Chairperson; Russ Karpisek; and Heath Mello. Senators absent: Lavon Heidemann; R. Paul Lambert.

SENATOR NORDQUIST: Good morning, everyone. I'm State Senator Jeremy Nordquist from District 7, Chair of the Retirement Systems Committee. I welcome you to our committee today for a hearing on LR628, an interim study to examine the pensions provided for firefighters in cities of the first class. I will introduce our committee staff. To my far right is Laurie Vollertsen, our committee clerk; to my left is Kate Allen, our committee's legal counsel. For those of you that are going to be testifying today, please fill out a testifier's sheet on the back corner and submit it to Laurie. Please state and spell your name when you begin your testimony. Please silence your cell phones so we don't have any distractions. And I will let the members of our committee introduce themselves, starting over here to my right.

SENATOR KARPISEK: Russ Karpisek, District 32 from Wilber, with an E. (Laughter) It was posted as a U out front for the last six years, so I'm just giving Laurie a little hard time.

SENATOR LOUDEN: Is that Karpisek or Wilber with an E?

SENATOR KARPISEK: That would be Karpisek with a K. (Laughter)

SENATOR LOUDEN: Senator LeRoy Louden, District 49.

SENATOR NORDQUIST: Committee Vice Chair Senator Louden, and...

SENATOR MELLO: Senator Heath Mello, District 5, south Omaha.

SENATOR NORDQUIST: Great. Thank you. Well, we introduced this as a committee resolution and I will just state that I think this is an opportunity for us to have a thoughtful discussion on how we move forward in looking at the adequacy of the benefits that we have for firefighters in our first-class cities, so that is the intent of the hearing today. And with that, we will go ahead with our first testifier. [LR628]

JOHN CORRIGAN: (Exhibit 1) Good morning, Mr. Chairman, members of the committee. My name is John Corrigan. I'm an attorney at the law firm of Dowd Howard and Corrigan, located in Omaha, Nebraska, and I have the privilege of appearing before you today on behalf of the Nebraska Professional Fire Fighters Association, which is an association made up of locals throughout the state of Nebraska represented by the International Association of Fire Fighters. And the Nebraska Professional Fire Fighters Association pretty much represents every paid firefighter in the state of Nebraska. The association has been around, I think, since probably the early '70s, maybe even a little earlier than that, but with the onset of collective bargaining in Nebraska, under the creation of the Industrial Relations Act, the Nebraska Professional Fire Fighters Association has long been a stalwart for protecting not only the right to collectively bargain benefits but protecting the postemployment or deferred compensation benefits for the first-class city and for primary- and metropolitan-class firefighters. The issue before you today and one of the reasons that the association has requested this review is that we have a unique situation in Nebraska with respect to the firefighters. You have your Omaha firefighters operating under a home rule charter and your Lincoln firefighters operating under a home rule charter who are participants in a defined benefit pension system. A defined benefit pension system essentially establishes contribution rates by the employee and the employer to create a fund, and out of that a fund a level benefit or percentage of salary, based on years of service, most of the time, is credited to the employee. And when they separate employment, that is the benefit that they've earned. Prior to 1984, we had a defined benefit system in the state of Nebraska for first-class city firefighters as well, going all the way back to 1896. And in 1983 the Legislature passed LB531, and I've provided a copy of the legislative history of that statute. I think it's very important to address sort of the conditions that existed at the time that statute was passed because it goes to the heart of why we're here today. The first-class cities throughout Nebraska had experienced the notion of unfunded liability, meaning that they had made promises, and by virtue of the statute that was in place they had to provide the 50 percent benefit to firefighters. The problem that was created by that situation is that the cities were not funding their retirement benefits consistent with the retirement benefits that were being earned. And so the city themselves had to make up the difference between what had been promised and earned, and what the city had on hand to pay for those benefits with employee contributions. It was a classic system of pay as you go, in the sense that the employee would make contributions and earn interest on those contributions; and then when the employee separated, the employers, the cities would pay those benefits out of the general fund. And in many cases there wasn't a trust fund to pay the benefits. And that led to the unfunded liability problem, and many cities took action to address that unfunded liability by making contributions towards the benefits over time, but they came to the Legislature, and it's my understanding they came to the Legislature several years in a row, finally with the concept that we wanted to shift firefighters from this defined benefit plan under the statute to a defined contribution plan. And, of course, you're dealing with vested rights, you're dealing with constitutionally protected issues of deferred compensation and pensions, which are not subject to unilateral change, generally speaking, and there had to be a deal; and obviously, a deal was struck. Now LB531 was the deal that was struck and essentially what was done is that the employers, the cities, were required to maintain the 50 percent benefit for employees who were employed prior to January 1, 1984. And we have now 28 years of experience under the new system, and I'd like to talk to you a little bit about that. But I think it's important to note when LB531 was first introduced, the concept was the employer will pay 7 percent and the employee will pay 7 percent, and that 14 percent contribution with investment earnings over time should be sufficient to pay a benefit. Nobody ever questioned the retirement age of age 55, at which you're eligible to retire under current law at age 55. And that's not uncommon in public safety, both first-class city police officers, and I think the State Patrol has even a younger age of eligibility. But this is dangerous physical work, and both for the safety of the citizens and the safety of the firefighters, it's important that we have the ability to retire at an age which leads us to have a retirement rather a separation of employment that is subject to disabling physical conditions. That wasn't really the dispute, in terms of the age of the eligibility. It was how we were going to fund it. You have to understand, and I'm sure you all do, that firefighters in these cities are not subject to and do not pay Social Security tax. They don't receive credit for Social Security for every hour that they work for the city in the capacity as a firefighter, which in many cases is well in excess of 2,900 hours a year, almost 1,000 hours more a year of work hours than the average 40-hour-a-week or standard 40-hour employee. The deal that got struck then was that 7 percent was obviously insufficient, and in order to take into account the constitutionally protected vested rights of existing employees, everybody who was hired and working prior to January 1, 1984, had the ability to receive the value of their retirement account, which the employer now had an obligation to contribute to and the employee had an obligation to contribute to as a level percentage of their payroll--13 percent for the employer and 7 percent for the employee. And there was obviously an increase. The original bill was offered at 7 percent. There was an increase in the amount of contribution to 13 percent by the employer and a decrease by .5 percent by the employee, based on the original proposal of 6.5. So you've got 19.5 percent of payroll going in to fund this retirement benefit. And if you worked prior to 1984, whatever the value of that account was, the city has to make up the difference to assure that that account buys you an annuity which provides a 50 percent benefit based on your salary at the time of separation. And as I understand it, there was an actuary that had advised the committee and the parties that the 19.5 percent should be a sufficient amount of contribution to provide what they termed a "roughly equivalent benefit." And I want to go through a little some of the highlights of the legislative history. Senator Fowler on the floor on May 17, 1983, indicated that the purpose of the benefit is to provide for the first-class city firefighters a retirement benefit roughly equivalent to what they are getting now. Although when we move to this defined contribution system, away from defined benefit, we can't guarantee the final benefit, but actuarial estimates are to be roughly equivalent so that there is a benefit. Senator DeCamp piped in during that same hearing, during the floor debate, and commented that, and this is at...it's marked 5358 at the bottom of the right-hand side of the page, and I'll quote. He said, quote: Just for the record, so you know what we are doing, a defined contribution plan is simply we don't tell you how much you are going to collect when you get ready to retire. We do tell you this. What you put in today, what the city puts in today will be invested, and if it turns out to make a "jillion" dollars, that is what you get. If it turns out to lose, that is what you end up with. But at least you know absolutely where you are. And had they done that on Social Security, instead of promising pie in the sky without a way to get the pie, we may not have had the problems we have today, end quote. Mr. David Chambers, who at that time was representing the League of Municipalities, commented at the committee level that...and I think this is really important, that with respect to the newly hired employees the policy was that we were going to make these contributions, and he said, quote: If we can guarantee the present firefighters that they are going to receive no less benefits and get more benefits, can reasonably assure the newly employed firefighters after the adoption of the bill that they are going to receive virtually the same or more benefits, it seems to us a logical approach. Mr. Chambers also told the committee that, he said, when it came...when they come down for the newly employed ones, after the date of this act, their money is going to accumulate. And I don't know how much money they're going to have at age 55, when this does come around. We're trying to get enough money in so we will not be less than about 50 percent, but we're not targeting. We're not putting a floor in this bill. We're not putting a floor on the thing. Here's one place, firefighters, you're going to have to gamble with this. Now 28 years later, what is the result of the gamble? And that's something that we've tried to find out. It's not an easy thing to find out because, although the committee and the statutes have required that certain reporting be done, what you don't know is the value of individual retirement accounts. The survey that we've provided to you is a first-class city retirement survey.

We now, as of this morning, about 25 minutes ago, we have two more cities and probably three more cities that we can add to this. And we've looked at the numbers. It doesn't move the bar. I can't tell you what...I haven't...we have an actuary that's provided us an annuity calculation for this survey and I'm sure I can provide that same calculation once I add the other figures in, but even for these three cities, who are large cities in the context of first-class cities in Nebraska, we're able to develop a composite firefighter, meaning by using the three most senior firefighters, their years of service and their age and the value of their retirement account and their average salary, it can tell us some things about the performance of this legislation. Under this composite, we have a firefighter that's 53 years of age, he's got 20...or she's got 24 years of service, and the retirement account value is $367,000, with an average salary of $65,722. Now that average salary, I think, is probably a misnomer because that includes management or fire chiefs, and those are some higher salaries. But we're not...either way I think the end result is if we...the other cities that we add, we think the average age might go up a little bit, the years of service might go up a little bit, probably not more than a year on either one, and the retirement account might go up a little bit. But giving that employee, if he's 53 years old, credit for the investment earnings and additional contributions that would be expected to be received after age 53 until age 55 and retirement eligibility, we can safely estimate that the value of that account would be about $415,000. And with an annuity, pursuant to the rules established that would provide you an annuity of $16,000, $16,129 a year, it's a monthly benefit to live on of $1,344. Now there's no requirement that the employers in this context allow employees or provide to employees coverage for retiree healthcare. I'm not...I represent a lot of people throughout the state of Nebraska in both first-class cities and otherwise. We've suggested that, you know, you might be able to get single coverage for $500 a month, you might be able to get a family plan or a group plan for you and your spouse for $1,100 a month. I know in many cities it's more expensive. But even in that case, that employee is not going to have enough money to live on if they want to have insurance. And so the result of this experiment has been that the firefighters are left with retirement not being an option. They might be able to leave their employment and go work somewhere else, and I'm sure that you'll hear that, but that isn't the point. The point is that they were told and this Legislature had every good intention in 1983 to provide a benefit that was roughly equivalent to the 50 percent benefit that existed, and it simply wasn't...that's not what we've seen, it's not how it has shaken out. And I think one has to really ask if we are putting away 19.5 percent of payroll for the firefighter, how is that not achieving the benefit of 50 percent? What we're seeing, based on that survey, is that it's less than half: 24.5 percent of your salary is not a roughly equivalent benefit by any measure. And we have provided to you just some statistics showing what, in 2012, the Social Service income thresholds are. If one was to receive this benefit, based on our composite, and that said person would be required to go out and purchase health insurance, there's no question that they would be in poverty, eligible for other social benefits. And in this day and age, after the 25 or 30 years of firefighting, engaging in public service, that is not consistent with the intent of the legislation nor what should be provided in good faith for honorable service provided to the citizens. So with that, I would invite any questions; and I would ask you also, you know, this information we have to cull from individuals. The committee has certainly within its purview the ability to perform in-depth studies and require further information from the cities themselves, but every time we go to the table we hear the, oh, we can't negotiate a better benefit for you; we'd sure like to but the Legislature created this law and now we can't negotiate. And I don't know whether I accept that or I don't accept that, but I can certainly say that the law that was created is not performing as it was designed and a solution needs to be, in our minds, developed so that we are not pushing people off into poverty after careers in public service. Thank you. [LR628]

SENATOR NORDQUIST: Thank you, John. Just looking at the account values that you have provided, and I know it's a small sampling of what's out there, it looks like that there is a pretty wide variation and some of that is due to years of service and salary obviously. But it seems like, you know, maybe Grand Island...it looks like their account balance is maybe a little stronger than the other cities. Do you see a problem? One of the problems surrounding this is the independent nature of these that each city kind of manages...or are the accounts managed...the investments are chosen by the firefighter.

Is that right? [LR628]

JOHN CORRIGAN: Generally speaking. Each city has an advisory committee or a pension committee that will develop an investment structure. Within that structure, the firefighters can select what products they want to invest in, be it stock funds or mutual funds or generally...I know Wells Fargo bank is one of the major players in this. They provide those investment products to the employees. And there is very little in the way of responsibility in terms of that the city has to ensure that those investments yield the proper return. It's very similar to the classic 401(k). And if you understand the 401(k) system, when it was created, probably at that time, I think probably we know that the employers were paying for about 90 percent of the retirement benefits in this country in 1980 and 1979, and they had 100 percent of the fiduciary obligation to see that that money was managed for the benefit of the employees. By going to the defined contribution model over time, the employers shifted the burden to pay for retirement on to the employees to the tune of now it's 50/50, and 100 percent of the money management was left with the employees. We would give you a choice of certain asset classes you could buy into or products, if you will, and the individuals were left to manage that money. And I think that that was certainly one of the selling points of this statute back, if you read the legislative history, is, oh, they get to say what their investments will be. And I think that's all well and good but what we have seen and has been noted nationwide is that the skill of professional money managers, coupled with the fiduciary obligation and the asset classes that are available to institutional investors yield a higher return on investments. That coupled with the fact that the fees that you pay on those accounts, in this instance individualized fees based on account value as opposed to fees charged to the overall money held in several of the pension systems that are all, you know, at play in the state, not only locally but at the state level, you can see economies of scale. And these firefighters are not enjoying those, and maybe that's one reason and maybe there's bad choices. I'm sure there are. You know, there's certainly people that do a great job of managing their money because that's all they...they enjoy that, they are educated in it, and there's other people that are busy raising kids or working a second job or being firefighters and paramedics, and those are all things that they find an aptitude for, not money management. And so that certainly is one aspect of it that creates disparity. I think there's also, you know, what you see in there is some disparity in wages, probably a product of comparability, with the city of Grand Island traditionally going outside the state for comparability. But even when we add in...I mean there's one account in this, and I'm not going to say who it is, but there was one account in here that is a firefighter who is a pre-1984 firefighter who has a very high account, and in order to ensure that that firefighter gets a 50 percent benefit, the most recent payoff quote, meaning to buy the annuity that's going to pay him a 50 percent benefit, was going to mean that the city had to contribute an additional $200,000. Now the cities may cry foul and say, well, see, that's why we don't want to do it; we don't want to have to promise a level benefit because we can't afford it. But then I think let's be honest and say that the system designed to give us a roughly equivalent benefit is not functioning that way, and there has to be, in our mind, a solution to that. [LR628]

SENATOR NORDQUIST: Uh-huh. All right. Well, I appreciate you speaking about the issue of professional account management. Two weeks ago I was out at our National Council of State Legislatures' fall meeting and presented about our cash balance plan in Nebraska for our state employees, and we were really the first state that developed the hybrid option of a cash balance. And it really came out of...in preparation for that I read over a year 2000 benefit adequacy study that we did as a state, and we kind of came at the cash balance from a different angle. We were doing it to improve the benefits of our state workers, where now most states are coming at it to reduce their liabilities. But really, that benefit adequacy study really highlighted for our state workers at the time the problems and the shortcomings of the individual account management and why we needed to make the shift to a professional managed account, asset management in our cash balance plan. So that certainly is a problem. I think a lot of other people are coming to that realization at this time too. Any questions from the committee? Senator Mello. [LR628]

SENATOR MELLO: Thank you, Senator Nordquist. And thank you for bringing up the cash balance plan issue, because that was going to be my question, John. As the committees after today starts to look at potential solutions, is there anything specifically, maybe besides the local management or maybe the more professional management of the local funds, that maybe yourself or the Professional Fire Fighters Association would suggest that we look at? Is it an issue of maybe incorporating the first-class city firefighters into the cash balance plan, similar to the way the state currently is for our state employees, or looking at any other options? [LR628]

JOHN CORRIGAN: Well, we certainly thought about that and I think as time progresses here between now and the beginning of session we're looking for, you know, any solution and not just a solution that is geared towards the pension or retirement benefit. But if there's other ways to make it easier so that these employees can retire, then, you know, we're all for that. In the sense that the deferred compensation is not just the pension or annuity benefit, but it seems to us that there is great value in giving the firefighters access to the efficiencies of current and existing funds that you can add those contributions to and commingle the funds for investment purposes, certainly not for earnings or for benefits. But as we've seen in other states, the investment efficiencies, primarily through, as I understand it, simply just the fee structure and the asset classes that are available are something that we think would alleviate part of this problem. Now is that going to get us to a situation where the individual composite that we've developed, that that individual is now going to have a chance at 50 percent at retirement at age 55? Probably not. But this problem wasn't created in a day and it's not going to get solved in a day. But on the other hand, you know, the overriding focus of the legislation was a roughly equivalent or better benefit, and we're just not there, so. [LR628]

SENATOR NORDQUIST: Any other questions? Senator Karpisek. [LR628]

SENATOR KARPISEK: Thank you, Senator Nordquist. Thank you, John. What did you say, what's the rate now for employer and employee? [LR628]

JOHN CORRIGAN: Thirteen percent for the employer and six-and-a-half percent for employee. [LR628]

SENATOR KARPISEK: Okay. That's what I thought. Is there a mandatory retirement age? [LR628]

JOHN CORRIGAN: Well, technically there probably could be. Many cities don't impose one. There's kind of a difference in state and federal law on that. But there's no mandatory retirement age that I'm aware of. If someone wanted to put one in an ordinance, they could probably enforce it, and depending on, you know, what it was. But age 55 is retirement eligibility. [LR628]

SENATOR KARPISEK: Okay. I'm likening this a lot to the State Patrol because I've dealt with that on this committee so...and I've tried to raise that mandatory retirement age and I was unsuccessful. But probably now that's a good idea because they'd be on getting more. And you talked about, okay, they don't pay Social Security. Can you tell me--I know it's federal--why? [LR628]

JOHN CORRIGAN: Well, the primary reason was that they were excluded back in 1935, and then later, when Social Security was created, if you were participating in a public safety or a private...I'm sorry, a public sector pension benefit, they were excluded. And they were allowed...there were certain groups that were allowed to opt in back in the 1980s. I think the police officers are in, but the firefighters are not--police officers in first-class cities. Firefighters throughout the state of Nebraska generally do not participate in Social Security and it's been that way since the creation of the program. [LR628]

SENATOR KARPISEK: And I knew there were federal issues but...and insurance while they're employed, is that 100 percent, is it a...? [LR628]

JOHN CORRIGAN: Generally,... [LR628]

SENATOR KARPISEK: I suppose it depends what city. [LR628]

JOHN CORRIGAN: Yeah, generally speaking, that's a matter of collective bargaining. And so some cities may bargain with the employee to say we're not going to give you this wage increase but we'll provide a 15 percent/85 percent split on the premium, with the employer carrying the heavier load. I think, based on my experience, the average is probably around 80/20, 82/18. But I'm not aware of any first-class city that is providing retiree health coverage to firefighters unless...there might be one exception in the city of Fremont with...I think you've got to have like 35 years of service or 30 years of service, something like that, and then only for a short period of time. But the ability to participate in the employer-sponsored coverage after separation of employment would go a long way to alleviating this problem. And I know, you know, people don't...as we sit here and talk about, well, they're going to raise the Medicare eligibility age; all that's going to do is result in people staying at work longer. And I can understand that. But in the context of public safety, we've never bought into that concept and there will be certain costs for that. [LR628]

SENATOR KARPISEK: And I appreciate a couple things that you've said of where you'd like to be on this. I mean just saying "we don't think it's working" is hard for us to try to find what is going to work. And I realize, too, you know, there's got to probably be some negotiation here. I just want to say quickly, in 20 years of self-employment, 12 years being the mayor of a small town, a lot of volunteer work which is not dangerous, like volunteer firemen, being a state senator is dangerous (laugh), the Hastings example, age 45, 20 years of service, I was roughly at that in my own business. I had to pay self-employment tax, which is about 30 percent. I had to pay my own health insurance. I didn't get anything, as being a mayor or a senator, for any of that. I had to invest my own money and that's not doing very well either right now. So I hear what you're saying but we have people like me on the other side saying, well, boy, that looks pretty darn good too. And I know you're going to say, well, but it's not what the Legislature intended, and I appreciate that too. I just want to get that out to say there's both sides to this coin. [LR628]

JOHN CORRIGAN: Well, I think that's true. I mean we're not saying that this should be a benefit applied to everybody. But we do recognize that in public safety you send people to do a job which is inherently dangerous. The whole purpose of having the job is to protect the citizens from danger. And there ought to be, and is under the law, some obligation to provide benefits for those employees, particularly because we expect them to retire, and have for generations expected them to retire, earlier than we would expect other people. But what we're experiencing in our locals is the employees are getting trained, they're getting equipped, they're getting the knowledge and ability to do this kind of work, and we're losing them. They're losing them to other cities who will provide benefits that are more livable, for lack of a better term. And, you know, there's ways to deal with that. Employers always say, well, we'll fine them; we'll make them sign pre-hire agreements that will punish them if they leave. And if I'm sitting there looking at a 64 percent benefit in the next city I'm going to go to and you guys are going to pay me what works out to be a 24 percent benefit, fine me, you know? [LR628]

SENATOR KARPISEK: And I do definitely respect them and I'm very happy they're there. Those of us in rural Nebraska are used to volunteer firemen who do it for nothing, up at all hours of the night going out too. So I realize it's not the same, but it's kind of the same. And so again, we have the other side of that coin. But thank you, very good. [LR628]

JOHN CORRIGAN: Understood. Thank you. [LR628]

SENATOR NORDQUIST: Thank you, Senator Karpisek. Mr. Vice Chairman. [LR628]

SENATOR LOUDEN: Yes. Well, thank you for your testimony today. I'm not that familiar with these pensions on these larger cities because we don't have any larger cities out there. Anyway, my question is, if you don't pay into Social Security, how are spouses covered? And then how is your insurance covered after you retire? [LR628]

JOHN CORRIGAN: Well, if your spouse has a job then the spouse would, in all likelihood, unless the spouse is a firefighter, in all likelihood, they would be covered by Social Security. [LR628]

SENATOR LOUDEN: Yeah, but I'm not talking about that. I'm talking about like in Social Security the spouse is entitled to half of your benefit. [LR628]

JOHN CORRIGAN: Okay. Well, essentially what this benefit provides is a joint survivor annuity, which the employee can buy if they want, which will reduce their monthly income but they can buy an annuity which will pay them a benefit during life and then a smaller benefit to their spouse, the surviving spouse, after their death. Or they can get the value of the lump sum annuity paid to them all at once and then that's their nest egg and they have to make it grow to make themselves...to live. Now in terms of health insurance, generally, all these employers that I'm familiar with will provide group health coverage and you can have, you know, single coverage or two-party or family coverage. And as long as you're employed, the spouse can have coverage. But once you're not employed, the spouse and you are on your own. [LR628]

SENATOR LOUDEN: Now what about when they're 65? Because when you get 65, usually you can't buy any health insurance because theoretically you're supposed to be on Medicare. [LR628]

JOHN CORRIGAN: Well, they do pay in...they are eligible for Medicare. They just don't pay Social Security tax. So they... [LR628]

SENATOR LOUDEN: Then they have to pay that fee for the Medicare coverage... [LR628]

JOHN CORRIGAN: Yes. [LR628]

SENATOR LOUDEN: ...at 65, and that's how they get around that part of it. [LR628]

JOHN CORRIGAN: Well, it's just a benefit that they didn't get exempted from and so they pay into it and they receive the benefit of it. [LR628]

SENATOR LOUDEN: Okay. [LR628]

JOHN CORRIGAN: You know, ideally, if a guy had the 50 percent benefit and could survive on that, he could retire at age 55 and go out and buy health insurance and...or get some coverage through some other employment or through the spouse's employment. But at age 65, if the law stands as it is today, then they would be eligible for Medicare. [LR628]

SENATOR LOUDEN: I see. And then as I was reading some of this material that you had, and I think you sent us all a letter the other day, and there's been some stuff in the papers of lawsuits and that sort of thing, and they talk about the age of the...I think it's in this one here, I think talks about the age of the people that are getting ready to retire, the percentage, and then the younger ones coming in. Is there a problem that you don't have enough younger firefighters coming in to contribute to any of this retirement fund or anything? [LR628]

JOHN CORRIGAN: Well, I think the problem that some of the firefighters in the room will tell you that they have is that in rural communities they're getting people that will come in that are younger and then they're losing them. [LR628]

SENATOR LOUDEN: Hmm. [LR628]

JOHN CORRIGAN: It's not that...I mean there's a lot of people who want to be firefighters and career firefighting is very attractive, but if they can get the skills to do that work as a paramedic and as a firefighter or an emergency medical technician and then go to another entity which will provide them a better deal under their deferred compensation, they're seeing that. And that's...you know, some people stay. Obviously, they're committed to the community, that's their home, and that's really what we want. We want people that are in their communities and generating revenue for the community and doing all the good things that they do. But they were...a deal was made and they were...you know, the promise was, we're going to give you this benefit, and it's not working out. It's not what...it's not doing what it was intended to do. And if we highlight that to the new employees, maybe you'll have no problem. But when you tell somebody, oh, we're going to give you...you'll get a retirement benefit. They told me that when I was 24 years old and didn't pay any attention to it; now I pay attention to it. [LR628]

SENATOR LOUDEN: Now if these firefighters, like for...you mentioned these towns here--Grand Island, Hastings, all them--they're paid, they're a city employee, right? [LR628]

JOHN CORRIGAN: Correct. [LR628]

SENATOR LOUDEN: Now what kind of retirement benefits and that sort of thing do these city employees get? Are they just strictly Social Security? [LR628]

JOHN CORRIGAN: Generally speaking, most other civilian city employees are eligible for a defined contribution plan. Most public employers in the state of Nebraska will pay in maybe a three-and-three or a six-and-six plan, but there's not...outside of the civilian pension systems, I'm not aware of a civilian pension system other than those defined contribution plans that the employers, the cities, offer themselves that they develop on their own. [LR628]

SENATOR LOUDEN: Well, like here in the state, they not only have some of their retirement but they also pay in their Social Security and the whole works. I was wondering is there any way that any of that with these firefighters could be adjusted accordingly that they could choose to pay into both plans or something like that? [LR628]

JOHN CORRIGAN: If the Legislature wanted to change the benefit to make firefighters eligible for Social Security, I imagine that that would meet...it would need to have some buy-in from the actual cities and the firefighters themselves. But I don't know that that solves your problem in the context of your current plan at 19.5 percent of payroll providing a 24.5 percent benefit. [LR628]

SENATOR LOUDEN: Right. Then you're telling me they could still be eligible to retire at age 55 or whatever on their firefighters. But yet, if they were also eligible for Social Security, they could continue with their Social Security and when they become 65 or 67 or whatever it--because that target is moving--would be eligible then to retire on their Social Security also. [LR628]

JOHN CORRIGAN: They could. They could receive Social Security. There are anti...they call them anti-windfall provisions. So if somebody receives a retirement benefit from a retirement system, a railroad retirement or a pension system that was from noncovered Social Security employment, they're going to reduce their Social Security benefit so that you can't...you can double-dip a little bit but you can't get two retirements, Social Security and your pension, at the same time and get 100 percent of your Social Security. It's reduced significantly by law. That's part of the Social Security system. It's called the anti-windfall provisions. I couldn't think of the statutory provision off the top of my head though. [LR628]

SENATOR LOUDEN: Would legislation like that be something that the firefighters would be willing to look into or that they would be interested in? [LR628]

JOHN CORRIGAN: I think at this point they're willing to look at anything that's going to alleviate this problem. And we think that the important part of this conversation is that if anybody tells you that it's not a problem, we're going to have an argument. If anybody says, I've got a solution, then we're going to have a conversation. [LR628]

SENATOR LOUDEN: Well, yeah. Solutions are a little bit harder to come up with than creating problems, that's for sure. (Laughter) As I was reading some of this, what did I see, something in here like a $1.1 billion valuation is what the fund is valued at? Is that what I saw? [LR628]

JOHN CORRIGAN: I'm not sure what you're reading from, Senator. [LR628]

SENATOR LOUDEN: Okay. I thought I saw it in some of this paperwork that was handed out. What...and there's supposed to be a hole in there? Is that just the Omaha one that has the $610 million hole in it or something like that? And so what's your conclusion how to fix this thing? What would be your answer to it? [LR628]

JOHN CORRIGAN: Well, we're going to have that conversation as we approach the session, but with the amount of money that the city is paying now, I don't think that the city or the employee is getting a very good deal and there's probably a way to give a more comparable benefit, even with the existing funds that are...they just need to be redirected. And that's probably what you'll hear from us as we go forward. [LR628]

SENATOR LOUDEN: Okay. Thank you for your testimony. [LR628]

JOHN CORRIGAN: Okay. Thank you. [LR628]

SENATOR NORDQUIST: Thank you. Any other questions? Seeing none, thank you. Next testifier. Welcome, Dave. [LR628]

DAVID ENGLER: Good morning. I'm Dave Engler. I'm the president of the Nebraska Professional Fire Fighters Association. First of all, I appreciate your willingness to listen to our concerns on this issue, and John did an excellent job of looking at the legislative history and the concerns that we've got. Some questions came up that were very good. And so my testimony is going to be brief but, you know, our concern right now is there was an agreement, based upon the expectation, that was designed primarily to cure the unfunded liability the first-class cities had. And just to be very clear that...Omaha came up. Omaha and Lincoln are not part of this. They've got their own defined benefit pensions. So we're talking about the first-class cities in Nebraska. The expectation was that the new firefighters would receive the roughly equivalent benefit as the 50 percent, and that expectation has just proved to be unattainable. Now we've had a little bit of difficulty getting the exact numbers, but we've had actuaries look at them because we've had to go to the individuals and get those numbers. And so we haven't had a...I mean, we've got, you know, probably about 300 firefighters that are covered under this plan, roughly, and to get an accurate count is very difficult at this point in time. But the firefighters in the state, the first-class cities, we're not trying to get more, we're not trying to be greedy or anything like that. And when you talk about pensions, that's always kind of a...or...and I don't want to call this a pension because it's a retirement plan. It's not a pension. But when you talk about these things, it really gets the hair up on the back of people's necks and everything with the economy and all that. But what we're really looking for is something that gets the firefighters close to receiving what the plan was actually designed to do, not to make them millionaires, not to...you know, not so they can go buy vacation homes but so they can live. And I think as state senators, you know, your salaries have been discussed and you probably see some similarities between your salaries and what the firefighters are retiring on, based upon John's testimony. We have enough history at this point to show that this isn't working. This is not working as it was intended. And it's important to recognize that we need to find a way to get the benefit or a benefit close to what it was intended to do. There was a good question from Senator Louden about how come new people aren't coming in. You know, we've got new people moving out to get other jobs, but the real reason that new people aren't coming in on top of that is old people can't go, because they can't retire on the benefit that is being offered, and so they're hanging around. And firefighters, you know, age 55, which is when these people are eligible to retire, age 55 as a professional firefighter is really pushing it. And you're not going to get to 60 and you're not going to get to 65, because the number of injuries go up drastically, the number of heart-related illnesses go up drastically, and then you're looking at disability pensions and that sort of thing. So, you know, 55, most retirement plans for firefighters and public safety officials are from 50 to 55. In that, we're on the top end with 55 here. And the purpose isn't so you can just go out and have fun for a couple years. It's because you become a liability at that age. And being a professional firefighter is work and it's labor, and so it's not one of those things where you can sit behind a desk and relax for a couple years. So that's one of the reasons we don't rely on Social Security, because you don't get the benefit until you're too old. And so, like John said, we're open to the conversation of trying to find a solution to the problem. But after the years that we've had since 1984, this has been identified as a problem and we keep hearing from our firefighters that it is a problem. So with that, I'll entertain any questions you've got. [LR628]

SENATOR NORDQUIST: Thank you, Dave. Questions from the committee? Senator Louden. [LR628]

SENATOR LOUDEN: Yeah. Okay, thank you, Senator Nordquist. As I read some of this stuff that Professional Fire Fighters Association, the AFL-CIO, and they're talking about in here 19.5 percent contribution and, yet, those firefighters only get about a quarter of their salary when they retire. Where's all the money going? I mean why is that? Do you know? Do you have a... [LR628]

DAVID ENGLER: Well, I'm not...I'm certainly not a real expert on this area, but one of the things I can tell you is most of the defined benefit pension plans...and we're not here proposing anything, but I guess I'm trying to give you a little bit of an example. Most of the defined pension plans are funded with that amount of money. And so we're a little bit shocked that the number is a quarter of the person's salary because it should be much better. Now I think it was Senator Mello talked about how we've got individuals out...the plans are not combined into one plan so there's costs that go on the employee for the investing and that sort of thing, which reduces that. So their money is...right now, the way that the system is set up, they're not getting the most bang for their buck, which is reducing what their benefit is in the end. [LR628]

SENATOR LOUDEN: Now when these people are...are they paid by the hour or paid by the month or how are they paid? [LR628]

DAVID ENGLER: Typically across the state, firefighters are paid hourly. [LR628]

SENATOR LOUDEN: By the hour? [LR628]

DAVID ENGLER: Yes. [LR628]

SENATOR LOUDEN: How many hours a week do they put in? [LR628]

DAVID ENGLER: Most...it varies, but it's from 53 to 56 hours a week. [LR628]

SENATOR LOUDEN: Okay. And how much an hour do they figure? [LR628]

DAVID ENGLER: That would be dependent on the various cities but I'm going to guess...oh, I couldn't even give you a good guess on what the hourly salary is. I'd say around $14 maybe. That's just a guess. [LR628]

JOHN CORRIGAN: It depends on the classification too. [LR628]

DAVID ENGLER: Right, yeah, and there's a difference in classification with...you've got a firefighter, a captain, a paramedic. They all make different, according to the state law. [LR628]

SENATOR LOUDEN: Do they get paid more per hour than the mayor's secretary gets paid an hour? [LR628]

DAVID ENGLER: That I don't know because I don't know what the... [LR628]

SENATOR LOUDEN: That's what I was wondering: How does their wage compare to other people that are working for that same city? [LR628]

DAVID ENGLER: I don't know. [LR628]

SENATOR LOUDEN: Okay. [LR628]

DAVID ENGLER: The salaries are set according to the Nebraska state law on comparability, so... [LR628]

SENATOR LOUDEN: Salaries are set by Nebraska law or are they set with their...I guess working it out with the city and the Fire Fighters Association? [LR628]

DAVID ENGLER: Well, typically based upon comparability, under the Nebraska statute. [LR628]

SENATOR LOUDEN: Okay. Thank you for your testimony. [LR628]

DAVID ENGLER: Uh-huh. [LR628]

SENATOR NORDQUIST: Senator Mello. [LR628]

SENATOR MELLO: Thank you, Senator Nordquist, and thank you, Dave. And it's kind of a follow-up question I'll be asking, assuming the League of Municipalities will be coming up testifying as well, which is Senator Nordquist mentioned kind of the concept at the state level in regards to the cash balance plan in comparison to a defined contribution plan. Is that...knowing that it seems or it sounds like, at least, some of the local pension management is kind of an issue, so to speak, in the sense of...you know, I would even argue myself, by no means am I an investment expert, you know, or would I say that I'm even close to still scratching the surface of investing, let alone someone who's obviously, you know, working full-time, essentially going in, I would say, risking their lives day in and day out. That's the last thing probably from their mind is looking at what kind of investments they're trying to make when they're trying to save people's lives. If the local pension issue is part of the issue, is that something that you think the association and the members you represent would be willing to look at in regards to maybe trying to transition first-class cities' firefighters from the local DC plan to maybe--and it's something I asked our legal counsel and maybe something we have to bring up, too, obviously with the police officers as well in first-class cities--of transitioning maybe to a defined...or a cash balance plan similar to at the state level where you're able to pool all that management into one area, where the cities would be able then to guarantee that 5 percent benefit every year, similar to how it is for the state's 5 percent guarantee, so that it provides a little bit? It may not ultimately solve, like I say, the issue that has been raised today in regards to the original concept of the proposal back in the '80s, but is that at least a proposal that for us as members and the committee counsel and we could start to maybe think about a little bit more after today? [LR628]

DAVID ENGLER: We are definitely open to any and all options that people come up with. You know, like I said, our goal is to try to get us closer to what the plan was designed to do as far as benefit goes. Now how we get there, we're really open to discussion. Because again, you know, we're just trying to create a situation where we have a reasonable retirement that doesn't basically put our firefighters eligible for governmental assistance to eat every day, so. [LR628]

SENATOR MELLO: Okay. Thank you. [LR628]

DAVID ENGLER: Uh-huh. [LR628]

SENATOR NORDQUIST: Any other questions from the committee? Seeing none, thank you, Dave. [LR628]

DAVID ENGLER: Okay. Thank you. [LR628]

SENATOR NORDQUIST: Any additional testifiers? [LR628]

SCOTT KUEHL: Thank you. My name is Scott Kuehl. I'm the president of the local in Grand Island, Nebraska, and I appreciate you guys taking some time to listen to me today. I'm also on the pension board for the city of Grand Island and I've seen this storm coming for quite a while. And starting on that job on the pension board about 10 or 12 years ago, I didn't know a whole lot about investing either, I probably still don't, but I've learned a little bit about it. And one of the things that was frustrating for our pension committee is that we would see these investments, this 19 percent that we're talking about today, and it's only getting you 25 to 30 percent after so many years of service. We started asking the questions in the pension committee as what is it costing for us to invest. And, believe it or not, the banks weren't very forthcoming with that information. They'd get a 14-page document to show basis percentage points, and all these things that I really don't know what that means. And in doing some research, I found that it's more understandable for me that we seem to be buying this investment on a retail level as opposed to a wholesale level. And I think that's kind of maybe where you guys are kind of coming from with the state plans, and Dave has kind of said and John said, you know, going to get more bang for your buck, because it is what it is. I mean right now I've got two firefighters I can talk about today, one that retired about a year ago. He was a firefighter for his entire career and never progressed up any promotional levels and was roughly making $50,000 when he retired. And now he's living on about a $1,300 check he gets from his...just shy of $300,000 he left with, and has to pay taxes out of that and then he has to find health insurance from that. It's not working. I've seen him out there. He's trying to pick up part-time jobs. He's not unlike any other firefighter where at 25-30 years of service you've got bad knees, bad backs, bad shoulders. There's not a lot of physical jobs you can do out there. He said he's had a hard time getting jobs because he's 55, 56, 57 years old, because he's that old. And so it's been tough on him. I've also got another firefighter who started out as a firefighter, is now currently still employed and a captain and he's 57.5 years old. And he looks at that amount he has daily in his account and he right now cannot afford to retire. His exact words to me were, it's pretty sad when you have to look to potentially get hurt bad enough not to come back to work but still walk, because he would get more of a benefit in that scenario than he has right now. That kind of stuff hits me pretty hard, because I'm 46 years old. I'm fast approaching that. I didn't think about it when I was 28, 27, when I started. I'm thinking about it more and more. We've looked at ways within our retirement committee to try to assist our firefighters so that they wouldn't invest badly or move their money around when they shouldn't be and doing those types of things, and we've just come up against stonewalls all the time because state statutes allow this and don't allow that. And we try to negotiate extra money outside of there and 457 plans and other types of things. Well, that becomes a comparability issue, so that goes out the window faster than I can finish the sentence. Because the city of Grand Island is in the precarious position of being the biggest first-class city, we've been able to go outside the city, but we still have to compare within the state of Nebraska, which is not a problem. But it's just a problem that exists that to try to do something outside of comparability goes nowhere. Even if we'd come up here and go to court order, it's going to go nowhere. One of the underlying things that I just can't figure out, in all the research I've done being a firefighter in the city of Grand Island for 18 to 20 years and looking at all these issues for when I could retire, I don't understand how the state of Nebraska differentiated between a first-class city firefighter and a Lincoln and Omaha firefighter. I see a house fire the same in Scottsbluff as I do in Omaha, and I do in South Sioux City and Lincoln, and in Beatrice and Grand Island. I mean car accidents are the same, heart attacks are the same. I don't understand how we got there. I feel somewhat like a second-class citizen because I decided to be a firefighter in Grand Island and stay in a small community. It's not that I want the same benefits, because in the bigger cities you get bigger pay. So if your retirement is based upon your pay, and so is your...you know, if your salary is bigger, your retirement is bigger. Well, in Grand Island, ours is smaller than Lincoln and Omaha. So that's one thing I can't quite grasp in this whole thing of how we got there in 1983. I think that needs to be fixed. I think there's ways to do it. We've talked about some of them. I like the idea of a big pool. You know, I know what you do with, you know, teachers and State Patrol and other state employees. I think we're in the right direction, but I'm here to tell you that I've got two or three people that are living it right now and it's not working. And, you know, they were told...it wasn't a guarantee, but when you go to these retirement companies and they come in and give you your analysis of what you might be in 25 years when you retire. Even I've got one that I pulled out not too long ago. They said I'd be a millionaire; I'd have a million dollars in my account when I retire when I was 55. The economy is really going to have to go strong because I haven't made the $200,000 mark in my account yet and that's 18 years of 20 percent, you know, shy 20 percent of putting money in, so. Someone said something about that Grand Island had a little bit bigger amounts in our accounts per firefighter, and that is true, because in my research with the Wells Fargo people who run our account now, because Grand Island has 63 firefighters plus our administrative staff, it puts up to about 68 people. That amount of money is a very big amount when you add it all together. It's bigger than what Hastings has, Fremont. We get a better deal on our investment strategies and investment costs, so that's a big deal. So if you just expand that out, if we would have all first-class cities, all firefighters, all cops in the same program like they do in other states, you would see the benefit soon. I mean I don't know how soon, but the mathematical formula is there for if it costs you less going in, you're going to get more going out. So with that, any questions for me specific to Grand Island, I could sure help answer. [LR628]

SENATOR NORDQUIST: Thank you. Thanks. Any questions from the committee? Seeing none, appreciate your testimony. [LR628]

SCOTT KUEHL: All right. Thank you. [LR628]

SENATOR NORDQUIST: Next testifier. Any additional testifiers on this resolution? Thank you. Welcome, Lynn. [LR628]

LYNN REX: Good morning. Senator Nordquist, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities, and I can provide a little bit of interest for you, perhaps, and background on how this came about. Back in the late '70s and early '80s, we had municipalities, first-class cities across the state that were struggling both on the police and fire side with unfunded liabilities, not unlike what's happening all across the country now. I was just in a conference last week with some of my colleagues, and in Rhode Island I think they have one city in receivership now, two more on the way. The pensions, the defined benefits are part of that, a significant part of that. But back in the late 1970s and early '80s, we had cities that were really challenged with this and, again, they relied on investment advisors as well. I'm not saying that every city did the very best job they could possibly do, but they thought they were doing the best job that they could possibly do. And the Legislature--I want to underscore this--when the Legislature passed the mandates on first-class cities to provide a 50 percent pension benefit for police and fire, the Legislature provided not one dime. So they started out in the hole, some cities more than others, because of course if you had officers that had been there longer that would then be retiring in a few years at that time, then you're in a position where they would have no real significant contribution to their own retirement. So this start, we started out in the hole as municipalities. In addition to that, John DeCamp, who worked with us on also LB237 and LB531--LB237 was a bill involving the police officers, LB531 was the bill, as John Corrigan correctly stated, involving firefighters--at that time he also was exploring bankruptcy for municipalities in the state of Nebraska because we had a few cities that were actually considering the possibility of how were they going to deal with this. Hastings, Nebraska, at one point--and I don't remember if it was on the police side or fire side--actually had to go to a vote of the people with a bond issue to pay off unfunded liabilities. We had a city like Fremont, Nebraska, that had an outstanding, frankly, city administrator, not that our other cities don't and did not at that time, but, frankly, Jack Sutton was one of the best financial people in the state. And they were working with one investment banker, thought they were fully funded; changed investment bankers; and because the assumptions changed, which does happen on defined benefit plans, they ended up in the hole by a couple million, on paper. So...but those things matter. So basically, we were looking for a way here, and the firefighters and the police officers were looking for a way, because one thing is very clear with the defined benefit plan--and this is, again, happening nationally as we speak--and that is that a defined benefit plan is a promise, that's all it is, and that can be changed. It's been changed in the private sector. Ask the Enron employees, ask Aquila employees, there are other employees that have faced that too. I'm not saying it's a good thing but I'm saying it does happen. On the public sector side, that's happening as well. So this is a very serious time for our economy, and in addition to that, one of the things that was done back in the late 1970s and early 1980s as we negotiated this is that the proposition of having uniform investments, pooling the investments, was an idea that Dave Chambers brought to both groups, and that was absolutely defeated by both the police officers and the firefighters. They wanted the right to invest their own money. And we said, after some negotiation, because it was very important for us to get to a point with a defined contribution plan so cities could eventually try to work their way out of this situation, and what I can share with you at that time is that the trade-off at that time was, okay, but you're going to have to have a professional investment manager, you at least have to do that. And I will tell you that the league at one point, every few years, we don't do it anymore, but we were actually going out with cities, contracting for all the first-class cities to say, okay, tell us what your investments are, how is it going. And the reason we don't do it anymore is because the investment bankers and others were extremely upset with us because that information was public, and we had some cities who did, on the police and fire side, who did extremely well, other cities which did not. So basically, that has to do with, I'm guessing, the counsel of their investment advisor to that particular investment committee, and individually then firefighters and police officers, as you and I do as well on a 401(k) or whatever or a 457 plan, get to decide which, out of this set of investments, which ones are you going to select from. The statutes on both the police and fire side require that it be invested pursuant to the Nebraska Investment Council, so it's just not an all-out proposition on what people can invest in. So I can just share with you in terms of the negotiation that both on the police and fire side at that time, and I don't know if there's anyone else in the room that was involved in the negotiations, I was, as the assistant director for the league, then involved in those. But I can assure you that they understood unequivocally what was facing our cities in the state because the Legislature, we had come to the Legislature asking for dollars; the answer was no, no, and no again. And of course, since that time now we've lost all state aid. We've had our Municipal Infrastructure Redevelopment Fund taken away, and we're facing, I'm sure, other things down the road and also increasing costs from state agencies and fee increases from state agencies, whether it's DEQ or name the agency, because as a state, you're trying to balance your budgets too. So in any event...and I will also tell you that, doing the numbers in terms of what we saw back then, that...and, of course, I don't think anyone could predict what the interest rates are going to be, and if I could have done that I wouldn't be sitting here. So basically I think there's no question folks thought that with proper investments that they could reach that kind of a benefit level. I also want to underscore that the firefighters...my understanding was, from them, I have not researched this personally, but during those negotiations the reason why we came in originally with the 7 percent/7 percent proposition was because we were looking at the fact that firefighters were in Social Security, and they said, well, we're not and that's unfair and you need to give the same contribution to us that you do to the police. And so that's why you have the inequity between the police and the fire. And, in fact, the police even get a lower percentage than do the fire, on the fire side. So, for example, whereas a police officer gets a total of 18.7 percent--a 6.5 city contribution, and due to your bill last year it will eventually go to 7 percent, with a 12.5 and a 6.2 percent Social Security paid by the city, you're looking at 18.7 percent total; whereas, as already noted, on the fire side you're looking at 13 percent and then 6.5. But the reason for the 13 percent, which has been a very sore spot with the police officers, is because to make up that difference, if you will, on the Social Security element of it. And I can also share with you that back then we were asked, you know, we'll look into that, and one of the firefighters indicated to us and provided us some documents. I can see if I can go back and find that document. But basically the firefighters, when Congress was going through this, they are the ones that successfully--and, boy, didn't they have vision--opted out of the Social Security plan. That was their choice to opt out of that, is my understanding. But whether it was their choice or not, the fact is they're out of it. And frankly, I'll tell you most employees, if given the chance, would opt out of the Social Security plan. I mean I don't know if any of you would; I certainly would. I don't know of any city administrator in the state that wouldn't opt out of it or any...the police officers would love to be able to opt out of it. And I will also share with you that at one point John DeCamp also brought forward to the Nebraska Legislature to allow public sector employees to opt out of Social Security, and the Legislature simply wouldn't go there either. So there are lots of things that were tried to be done, I think, to make some equities. And I think one of the things, too, that's important, I don't know which one of you asked the question, I think it was you, Senator Louden, what do other employees get. On a conference call we had yesterday with those cities that have paid firefighters in the state of Nebraska, they all have, on a defined contribution plan, 6 percent for their employees, for civilian employees. So it's a 6 percent. And, obviously, the healthcare benefits are the same whether you're a firefighter in Grand Island or you work anywhere else for the city of Grand Island. But cities, as we were talking to you last year about the police side, are concerned about internal equities, the equities from whether you're working as a firefighter or you're working as a utility worker. Utility workers actually have a higher incidence of injury. So we're trying to be cognizant of that as well. And obviously, the overriding thing is, wouldn't it be nice if we could all have better pensions? Wouldn't it be great if cities could provide the kind of pensions they'd like to provide? It's a function of money too. Every time the Legislature mandates something, it's going to be, at the end run, a tax increase in some way, shape, or form when you're looking at this. So make no mistake, it started out as one of the largest unfunded mandates on municipalities in the state of Nebraska and that was putting cities in the hole, in the tank on day one with unfunded pension plans. The Legislature, to your credit, and I realize these were your predecessors, but they didn't do that on the teachers' side, they didn't do that on the judges' retirement, they didn't do that on the State Patrol, they didn't do that with any other group of employees. And so with that, I'd be happy to answer any questions you might have. [LR628]

SENATOR NORDQUIST: Great. Thank you, Lynn. First of all, would there be any way for the league to survey the first-class cities and get information? The information provided to us is we have, you know, nine sampling of account balances here. Would there be any way to get more detailed information? [LR628]

LYNN REX: If you want to tell me what you want. [LR628]

SENATOR NORDQUIST: Okay. Okay. [LR628]

LYNN REX: And, you know,... [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: ...we're happy to... [LR628]

SENATOR NORDQUIST: Yeah, okay, maybe we'll have that... [LR628]

LYNN REX: ...ask the cities to provide that for you. [LR628]

SENATOR NORDQUIST: ...that conversation. And then just in general, as we've been talking here... [LR628]

LYNN REX: Let me make this, if I may. [LR628]

SENATOR NORDQUIST: Oh, yeah, go ahead. Yeah, sure. Sorry. Yeah. [LR628]

LYNN REX: I don't mean to interrupt you but just so I can underscore this part of it: to the extent that it's not proprietary. [LR628]

SENATOR NORDQUIST: Sure. Sure. [LR628]

LYNN REX: I mean individual... [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: ...the amounts of individual officers,... [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: ...that sort of information. [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: But lump sum I would think that they would have no problem with. [LR628]

SENATOR NORDQUIST: Uh-huh. Okay. [LR628]

LYNN REX: But I know...I can't imagine there are many officers that want their information out there. [LR628]

SENATOR NORDQUIST: Yeah, yeah. Sure. [LR628]

LYNN REX: And I think that that's the issue. I mean if they want to release that then that's...they certainly can do that. A city does not release that kind of information on a per-officer basis,... [LR628]

SENATOR NORDQUIST: Sure. Sure. Great. [LR628]

LYNN REX: ...other than their salaries, which is public information and also published in the paper. [LR628]

SENATOR NORDQUIST: Uh-huh. Uh-huh. Yeah, absolutely. So kind of what's sticking out here for me is you're right when you say it's a factor of money, but I think we need to look at if there's any way to more efficiently use the dollars that we are putting in. Nineteen-point-five percent as the total contribution seems like it should be a sufficient amount if managed appropriately. So I guess, as we were talking about the idea of some sort of a cash balance or at least a pooling of resources, and you said in the past the league was interested in that initially. Is that something that the league would entertain again if there was a way to mitigate liability or, you know, have a small long-term liability on that? [LR628]

LYNN REX: I can certainly take it back to the cities involved in this and I will do so. [LR628]

SENATOR NORDQUIST: Okay. [LR628]

LYNN REX: You know, at this point, again, one of the issues that was raised in terms of who can invest which amounts of money,... [LR628]

SENATOR NORDQUIST: Uh-huh. [LR628]

LYNN REX: ...there are some cities that allow the investments on both sides, the part that the city puts in as well as what the employee puts in. There are other cities that do not and that's because there's been a history in some cities that the amounts that are invested on the firefighters' side, in particular, can be invested in something riskier than perhaps a city would normally invest in. [LR628]

SENATOR NORDQUIST: Uh-huh. Sure. Sure. [LR628]

LYNN REX: So those are all issues that come into play here and they're serious issues. [LR628]

SENATOR NORDQUIST: Uh-huh. Yeah. Yeah. [LR628]

LYNN REX: But when you look at the level of contribution, I, too, think that's a pretty significant contribution. [LR628]

SENATOR NORDQUIST: Uh-huh. Uh-huh. I just think that we lose...we're losing so much, either due to inadequate investment decisions or high fees on those, that so much of the assets get sucked away and not maintained for the participants. So hopefully we can talk about this and see if there is any avenue forward. [LR628]

LYNN REX: Yeah, I'll certainly take it back and... [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: ...but again, just to underscore this, David Chambers, the director at the time, is the one that proposed that and the city administrators on the negotiating team with us that met with the firefighters and the police officers. And those were done separately, by the way. Those negotiations were done separately, the police first and then the fire. And clearly, at that time certainly, it just made sense to have all of that done. And we even suggested, you know, a type of pool concept... [LR628]

SENATOR NORDQUIST: Uh-huh. [LR628]

LYNN REX: ...where there would be officers...in other words, you take their local investment committee that they've now structured in statute or that has...they didn't structure it but it has been structured and agreed to in statute, and if that was done on a statewide basis... [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

LYNN REX: ...so that basically, yes, the monies were there but they would have representatives, cities would have representatives, because we've got a dog in this fight too. [LR628]

SENATOR NORDQUIST: Sure. [LR628]

LYNN REX: We're still paying for unfunded liabilities. We still have cities in the unfunded liability category still trying to, you know, get out of that from the defined benefit plans, so. [LR628]

SENATOR NORDQUIST: Sure. Sure. [LR628]

LYNN REX: But I'll certainly take it back to them for their consideration. [LR628]

SENATOR NORDQUIST: Uh-huh. Thank you. Any other questions from the committee? Senator Karpisek. [LR628]

SENATOR KARPISEK: Thank you, Senator Nordquist. You talked about Senator DeCamp trying to opt...or asking if public works wanted to opt out of Social Security? [LR628]

LYNN REX: If...to allow the State Legislature. The Congress, at one point, gave states the option, and there was a deadline on it, of having public employees have the right to opt out of Social Security, and some of them you can do it as either a state or, for example, local governments could do it at that time. And basically, the Legislature was not receptive to allowing that to happen. [LR628]

SENATOR KARPISEK: So is there any way now that the Legislature could opt people in? [LR628]

LYNN REX: Into Social Security? [LR628]

SENATOR KARPISEK: Yeah. [LR628]

LYNN REX: I have no idea. I don't know. My guess is it's a federal issue. I don't know, though. [LR628]

SENATOR NORDQUIST: There's a... [LR628]

KATE ALLEN: Well, there's a referendum process. We have the statutes in Nebraska statutes. [LR628]

LYNN REX: Oh, okay. Okay. [LR628]

SENATOR NORDQUIST: All right, well,... [LR628]

LYNN REX: I mean obviously that would have an impact on the contribution rates then. [LR628]

SENATOR NORDQUIST: Yeah. [LR628]

SENATOR KARPISEK: Sure. [LR628]

LYNN REX: I mean, if that's going to happen, then we'd want...we would lower it. [LR628]

SENATOR NORDQUIST: Sure. [LR628]

SENATOR KARPISEK: Well, and I think that we'd definitely want to talk to them, and like you said, we'd probably all like to get out. So I'm just asking questions on that, all right? [LR628]

LYNN REX: Yeah. Yeah. [LR628]

SENATOR KARPISEK: Thank you, Senator. [LR628]

SENATOR NORDQUIST: Great. Thanks, Senator. Senator Louden. [LR628]

SENATOR LOUDEN: Yes. And thank you, Senator Nordquist. Well, thank you for your testimony, Lynn. As I understand this, these are defined benefit retirement funds. Is that... [LR628]

LYNN REX: No. It's a combination of both, Senator. [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: The agreement back in 1983, when LB237 and LB531 passed, was essentially this, that an officer would be--is; not would be--is entitled to the greater benefit of what they would have had under the defined benefit plan if they were hired before January 1, 1984. If they were hired as a firefighter or a police officer before January 1, 1984, then they were entitled to the greater benefit of the defined benefit plan or the defined contribution plan. If you were hired after January 1, 1984, Senator, then it's only a defined contribution plan. [LR628]

SENATOR LOUDEN: Okay. But they were supposed to be guaranteed 50 percent of their... [LR628]

LYNN REX: No. [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: No, there's no guarantee that that doesn't happen. Actually, there's no guarantee. That's a misnomer. There's no guarantee with a defined benefit plan. Again, that's simply a promise. With a defined contribution plan what officers were guaranteed is that what the city puts in and what they put in is what they would have, and that...and then plus their investments and plus interest due to those investments. That's what they were guaranteed as what would go in. Now what comes out on the back end, obviously, is a different situation, but I think that John Corrigan very aptly stated that there was, based on the percentage of 19-some percent, that the actuaries at that time said that you ought to be able to approximate approximately 50 percent of the benefit. [LR628]

SENATOR LOUDEN: Yeah, and it's 24. Well, that leads to my next question. Then as these firefighters contribute to this fund, do they individually have this fund in there that they've individually contributed to, I guess sort of like a 401(k) type deal or something like that? [LR628]

LYNN REX: And the firefighters could probably speak better to this than I can, but I can, from what the city administrators tell me and the city managers, basically you've got...they can do a printout of every firefighter, every police officer, indicating here's what the city contributions have been, here's what the firefighter or police officer investments have been, and then, plus interest, here's what it is. [LR628]

SENATOR LOUDEN: Okay. And now... [LR628]

LYNN REX: And they get that or my assumption is that they're getting that on a regular basis from their investment committees, because they all have investment committees and they should have professional investment advice with that. [LR628]

SENATOR LOUDEN: Now what happens to that money? Say a firefighter works as a firefighter for ten years, and then he decides to go? You know, cattle business is great. Maybe he wants to be a cattle feeder or something, so he goes out of that. What happens to that money that he's put in there then? [LR628]

LYNN REX: Well, if you're a defined contribution plan and you're fully vested, then you get what the city put in, plus what you put in. [LR628]

SENATOR LOUDEN: You get what the city put in also... [LR628]

LYNN REX: Oh sure,... [LR628]

SENATOR LOUDEN: ...or just what you put in? [LR628]

LYNN REX: ...if you're fully vested, which you would be in ten years. So you get what the city puts in... [LR628]

SENATOR LOUDEN: Well, I was going to say like the teachers' retirement, you just get what you put in; you don't get what the school system put in. [LR628]

LYNN REX: I can't speak to the teacher plan. [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: What I can say, though, is that with respect to this plan... [LR628]

SENATOR LOUDEN: They get the whole bundle. [LR628]

LYNN REX: When you're vested. You're vested, and... [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: ...you know, if you're only there for two years and you're not vested yet, then it's going to be a different deal. But if you've been there for ten years, you're going to be fully vested and you're entitled to what the city has put in during that length of time into your plan, as well as what, obviously, what you've put in,... [LR628]

SENATOR LOUDEN: You can draw that whole... [LR628]

LYNN REX: ...plus interest. Yes. [LR628]

SENATOR LOUDEN: ...draw the whole thing out. [LR628]

LYNN REX: Yes. Yes, sir. [LR628]

SENATOR LOUDEN: Okay. Now if you've been in there for...until you're 55, can you... [LR628]

LYNN REX: And again, in terms of how that is structured, I would have to check to see whether or not you just get it in a lump sum. My guess is you do, but I'll have to check. [LR628]

SENATOR LOUDEN: Okay, because that was my next question. If you're 55, can you take your lump sum out and do what...and go? [LR628]

LYNN REX: Upon retirement and eligible for retirement, lump sum is one option. Another option is the annuity option. [LR628]

SENATOR LOUDEN: Okay, at 55... [LR628]

LYNN REX: But I have to go back and check. [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: I would think they could at ten years. I mean certainly I would think they could take that out. I don't think they have to leave it there, but certainly it's their money. [LR628]

SENATOR LOUDEN: Uh-huh. Okay. And that's what I was wondering. They can actually take that. After a period of years, they can take that lump sum out any time they so decide to quit. [LR628]

LYNN REX: I will check into that and get back to you. [LR628]

SENATOR LOUDEN: Okay. [LR628]

LYNN REX: But it's certainly their money. In other words, that money doesn't go...it isn't that the city can use it to fill potholes. [LR628]

SENATOR LOUDEN: Now just for a what-if situation, if there was legislation out there that would allow them to go in on Social Security, could one of these firemen go in there and take his lump sum out that he's...he's been in there for a period of years, of course; take his lump sum out and then opt to go in on Social Security from then on if there was legislation drafted to allow that? [LR628]

LYNN REX: I don't know. [LR628]

KATE ALLEN: Not if they're still working. [LR628]

LYNN REX: Yeah, I mean I can't...oh, no, not if they're still working. No. You're saying if they're still working, Senator? [LR628]

SENATOR LOUDEN: Well, I mean if you set it up so that they could opt in to go in either Social Security. If you're worrying about the pension plan or their retirement plan, they could take their lump sum out, and then if it was set up so that the city then would put them in on their Social Security, is what I'm wondering. Would that work? [LR628]

LYNN REX: I would not think so, no. And also... [LR628]

SENATOR LOUDEN: Why wouldn't it work? Because if they quit...if they quit and go do something else, they can take their lump sum out and... [LR628]

LYNN REX: It's portable at that point, that's true. [LR628]

SENATOR LOUDEN: And if they quit and went to work for, you know, like I say, do anything else, feed cattle or whatever, so then if they could actually then, why couldn't they then take their lump sum out as a fireman and still work as a fireman but then go in on Social Security if that was allowed to do that, if the legislation was drafted so they could do that? [LR628]

LYNN REX: I don't know if it's permissible or not. I don't know. I'd have to research it and we can talk to your committee counsel about it. Kate, do you know the answer to the question? [LR628]

KATE ALLEN: Well, that assumes it's...that you're saying that they would only pay into Social Security and they would stop being a local retirement? [LR628]

SENATOR LOUDEN: Yeah. [LR628]

KATE ALLEN: Oh. [LR628]

LYNN REX: Well,... [LR628]

KATE ALLEN: I don't know. I'd have to think about that. [LR628]

SENATOR LOUDEN: Well, they'd have two... [LR628]

LYNN REX: But I mean the difference...again, I just want to underscore, the difference between the police and the fire side, the reason why firefighters are getting 13 percent and police officers are now getting 6.5 percent, and for years they just got 6 percent, is because of Social Security, to make that differential, to make that the same. So if you're going to put them into Social Security, then that's a different deal. Then we would need to reduce that amount. [LR628]

SENATOR NORDQUIST: Yeah. Great. [LR628]

SENATOR LOUDEN: Okay. Thank you. [LR628]

SENATOR NORDQUIST: Thank you, Senator Louden. Senator Mello. [LR628]

SENATOR MELLO: Thank you, Senator Nordquist. And thank you, Lynn, for your testimony. As always, you provide very good legislative history on a variety of issues we've worked on together. So I'm very appreciative. One thing, though, Senator Nordquist mentioned and I want to make sure that we get it clear in the sense of we know the system right now is broken, essentially, and it is very tough, at least from the research we've been presented, understanding the legislative history, that right now firefighters within the first-class cities essentially are retiring at significantly less than what they were promised when this compromise bill was passed. For us to be able to move forward, I think, as a committee, working hand in hand with the Fire Fighters Association and the cities, this data that Senator Nordquist was mentioning, and we can show it to you afterwards in regards to what the Fire Fighters Association gave us, is going to be probably pretty critical as we move forward, since they're only talking about 300 firefighters in these first-class cities. They've provided us a spreadsheet here of age, years of service, the retirement account value, and their salary, and being able to breakdown an average. You gave Senator Nordquist, I kind of felt, like an answer that you'll try to get that. But as long as I mean we get sensitive information all the time, I would say, as senators and legislators in regards to trying to find ways to forge compromises on difficult issues. This, no doubt, is a very difficult issue because it involves local control and it involves collective bargaining, and it involves, obviously, the fiscal health of our cities. [LR628]

LYNN REX: Right, and tax increases. [LR628]

SENATOR MELLO: And tax increases potentially. You don't see a problem with the information that I just laid out to you that that will be difficult from your end, because they were able to get it from a small number of nine members, is what they gave us here. Would it be more advantageous for us to work with the Fire Fighters Association and get this data or to work with the cities to get it? Because I think Senator Nordquist's question was fairly...I mean it sits at the foundation of anything we would look at, is we need to be able to understand what the future holds for the current 300 employed firefighters, in the sense of...and throw in Senator Nordquist's and my hat as appropriators too, something that wasn't mentioned in regards to just looking at this example here is that you have an average, an individual single firefighter who tries to retire at the age of 55 with 26 years of service still qualifies for Medicaid, still qualifies for SNAP. Those obviously has an impact on the state's budget in regards to the potential aspect of public servants and those who spent 30 years in public service retiring, possibly unable to get a job because of their age in regards to the way the economy works right now, qualified for state benefits that ultimately impact the state's budget. So I just want to impress upon you that obviously you've been a willing partner in a variety of other issues that affect cities. For us to not be able to get the data we need, though, in the sense of being able to work, I understand the sensitivity in the sense of the individuals not wanting to be identified by name or by Social Security number or things of that nature. But for us to be able, I think, to move forward on anything, getting this data I think ultimately is something that we can't really move forward with looking at any ideas or any compromises... [LR628]

LYNN REX: Right. [LR628]

SENATOR MELLO: ...without getting the hard information that we're going to need. And as our legal counsel emphasized, that looking at just this, we don't have names, we don't have identifiable indicators with any of the data the Fire Fighters Association has given us for today's hearing. So hopefully moving forward that's something that the league can help I think smooth over with first-class cities. Or if we have to, I think, if it's better for us to move to the Fire Fighters Association to get that data, that's...there's no way we can really do anything without that, I should say. [LR628]

LYNN REX: Well, one thing I can assure you is that if you give me a format that you're interested in, we'll get it to the cities that are involved and ask them about how they can provide that, if they feel that they can provide that. And certainly anything that's public information they're going to provide it readily, so. And then...and I don't know if it's...then if it's a function of getting waivers from individual firefighters on releasing information or not. I simply don't know where the level is of what's proprietary and what isn't. [LR628]

SENATOR MELLO: Would that same concern fall under information that would come from the cities or the cities' pension, the cities' pension board, so to speak? I mean if we wanted to see... [LR628]

LYNN REX: Right. [LR628]

SENATOR MELLO: ...the rate of return over...the bill passed, was it in '83? If we wanted to see a 30-year investment return after the creation of this new DC plan, by year, by firefighter if we wanted to, to see how things were shaping up... [LR628]

LYNN REX: Oh, that could be a little problematic, I think. Maybe not. I don't know. Maybe... [LR628]

SENATOR MELLO: If it's not by...once again, if there's no identifiable...if there's no identifiable data or marker that would say Lynn Rex is firefighter X and Heath Mello is firefighter Y, if we were able just to get that rate of return information, because I think part of the issue is that--and it seems to be fairly clear today--is that there hasn't been a very cohesive or I would say even strategic alliance in regards to ensuring the rate of return that would equate to that 50 percent wage, you know, the 50 percent of the wages that firefighters, in theory, were promised or when the agreement was made between the league and firefighters in the '80s. They're nowhere near that, in the sense of...and Senator Nordquist asked the question first of whether or not it's a management issue, whether or not it's a determination of city governments giving these pensions with the police and fire to a cash balance-like system that the state has, because this committee has heard over the four years I've been a member that we spend $20 million-plus a year in regards to Wall Street investment firms that are handling this on behalf of the Investment Council. So it's more a matter for us, I guess, to be able to make decisions or even look at potential ideas or policy changes, to be able to know the data that really comes from a local government. And since this committee is not, in theory, it's not dealing with the state retirement system... [LR628]

LYNN REX: Right. [LR628]

SENATOR MELLO: ...so we can't go to the PERB board or the Investment Council to get this data,... [LR628]

LYNN REX: Right. [LR628]

SENATOR MELLO: ...it's really incumbent upon you and the Fire Fighters Association to be willing to open your books up a little bit and provide this data to us so that we can determine whether or not it was bad management at the local level, whether or not it was the market in a variety of different years in the sense of we just didn't see the rate of return because of the economy, or the investments that were being made. [LR628]

LYNN REX: Uh-huh. [LR628]

SENATOR MELLO: Is that something that...I know you can't make a promise to all of us today in the sense of all of the cities you represent, but is that something at least you can get back to us before the beginning of session... [LR628]

LYNN REX: Sure. [LR628]

SENATOR MELLO: ...so we can obviously determine our... [LR628]

LYNN REX: Sure. I mean we'll have a conference call with them and we'll ask them what they're able to provide and what they're not. Let me tell you that, for example, if you look at the statutes, it talks about the investment committees. And I know that several cities, I mean obviously I'm guessing every city within the last 20-some years has changed investment advisors off and on. So the question is those committees should have...the individual investment committees should have information relative to what those investments have been. And every firefighter and every police officer gets a readout of what theirs is individually, based on what their choices are and what their choices are within the prescribed limits. Because my understanding is that the investment committees actually make the decision of, okay, here are the X number of investments within which you can make certain investments and then you get to self-direct which ones you want. So...and that's what the firefighters wanted, that's what the police insisted that's what they wanted, and they definitely did not want to do it on the state level. I hear this morning that maybe they are thinking about something else so I'll take that back to our firefighter cities and discuss it with them. What I will tell you is I will ask them for whatever information you want, and to the extent that they can provide it, I'm sure that they will. When you say what interest rate...you know, year by year, what were the investment returns, that may be a little problematic. I don't know. I don't know who's the holder of that. It's certainly owned by the investment committee. It's owned by the city, per se, but it's the investment committee that actually does the contract with the investment firm, whatever the firm is. And again, the reason why they league quit doing it in short order was because we were just literally hammered by the investment firms because of the differentials that were shown between cities, because some cities were performing really, really well and others were not performing as well, and their officers wanted to know why. And so we encouraged them to meet with each other and discuss it and go from there. [LR628]

SENATOR MELLO: Okay. Thank you, Lynn. [LR628]

LYNN REX: But we'll do everything we can certainly. [LR628]

SENATOR MELLO: Okay. Thank you. [LR628]

LYNN REX: You're welcome. [LR628]

SENATOR NORDQUIST: Thanks. Any other questions from the committee? Seeing none, thank you for your time. [LR628]

LYNN REX: Thank you very much for your time. Thank you. [LR628]

SENATOR NORDQUIST: Any other testifiers today? Seeing none, that will conclude the hearing of this committee. Thank you all for being here. [LR628]