[LB638 LB639]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Thursday, January 31, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB638 and LB639. Senators present: Jeremy Nordquist, Chairperson; Al Davis, Vice Chairperson; Danielle Conrad; Russ Karpisek; Rick Kolowski; and Heath Mello. Senators absent: None.

SENATOR NORDQUIST: Good happy noonhour to you all. I am State Senator Jeremy Nordquist, representing District 7 in downtown and south Omaha; I'm the Chair of the Retirement Systems Committee. This is our first committee hearing of the year, so just...we usually...even though we post a noonhour start, usually by the time members get down here, it's 12:05 or 12:10; so we apologize for that. Just a few notices. Please silence your cell phone. If you are testifying, there are testifier sheets in the back corners of the room; please fill those out and give those to our committee clerk to my right. Also there are sheets if you want to just acknowledge your support or opposition to one of the pieces of legislation that we are going to be hearing today. Please, if you are testifying, state and spell your name for the transcribers so that gets entered into the record correctly. The staff to my left is our legal counsel, Kate Allen; to my far right, committee clerk Laurie Vollertsen. Our page is Matthew; so if you have anything that needs to be distributed to the committee, Matthew will take care of that. I'll start...we can start with self-introductions of the committee. To my right here, Senator Karpisek will be, hopefully, joining us, from Wilber, Nebraska. And then go ahead, Senator, if you want to...

SENATOR KOLOWSKI: Senator Rick Kolowski, District 31.

SENATOR DAVIS: Senator Al Davis, District 43.

SENATOR MELLO: Senator Heath Mello, District 5.

SENATOR CONRAD: Danielle Conrad, north Lincoln.

SENATOR NORDQUIST: The "Fighting 46th."

SENATOR CONRAD: The "Fightin' 46th."

SENATOR NORDQUIST: All right. With that, we'll go ahead and get started. I believe LB638 will be out first bill today. Senator Nelson. Welcome, Senator.

SENATOR NELSON: Good afternoon. Chairman Nordquist and members of the Nebraska Retirement Systems Committee, my name is John Nelson; Nelson spelled N-e-l-s-o-n. And I represent District 6 in midtown Omaha. I am here today to introduce

LB638 and LB639. LB638 creates a cash balance benefit in the school employment retirement plan for new school employees, and LB639 transfers new judges and State Patrol members into the state employees cash balance plan. Neither of these bills would change the benefits of current members of the three existing defined benefit plans. These bills are similar but not identical to LB679 and LB680 introduced by Senator Lavon Heidemann in 2011. For example, my LB638 leaves the new school employee contribution rate unspecified. We would explore the possibility of keeping that number below 9.78 percent. The bills also increase the Public Employees Retirement Board from 8 members to 12 members. I'm not a retirement expert, and this is new territory for me; but it is important that the state of Nebraska and the Nebraska Retirement Systems Committee consider options to address the funding challenges experienced by the three existing state defined benefit plans. I believe we need to have a discussion about the long-term sustainability of Nebraska's defined benefit plans and implement fundamental reforms that will help our state and public employees alike. For state and county employees, the Legislature established cash balance plans to provide a reasonable and adequate retirement system while minimizing the risk of funding shortfalls affecting the employee, the employer, and the taxpayer. Those plans have not required additional state contributions even in these recent years. The same cannot be said for the defined benefit plans. LB638 and LB639 do not attempt to address the actuarially required contributions for the current plans in the short term. I'm aware that Senator Nordquist has been working with the respective groups to discuss alternatives to keep those plans healthy. Still, my understanding is that those changes concentrate on retaining a defined benefit system for all three plans. The discussion about public employees retirement should consider other alternatives such as enacting a cash balance benefit for new employees. Once a program exists, the law clearly prevents us from changing the benefit structure for current employees as a protection for public employees in state and local government. With that challenge, it requires policymakers to take a long-term view of these issues. Just last year Kansas created a cash balance tier for most of its new state employees and has mentioned Nebraska's cash balance plans for state and county employees are working quite well. These bills would expand that system to a broader base for new public employees. Organizations within Nebraska are concerned about not just the present retiring funding challenge but future liabilities. According to the Lincoln Independent Business Association, Nebraska's three public defined benefit plans have an unfunded liability of more than $2 billion. Additionally, Nebraska's pension funding is still suffering from more than $1 billion of investment losses in 2008. Because economic downturns are cyclical, our commitment to defined benefit plans is really unsustainable in the long run. Placing new school employees, judges, and State Patrol members on cash balance plans will grant these civil servants a solid retirement plan while removing significant pressure on the state to increase funding for defined benefit pensions. These bills will increase the portability of our civil servants' retirement plans. Under cash balance plans, employees can more easily roll over full retirement accounts into an IRA or retain full lump-sum amounts. And this is especially helpful for more-mobile civil servants like noncertified school employees such as bus drivers and cooks. And under a cash balance plan, public employers could offer higher salaries on the front end rather than withhold money for higher retirement benefits on the back end. This will help attract quality young employees who may be in need of paying off tens of thousands of dollars in student loans. Finally, cash balance plans offer a solid retirement benefit and feasible administration. Because we propose a minimum interest credit rate of 5 percent, employees' retirement accounts will grow each year. Also, investments are professionally managed, which removes risk from the employee. With that, I'd be happy to take any questions. And I would look forward to working with your legal counsel and NPERS to address other questions that may arise. [LB638 LB639]

SENATOR NORDQUIST: Thank you. [LB638 LB639]

SENATOR NELSON: Thank you, Mr. Chairman. [LB638 LB639]

SENATOR NORDQUIST: Thank you, Senator Nelson. Questions from the committee? Well, seeing...seeing none. Do you want to submit that testimony as opening on both bills, or...? That's...would that be fine? [LB638 LB639]

SENATOR NELSON: Yes, I have combined it. I mean... [LB638 LB639]

SENATOR NORDQUIST: Okay. That's... [LB638 LB639]

SENATOR NELSON: ...there are...the teachers retirement is... [LB638 LB639]

SENATOR NORDQUIST: Sure. [LB638 LB639]

SENATOR NELSON: ...somewhat different, but... [LB638 LB639]

SENATOR NORDQUIST: Yeah. [LB638 LB639]

SENATOR NELSON: They're in the one bill. The state judges and the State Patrol are in the other. And that bill, really, goes to transfer to NPERS. [LB638 LB639]

SENATOR NORDQUIST: Yep. So we won't call you up then to reopen, and we'll just...but we will start with...we will do supporter...or proponent and opponent testimony on LB638, and then we'll move to proponent and opponent on the other one. But we'll count that as your opening for both, then. [LB638 LB639]

SENATOR NELSON: Thank you very much. [LB638 LB639]

SENATOR NORDQUIST: Yep. Great. So with that, we will take proponent testimony on LB638. Any proponent testimony on LB638? Seeing none, we'll move to opponent testimony on LB638. Welcome. [LB638]

JASON HAYES: (Exhibit 2) Good afternoon, Chairman Nordquist and members of the Retirement Committee. For the record, my name is Jason Hayes; that's spelled J-a-s-o-n H-a-y-e-s; and I represent the 28,000 members of the Nebraska State Education Association. NSEA strongly opposes LB638. I think everyone in this room recognizes the fact that this year the Legislature needs to make changes to the school employees retirement plan in order to maintain its financial soundness. We do not disagree with this assessment. However, switching completely from the current defined benefit plan to a cash balance benefit is a significant move that abandons an important and longstanding component of a school district's recruiting tool, a tool that is used to encourage the best and the brightest teachers to stay in Nebraska rather than seeking jobs elsewhere. The current defined benefit plan recognizes in the formula benefit the concept of longevity. As a factor in the benefit, service years worked by an employee help to increase the final monthly benefit received by the school employee upon retirement: the longer an employee works for the school district, the greater the resulting benefit received. We believe this is a strong incentive encouraging teachers in the state to remain in the profession rather than seeking other jobs outside of education midway into their career. It is not uncommon in today's job market for such career changes to occur. The Bureau of Labor Statistics reports that people born between 1957 and 1964 held an average of 11 jobs from ages 18 to 44. Of these, 25 percent held 15 jobs or more, while 12 percent held 4 jobs or less. Rewarding longevity is one incentive not encapsulated within a cash balance benefit-type plan. A cash balance benefit employee such as, let's say, a state employee, has little incentive, from a pension perspective, to continue long employment with the state. There is no recognition of longevity in the final benefit received. The state's current cash balance benefit is little more than a savings account with a 5 percent annual return. That being said, the school employees retirement plan does need changes, and we welcome the fact that Senator Nelson is also seeking solutions to this issue. As the committee will hear testimony next week, there is an alternative to LB638. It is a sensible solution that, if passed, will make relatively minor changes to the current defined benefit plan to address these funding issues. It will help strengthen the defined benefit plan without eliminating the formula incentive for longevity. We believe most Nebraskans want a good school retirement plan that will provide stability and certainty to those who have dedicated their lives to teaching our children. We really want these educators to focus on their students' daily lesson plans rather than worrying about how they will provide for themselves upon retirement. That is really the bottom line that we hope will be addressed next week when the committee takes up a discussion on LB553. Thank you for your time. [LB638]

SENATOR NORDQUIST: Thank you, Jason. We'll take questions from the committee. Any at this time? Oh, go ahead, Senator Kolowski. [LB638]

SENATOR KOLOWSKI: Thank you very much, Mr. Chairman. Jason, as an example, I'm a retired educator... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: ...as I am. And the differences in my benefit on a monthly basis would end up being what? How would that be hurt by the proposed plan that you're talking about, compared to where...the defined plan that I retired from? [LB638]

JASON HAYES: Well, I, you know, it's difficult to look at...you'd have to have specific employees...two different employees that go through the system. But just in, you know, focusing on my testimony, in terms of longevity, that...you know, certainly, in a cash balance plan, the longer that you'd work, you'd be making more contributions; and on that, you'd, you know, typically get a 5 percent rate of return on that. But in terms of actually having an employee, say, you know, when they get to maybe be 45, if they feel stress with the job or they're thinking about changing careers, it's a huge loss for them to leave the school employees retirement plan because they would lose their employer match as well as, certainly, any final benefit that they would receive on it. I mean, they would basically be pulling out their employee contribution and rolling that over to something else. And so that is...that disincentive to leaving their job, you know, we believe is huge in getting those teachers to stay in the education system in the state. [LB638]

SENATOR KOLOWSKI: Okay. [LB638]

JASON HAYES: But... [LB638]

SENATOR KOLOWSKI: Not quite sure if I understand that. [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: But let's use that as an example. If at 45 I'd left education, I would have had 20...early 20 years... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: ...in there, 20-22 years, at that time. That is still...I can still draw upon that upon retirement age. So what...that didn't go away, in my past, as far as my security of having some...those years in place. But I'm not adding to it... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: ...from 45 on if I went to be an accountant someplace. [LB638]

JASON HAYES: That's true. You... [LB638]

SENATOR KOLOWSKI: So what...tell me... [LB638]

JASON HAYES: You could... [LB638]

SENATOR KOLOWSKI: Again, clarify... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: ...the disadvantage or advantage for me. [LB638]

JASON HAYES: Okay. I think you're talking about a situation where an employee leaves... [LB638]

SENATOR KOLOWSKI: Um-hum. [LB638]

JASON HAYES: ...and becomes an inactive school plan employee... [LB638]

SENATOR KOLOWSKI: Correct. [LB638]

JASON HAYES: ...takes up a different career, and then comes back at, say, 65 and turns in their application for a benefit. Yes, they could do that, except that, you know, they won't be recognized for any additional years, in that formula. [LB638]

SENATOR KOLOWSKI: Correct. [LB638]

JASON HAYES: You know, that formula is really the key in terms of saying, if you work more service years, that's going to go into a direct equation to getting the final benefit. So it's not that there's a complete penalty for leaving a job and switching careers, it's just that there's...in a cash balance plan, when you're really comparing the two, there's no incentive for having that employee...I mean, with the cash balance plan, in the same example, there's no thought to an employee of, well, you know, why should I continue teaching; I can take another job, I can take my full amount out. Whereas the ability of staying in the school plan and having those service years accumulate are huge in terms of what the final benefit that that employee will receive. So... [LB638]

SENATOR KOLOWSKI: There, I wasn't talking about taking anything out until I was retirement age, like... [LB638]

JASON HAYES: Right. [LB638]

SENATOR KOLOWSKI: ...you...I mean, I understand... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR KOLOWSKI: ...that is accessible if you wanted to take your money out of that plan, and then you wouldn't have that to fall back on in later years... [LB638]

JASON HAYES: Yeah. [LB638]

SENATOR KOLOWSKI: ...in life. But I'm still not seeing the difference, what you're talking about. [LB638]

JASON HAYES: Well, in terms of just...I mean, I guess you'd have to look at Employee A and Employee B under both systems, what is the final monthly benefit that they would receive. And, of course, you'd have to...I mean, it's hard to calculate that. I guess, you know, we could certainly put together some numbers, in terms of what an average employee typically receives, and run those. I'd be happy to get that to the committee later or, you know, include that in my testimony next week. But, you know, it's significantly a lower benefit just from the standpoint of that total amount that's contributed by the employee and employer... [LB638]

SENATOR KOLOWSKI: Sure. [LB638]

JASON HAYES: ...is only...only grows at 5 percent. [LB638]

SENATOR KOLOWSKI: Right. [LB638]

JASON HAYES: So maybe we can do a little bit more work on that for you. [LB638]

SENATOR KOLOWSKI: Yeah, I'm...maybe I'm not making myself clear either. But I'll be glad to talk to you. [LB638]

JASON HAYES: Okay. [LB638]

SENATOR KOLOWSKI: Thank you. [LB638]

SENATOR NORDQUIST: All right. Thank you. Senator Davis. [LB638]

SENATOR DAVIS: You heard Senator Nelson say that moving to this type of plan would permit higher salaries to be paid to beginning teachers. Assuming there were resources available, have you looked at that? Is that a possibility? [LB638]

JASON HAYES: Well, I guess I'd have to look at the numbers. I mean, the suggestion...I mean, I think really what Senator Nelson is saying is that if you're putting less money into a retirement plan, then you could take that same amount of money and put it into their paycheck and...or perhaps a lower contribution rate. I think that the problem with that is that under the defined benefit plan that we currently have, I mean, there are some major funding issues which, you know, we'll talk about next week that LB553 addresses. I would think that, given those funding issues, that how a new cash balance component would have to work in this state would be that additional money that school districts would save would then have to be diverted into the defined benefit plan to cover the expenses. It...because a defined benefit plan is kind of like a life insurance policy; it's just that you get a benefit when you retire, instead of dying. And so if you take new employees coming into the plan, out of the system, then that money that was coming in needs to be made up through some other source. And I think that the way that this would have to be done with a new cash balance plan would be to have the school districts take that additional money and put it into the existing defined benefit plan to cover the cost. I'm not discounting the fact that that may happen over time, but I think initially there wouldn't be savings, because the money would have to be diverted into the defined benefit plan. And that's just...that's my thought on that. [LB638]

SENATOR DAVIS: Thank you. [LB638]

SENATOR NORDQUIST: All right. Thank you. And, Jason, you kind of hit on the question that I was going to ask, because you've spent so many years working on retirement issues, and, you know, many of these promises, obviously, were made well before you started and even before... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...I followed you at the Retirement Committee staff. But, you know, defined benefit plans are, you know, an intergenerational promise, obviously. [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: And as you said, you still have that unfunded liability. Now, this bill doesn't take us to a DC plan where we're all of a sudden cutting off contributions into the pool. [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: And that would create an instant problem. But it still does nothing to address our long-term liability. And correct me if I'm wrong: so if we have...our actuary says our teachers plan has a $2.2 billion unfunded liability... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...which is largely...most of that has accrued since the market downturn of '08 and '09... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...has grown that tremendously. Back in the early 2000s we were near 100 percent funded in this plan. The normal cost, which is the benefits earned in that year and the cost of it, are only...are not much more than, I don't know, maybe, I don't have the exact numbers, 60 to 70 percent of what a new hire coming in is paying on their contribution. [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: So roughly 30-40 percent of their contribution is going to help pay off that unfunded liability. [LB638]

JASON HAYES: Right. [LB638]

SENATOR NORDQUIST: So now if we're saying, well, that's no longer going to pay that off, you're going to keep yours...while it's all pooled and managed together, you still have, essentially, your own little account here... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...and all of your money is going there... [LB638]

JASON HAYES: Yeah. And I think... [LB638]

SENATOR NORDQUIST: ...where do we come up with the money to pay that...? [LB638]

JASON HAYES: And, of course, you know, the concept of the exclusive benefit role... [LB638]

SENATOR NORDQUIST: Yeah. [LB638]

JASON HAYES: ...comes into play... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...a little bit. I think the jury is still out with regard to cash balance plans... [LB638]

SENATOR NORDQUIST: That's true. [LB638]

JASON HAYES: ...because it's a hybrid defined benefit plan... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...so the IRS may allow some, you know, commingling... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...of both of those options into one plan. But at the same time, that money that's being contributed by the employee and the employer goes into a savings account... [LB638]

SENATOR NORDQUIST: That's right. [LB638]

JASON HAYES: ...goes into an account which shows exactly what's contributed. And so how does money going into the employee's account as an employer and employee contribution, how does that somehow then get used to cover the expenses of the DB plan? [LB638]

SENATOR NORDQUIST: Yeah. Yeah. [LB638]

JASON HAYES: And I think the way that you would have to do it is to increase the employer contribution rate... [LB638]

SENATOR NORDQUIST: Sure. [LB638]

JASON HAYES: ...for the DB plan. [LB638]

SENATOR NORDQUIST: That's right. [LB638]

JASON HAYES: You know, right now it's 101 percent; I think you'd have to raise that maybe up to 104 percent... [LB638]

SENATOR NORDQUIST: Yeah. [LB638]

JASON HAYES: ...to cover that. I don't know if that would necessarily cover what is needed in the funding... [LB638]

SENATOR NORDQUIST: Um-hum. Um-hum. [LB638]

JASON HAYES: ...precisely. And, of course, you can look at the liability of the entire plan. I think a better way to look at it just is with regard to the actuarial required contribution on a yearly basis. [LB638]

SENATOR NORDQUIST: Um-hum, that's right. [LB638]

JASON HAYES: You know, this year it's about $48 million. [LB638]

SENATOR NORDQUIST: Yeah. [LB638]

JASON HAYES: Next year that goes up. You know, those extra dollars that would be taken out of the plan by creating a cash balance benefit would need to then... [LB638]

SENATOR NORDQUIST: Yeah. [LB638]

JASON HAYES: ...somehow go into the defined benefit plan. [LB638]

SENATOR NORDQUIST: That's right. It would either need to be made up by higher employer contributions on the school, state general funds, or raising contributions on current employees, which... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...puts us into legal jeopardy... [LB638]

JASON HAYES: Um-hum. [LB638]

SENATOR NORDQUIST: ...certainly. So... [LB638]

JASON HAYES: You know, I think what, you know... [LB638]

SENATOR NORDQUIST: Yeah. Yeah. [LB638]

JASON HAYES: ...not to get too much into LB553, but... [LB638]

SENATOR NORDQUIST: Yeah. [LB638]

JASON HAYES: ...you know, when you create a second benefit level that's also a defined benefit plan, it's easier to put it into one fund or... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...one amount or...and then basically have that benefit paid out under two different streams... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...one for the existing and then one for the new employees. [LB638]

SENATOR NORDQUIST: Yeah. Yeah. Right. [LB638]

JASON HAYES: With the cash balance benefit, you're putting that money right into the employee's account... [LB638]

SENATOR NORDQUIST: Um-hum. [LB638]

JASON HAYES: ...and there...I mean, you couldn't assess a charge... [LB638]

SENATOR NORDQUIST: Sure. [LB638]

JASON HAYES: ...to the employee's account to cover the DB... [LB638]

SENATOR NORDQUIST: That's right. [LB638]

JASON HAYES: ...plan, so... [LB638]

SENATOR NORDQUIST: So that liability all has to be made up... [LB638]

JASON HAYES: Right, somehow. [LB638]

SENATOR NORDQUIST: ...somewhat. Senator Conrad. [LB638]

SENATOR CONRAD: Thank you. Hi, Jason. Thank you for your testimony. I just wanted to give you a chance to maybe respond to a more general question based upon your considerable background and expertise in our state's retirement system and now in your new role. But can you talk just a little bit about your understanding of where Nebraska is, say, from a comparative perspective with some other states? And it seems to me that, while we have some work to do and there's always room for improvement, that, really, our systems are quite strong when you look at some of the troubles our sister states and other systems are looking at. If you'd like to respond. [LB638]

JASON HAYES: Well, I don't have any hard numbers in front of me, but just kind of a general...you know, Nebraska is doing quite well. You know, it's...I think we all like to be the best, and to be 100 percent funded would be, you know, a goal to achieve. But I believe the latest actuary report showed 78 percent, and, you know...and 80 percent is typically what...that kind of benchmark that you don't want to go below. And so, you know, as I mentioned, it certainly is the time to make changes to the retirement plan to make sure that we get back up above that funding level. Generally, if you compare it to a state like Illinois, I mean, we're doing significantly better. I'd certainly be happy to mention that, you know, some kind of hard, you know, more clear numbers next week. But, you know, by and large I think if a retiree or a school employee, school administrator is listening to this on the Internet or in the audience, they should know that their plan is doing fairly well. But in Nebraska we always set a high level of achievement and a high bar, and we want to make sure that we stay above that level. [LB638]

SENATOR CONRAD: Great. Thank you. [LB638]

SENATOR NORDQUIST: Any other questions from the committee? Seeing none, thank you. [LB638]

JASON HAYES: Okay, thank you. [LB638]

SENATOR NORDQUIST: Any other opponent testimony? Welcome. [LB638]

JOHN JENSEN: Hi. I'm John Jensen, J-o-h-n J-e-n-s-e-n. I'm a retired teacher; I'm a past president of the National Council on Teacher Retirement. And I wanted to definitely oppose this bill. I believe it would not provide an adequate benefit at retirement. A 5 percent return will not do it. If you run a spreadsheet, it'll probably be between a half and two-thirds of a defined benefit plan, what it would do. It would also significantly...because this is the only way the employee can counter this: they would have to work longer. Whether or not the school district wanted them to work longer, they would be working longer. And so it's not just about the money, it's about policy decisions. Do you want something where you're forcing employees to work longer? Number 2: The fact that the bill would allow lump-sum payouts at retirement is, well, it's going to cause people to make poor choices. If they take that lump sum, and I tell you many will, they will spend it way too fast. You cannot predict how long you're going to live. Too many people will go out and buy that Winnebago, and they'll end up poor in a very short order of time. The only really sound way of doing it is to have 100 percent of their money go into an annuity; and I know the annuity would be run by the system itself, so that's good. But the fact is that the lump sums are a bad policy choice. Number 3: It would put Nebraska school districts at a disadvantage when they're trying to recruit new teachers. Nebraska is already 40-some from the, you know, from the top; we're not paying our teachers very well. If you add to that a weak retirement benefit, then all of a sudden teachers will say, "There's plenty of other states where I'm going to make more money and I have a better benefit for retirement." In addition, today school districts--and this has been coming on for probably 10-15 years--they're tending to hire more teachers with experience. Maybe they're coming back into the work force, maybe they're moving here with a spouse, and they join the...they want to teach, and so they might have 10 or 15 years' experience someplace else. Right now, the ability for that teacher is to buy into our defined benefit plan up to ten years, if they have that much experience. So they're not starting from zero. It does add some portability to our current plan that way. I believe...I'm not...I haven't read everything in the cash balance bill, but I don't think it would allow for a teacher coming in to put in X number dollars into that cash balance account. In other words, they would truly be starting at zero. Number 4: I don't believe it's needed. As has been said by Jason before, Chairman Nordquist does have a bill that I believe will address the long-term funding of the system. And I just believe that it's not needed, for that reason. Number 5: Keep in mind that 100 percent of the current liability will still be here if you pass this bill. And there will have to be a separate pooling from the cash balance money and the defined benefit money. One of the problems with the pool of the defined benefit money--and I believe Mr. Hayes mentioned this--not only do you have the problem where you don't have the new teachers, with the money coming in from them, but the average age of these people in the defined benefit plan will increase. Right now the plan is fairly static: the average age is probably in the mid-30s, and that remains about the same. Therefore actuaries can say, yeah, 8 percent is a good return I can back, or whatever he says it should be. On the other hand, if the age of this group over here gets closer to retirement and there's fewer years to pay off any unfunded liability, not only does the actuary say you're going to have to pump in a lot more money, but the liability will increase, because he will say, no longer can you invest it in such a way that you could get an 8 percent return; it's going to have to be more...it would be like a financial advisor saying to someone, when you're 65 don't go out and risk it all in stocks. And the actuary would say the same thing here. And that, of course, would increase the cost of that plan. So, in summary, it's inadequate; it allows for bad decision making by participants; it makes teacher recruitment more difficult; it is not needed; the unfunded liability does not go away; and the legacy plan becomes more costly. And with that, if you have any questions, I'll be glad to try to answer them. [LB638]

SENATOR NORDQUIST: Thank you, Mr. Jensen. Any questions from the committee? Seeing none, thank you. Any additional opponent testimony? I don't see any. I will read into the record here, we do have opposition...sorry. Opposition or...? [LB638]

ANN POST: Neutral. [LB638]

SENATOR NORDQUIST: (Exhibit 1) Neutral. Okay, just come on up. Real quick, I'm just going to say we did get a letter in opposition from the Nebraska Council of School Administrators, from Dr. Mike Dulaney; that is at your desk. Welcome for neutral testimony. [LB638]

ANN POST: (Exhibit 3) Okay. Good afternoon. My name is Ann Post. I'm here today testifying on behalf of the Lincoln Independent Business Association. Today I'm here testifying in a neutral capacity as to LB638 and LB639. However, LIBA is very much in support of the spirit of these bills and the recognition that broad, systematic change within the Nebraska Public Employees Retirement System is necessary. Now, LIBA is not testifying in support of these bills because we've not had time to convene our committees, to talk with our board, to examine and discuss the particulars of LB638 and LB639. So we are not sure if this particular solution is the solution that NPERS demands. In fact, we weren't aware that this idea would be reintroduced until about a week ago. However, months before learning about these bills and learning about Senator Nelson's ideas for NPERS, our organization became aware of the huge amounts of liability amassing within the NPERS system. Our committees of concerned citizens engaged in prolonged and very detailed discussion about the Public Employees Retirement System, about the liability amassing, and about what could possibly be done about it. As of now, the fruits of those discussions have resulted in a letter that our board approved and was sent to each and every state senator right about the time this session started, which...I have copies for the state senators here, in case you would like to see it again. Now, LIBA isn't an organization of people who are experts in retirement systems. We don't have all the answers when it comes to developing a new retirement system, especially one for as many employees as are involved in this system. However, we've looked at the facts, and the facts are that the NPERS system as a whole is $2.3 billion underfunded. When you do the math, this turns out to be around $3,214 of liability for each and every household in Nebraska. And these unfunded liabilities are only expected to increase next year. Now the bottom line is that these defined benefit pension programs are a risk that Nebraska taxpayers can't afford. The risk is borne both by the private individual taxpayer, who sooner or later is going to have to pay into the fund to make up this unfunded liability, and also Nebraska's public employees who pay into this system year after year not sure when it is that the system is going to come between a rock and a hard place and their benefits might have to change. Now the unfunded liability amassed in Nebraska's defined benefit pension plan has reached a tipping point. It's at a point where Nebraska's leaders must address this problem and develop solutions, solutions that actually solve the problem instead of making a few tweaks and palliating changes. Nebraska needs solutions which will remove the cloud of liability that's hanging over its citizens and to help move them into a clearer future. [LB638]

SENATOR NORDQUIST: All right. Great. Thank you. Thank you, Ann. Any questions from the committee? Senator Mello. [LB638]

SENATOR MELLO: Thank you, Chairman Nordquist. And thank you, Ann, for your testimony. You may not have this information available today, but if you could get it to me, I would greatly appreciate it. I know that LIBA is a membership organization, am I correct? [LB638]

ANN POST: Yes. [LB638]

SENATOR MELLO: If you could find out...and it's in general, I think, with a somewhat similar concept that we're discussing in regard to public benefits in regard to who's ultimately on the hook for those public benefits. It would be, I think, wise for me to ask...and if you can get it, it would be great; if you can't, I'd appreciate learning more. What actually...I mean how many workers or people who are employed by LIBA members qualify currently, right now, for any public benefits? That would incorporate Medicaid; that would incorporate food stamps; it would incorporate any kind of pension issues at all in regard to...that the taxpayers themselves would be covering. And, if possible, if there's a way...if you can't figure that out, I can understand. But if you could also explore what potential benefits they may qualify for in the future, that would also be helpful, because I understand that there are some that would qualify for, maybe, Medicaid in the future, so to speak, because they don't have health insurance or food stamps because they don't...because they may lose a job in the future. So if you can't get that information currently, right now, if you could get an estimate, I would greatly appreciate that. [LB638]

ANN POST: I can tell you that I...right now with my job in policy and research I am not intimately aware of all the public resources that our members qualify for. I know that in our committee discussions we have had people that talked about their time working for the state government, how the public benefits programs affected them, and also about how...their experience with Medicare or Medicaid, so that we have had some input of that, but I'm not directly familiar with how many of our members. [LB638]

SENATOR MELLO: I...and if you can't get those estimates or can't get that information, I'd...if anything, I'd like a follow-up, possibly, to find out how we can try to get some estimates of anything. That would be great. [LB638]

ANN POST: Okay. [LB638]

SENATOR MELLO: Thank you. [LB638]

SENATOR NORDQUIST: Thank you. Other questions from the committee? Seeing none, thank you for your testimony. Additional neutral testimony on LB638? Welcome, Phyllis. [LB638]

PHYLLIS CHAMBERS: (Exhibit 5) Good afternoon, Chairman Nordquist and Retirement Committee members. My name is Phyllis Chambers, P-h-y-l-l-i-s C-h-a-m-b-e-r-s, and I'm the director of the Nebraska Public Employees Retirement Systems. I'm here to testify neutral on LB638. The Public Employees Retirement Board discussed this year's retirement legislation at their meeting on January 28 and directed me to present the agency's concerns regarding this bill. This creates a cash balance plan for all new hires in the school plan. The language in the bill appears to mirror the state and county cash balance plan statutes currently in effect. And it is helpful, if the cash balance plan were to be adopted, that it be similar to the existing plans, for both administrative reasons and equity reasons. We do have some questions, however, related to the bill that would need to be addressed. Will the cash balance plan be a tier of the defined benefit plan or will it be a separate plan altogether? In other words, will it be in a separate trust or will it be combined? If the cash balance is not a tier and created as a separate trust, how then will the defined benefit plan be funded as the plan ages, as fewer active employees are paying in and more retirees are collecting benefits? You would need to find alternative sources to fund the defined benefit plan. In talking with the actuary, if the cash balance is created as a second tier, the funds could be commingled in the same trust. When that happens, the actuarial value of the cash balance and defined benefit would be valued together. The funded ratio of the cash balance members would be dependent on, then, the defined benefit funding level, which is currently 77 percent. The ability to grant a dividend to cash balance members would be contingent on that funded ratio. At the present time I believe the bill talks about a 100 percent, or equality, with the contribution levels. So it would be a long time, probably, before any kind of dividend would be able to be awarded to those members that would be in that portion of the school plan. Administratively, NPERS does the recordkeeping for the school, judges, and Patrol defined benefit plans internally. We contract with Ameritas to perform the recordkeeping for the cash balance and defined benefit plans. Ameritas has the ability to track the daily account values, the interest credits, and the dividends. And since the defined benefit plans are really formula benefits, NPERS software does not need to track daily account values the way we do with cash balance or defined contribution plans. Implementing a cash balance plan, however, will require school reporting agents to report to two separate entities for their employees, those in the defined benefit and those in the cash balance plan. And NPERS would need to design and develop a process for the reporting and accounting for the different recordkeeping systems. The bill requires new hires to be in the plan. It is our understanding that a member who is retired with a break in service of five years or more would be considered a new member and enrolled in the cash balance plan. Is there any difference if they have refunded their account or not? We weren't sure. If they have not refunded, what would happen to the employee and employer contributions in their account? Would the employer portion be forfeited? And would their account be refunded or transferred to the cash balance? We have a number of school employees who retire and return to work after 180 days and begin a second benefit. Would this bill allow retired members receiving a monthly benefit to return to work and begin a new benefit in cash balance or would it be in defined benefit? The bill does define a break in service of 120 days before returning to work, but our current school statutes require a break of 180 days. So I don't know if that's...with the state and county it is 120 days, but the schools would be 180. The Public Employees Retirement Board currently consists of nine members. This bill proposes changing the board. There are six representatives from the member plan groups and two public members not in the plans and then the Chief Investment Officer, who is a nonvoting member, on the board presently. The current number of board members and the composition of the board permits the PERB to function very well as it is. We're questioning why the bill proposes adding four new public members to the retirement board. Adding a new plan or tier is a complex endeavor. The PERB and NPERS staff have not had ample time to review the bill completely, but we estimate there would be substantial costs involved in creating a new cash balance plan for the schools. There are many details that would need to be determined regarding the implementation and the ongoing operation of the plan. We provided a rough estimate in the fiscal note of approximately $163,000 the first year and $153,000 the second year and going forward. The costs include actuarial study, programming, recordkeeping, staffing requirements, and implementation costs. Further analysis is needed to accurately assess the needs associated with this bill. And I would be happy to answer any questions. [LB638]

SENATOR NORDQUIST: Thank you, Phyllis. Any questions from the committee? Seeing none... [LB638]

PHYLLIS CHAMBERS: Okay. [LB638]

SENATOR NORDQUIST: ...thank you. [LB638]

PHYLLIS CHAMBERS: Thank you. [LB638]

SENATOR NORDQUIST: Any additional neutral testimony? Seeing none, that will close the hearing on LB638, and we'll go ahead with LB639. Senator Nelson has already opened. So proponent testimony on LB639? Seeing none, and with that, we'll move to opponent testimony. I have a note that Judge Cassel needs to leave a little early, so please come on up. Welcome. [LB638 LB639]

WILLIAM CASSEL: Thank you. Senator Nordquist and members of the committee, my name is William Cassel, C-a-s-s-e-l. I am a judge of the Nebraska Supreme Court, although I am not appearing on behalf of the court to testify today. I strictly am appearing on my own behalf. Senator Nordquist has assisted me; I'm due to leave for Alliance to conduct a nominating commission hearing that convenes early tomorrow morning. So I'm leaving in just a few minutes to head across the state for that purpose. And before leaving, I appreciate the opportunity to talk to you about this bill. And I want to emphasize that nothing...that this bill would have any impact on me personally. I was appointed to the Nebraska Supreme Court in May of...well, appointed, took office in May of 2012. Prior to that I was a judge of the Nebraska Court of Appeals for eight years. For 12 years before that, I was a district court judge for the, originally, 15th Judicial District that was later merged into the 8th Judicial District. I have nearly 21 years' service, which is more than the maximum service under the existing defined benefit plan. Nothing you do will affect me, but I'm concerned about the future. And having been a judge and been a judge in this system for a long time, I think I have a perspective that is, I hope, valuable to you. And President Harry Truman frequently said: The only thing new in this world is the history that you don't know. There will be others, I suspect...and I haven't talked to the others that I see in the back of the room who I suspect will be talking to you about this legislation. There will be others that will probably talk to you about what impact this change would have on the recruitment of new judges. And I have no doubt it would be very adverse to the recruitment of new judges. I suspect there will be others that will talk to you about the effect that this would have on the average age of people coming into the judicial system, tends to be much higher than it was in my particular instance. When I became a judge I was only 36 years of age. I may look ancient, but I'm only 57, and I expect to be around for another 10 or 20 years in my present position, my health accommodating that. So judges, by and large, however, practice law for a longer period of time, and they come into the system at a much later age time than the typical state employee, whether you're talking about teachers, State Patrolmen, or other groups. Judges are different. They're also a very small group. But the most important thing that I want to talk to you about today and the reason I referred to President Truman and his truism about history is that the history of judicial pension systems in the United States came about because people could not afford to leave the bench. And if you do not provide an adequate pension system for your judicial officers, you will end up with people staying on in judicial office long after they ought to have left and retired in dignity. And that is the lesson of history that I want to leave with you today. The most important thing to the system, as a delivery of judicial services to the public of Nebraska, is to have the best people that you can have in the system. And if people realize that they can't leave financially, they will stay on even if they know in their heart of hearts that they probably shouldn't. And so, members of the committee, I leave you, respectfully, with this view that the defined benefit plan is the most advantageous on a statewide basis to the public interest of all of the citizens of Nebraska. Now I realize there's other legislation that will be coming before you with funding challenges about our existing systems, and I know the judges will want to work with the committee to solve those challenges. But it would be abandoning almost 100 years of history of judicial pension systems, nationwide I'm talking about, to switch from a defined benefit to a defined contribution, and it would have enormously adverse consequences. And I appreciate your time. [LB639]

SENATOR NORDQUIST: Thank you. [LB639]

WILLIAM CASSEL: And you're going to get me out of here, unless you have a lot of questions... [LB639]

SENATOR NORDQUIST: Sure. Sure. [LB639]

WILLIAM CASSEL: ...with five minutes to spare... [LB639]

SENATOR NORDQUIST: Well, thank you. [LB639]

WILLIAM CASSEL: ...and I appreciate that. [LB639]

SENATOR NORDQUIST: And thanks for your comments and for your service. Any questions from the committee? Seeing none, you can hit the road. [LB639]

WILLIAM CASSEL: Thank you very much. [LB639]

SENATOR NORDQUIST: Yeah, thank you. Additional opponent testimony? Welcome. [LB639]

MARSHA FANGMEYER: Thank you, Chairman Nordquist and the Retirement Committee. My name is Marsha Fangmeyer, M-a-r-s-h-a F-a-n-g-m-e-y-e-r. I am the president of the Nebraska State Bar Association. I appear here today in opposition to LB639. The bar association opposes putting newly appointed judges into a defined contribution retirement plan instead of keeping them in the defined benefit plan that is in place currently for judges on the bench. We oppose the creation of two separate benefit systems for judges. Right now, judges are compensated equally, without regard to time on the bench or the area of the state they serve. We oppose the idea that judges working side by side will be compensated differently; it just does not seem appropriate. It's also important for the committee to remember that judicial retirement system that we have now is paid for by the court filing fee and by contributions from the judges themselves. That contribution was increased just two years ago. If this bill were to pass, it may set a precedent also for changing other parts of the benefit package for newly appointed judges, for instance, perhaps, medical insurance. And I believe the defined contribution retirement plan will likely provide a smaller benefit upon judges retirement than the current program. Why is this important to us? Judge Cassel mentioned it: reducing the benefits for judges is going to make it more difficult to attract qualified lawyers to serve as judges. And we are interested in keeping our well qualified judiciary and to attract good lawyers to apply for these positions. And the benefit package will certainly make a difference there. We need a benefit package, and a salary of course, that is sufficient to attract the best and the brightest attorneys in the state to serve as judges. So we urge you not to advance LB639. I'd be happy to answer any questions. [LB639]

SENATOR NORDQUIST: Thank you, Marsha. Any questions from the committee? Seeing none... [LB639]

MARSHA FANGMEYER: Thank you. [LB639]

SENATOR NORDQUIST: ...thank you for your testimony. Additional opponent testimony? Welcome. [LB639]

STEVE BURNS: Good afternoon. My name is Steve Burns. And as long as you don't get fancy, you'll get the spelling right; it's the easy way: S-t-e-v-e and B-u-r-n-s. I've been a district judge in Lancaster County for 16 years nearly, and I'm appearing on behalf of the Nebraska District Judges Association to oppose the proposed legislation. As Judge Cassel mentioned, none of us who are judges who are here opposing this bill are here out of any personal interest; it's not going to affect any of us one iota on a personal level. It does affect us, though, as citizens of this state, and we do oppose the bill. There's a number of reasons why we oppose the bill; I'm going to talk primarily about two of them. One of them is: What does the future look like for the judiciary as a result of this bill? And the second, is what funding results occur to the state, and obligations occur to the state, which, in our view, are unnecessary? Judge Cassel is an exception; I think I'm probably more a representative of the typical judge and...from this standpoint: I was not appointed until I was 49. For me to fully be qualified in the benefit program that we have, I'm going to have to be 69 before I retire. And as a result, I think it's fairly typical that many judges retire before they are fully vested in the full benefit of the fixed benefit program. So you might ask, well, why is this a big deal? Well, when you make a career change at age 49 and you have kids in college and you have a standard of living that you've become accustomed to, you can take a look at what judges are paid and you can tell it's not for the money. While we are paid considerably, it is not comparable to what is being made in the private sector in private practice. But what is, from a financial standpoint, something that we pay attention to is the fact that we are going to have some reliable income at the time of our retirement. We know what that's going to be. And so from that standpoint, there is some comfort and confidence that we can have in where we go forward. That allows people who are making considerably more money than what they're going to make in the judiciary, allows them the idea that they can go to the judiciary and have another career and have some comfort with regard to the economics of doing that. We are very concerned that if you change from the plan that we currently have, the fixed benefit plan, to a fixed contribution plan, that confidence is eroded. Consequently, though judges don't come to the judiciary for the money...but consequently you are going to affect those folks who are able to justify going to the judiciary, from an economic standpoint. Secondly is the financial impact on the state. We all know we've been through tough economic times here in the last couple of years. I look back, though, and I'm reminded that it wasn't but five or six years ago that, when we looked at the judges retirement program, we were seeing excess funds in the program; we weren't seeing a need for funds in the program. I think you have to ask yourselves as members of this committee when you're deciding whether you're going to pass this bill out of committee: Are we going to incur an obligation from the state General Funds that would not otherwise be there if, for example, five or six years from now we're back in the same point we were five or six ago? If you pass this bill, you have a General Fund liability that is totally unnecessary. I don't have a crystal ball; I can't tell you that that's what's going to happen. But I think that's something that you need to contemplate: is this current concern a concern that is resulting only from the movement of the economy and the cycle of the economy, which will return? And we do oppose the bill and hope that you vote against moving the bill out of committee. I'll be happy to answer any questions. [LB639]

SENATOR NORDQUIST: All right. Thank you for your testimony and service. And questions from the committee? No. I think... [LB639]

STEVE BURNS: All right. [LB639]

SENATOR NORDQUIST: ...we're set. Thank you. [LB639]

STEVE BURNS: Thank you. [LB639]

SENATOR NORDQUIST: Additional opponent testimony on LB639? Welcome. [LB639]

LAURIE YARDLEY: Chairman Nordquist, members of the committee, my name is Laurie Yardley, L-a-u-r-i-e Y-a-r-d-l-e-y. I am a Lancaster County Court judge, and I've been so for going on 18 years. And I'm also here on behalf of the Lancaster (sic) County Judges Association. On behalf of the association, we wish to ask that you not forward this bill as it pertains to the judges retirement. I do believe it would have a chilling effect on both the quality and quantity of applicants who would apply to be judges in the future. Again, as it's been previously stated, most of the judges are in their 40s and 50s, wouldn't have the benefit of contributing to the defined benefit program, or contribution program, for the length of time as...say if you started in the program when you were in your 20s. Not to say that I think that the attorneys are just looking at the retirement program as the main reason why they become a judge, because, in fact, if you look at it, after they become a judge, I think it becomes just an idea. I did some research, a little bit of research, and the average age, since 2011, of a judge retiring is 67; the oldest was 72; and the youngest was 63. And, again, some of them may not have their 20 years in, but a lot do, and they continue to work and contribute even though it certainly would make more sense to retire after their 20 years, when they have the full benefit. But, again, they continue to work well past the time that they could leave, so I think you have a group of dedicated professionals who work very hard. And I would ask that you not advance this bill. [LB639]

SENATOR NORDQUIST: All right. [LB639]

LAURIE YARDLEY: So any questions? [LB639]

SENATOR NORDQUIST: Thank you. And thank you for your service. Any questions from the committee? Seeing none, thank you. [LB639]

LAURIE YARDLEY: Thank you. [LB639]

SENATOR NORDQUIST: Additional opponent testimony? Welcome. [LB639]

MATT SCHAEFER: Good afternoon, Chairman Nordquist, members of the committee.

My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, and I'm a registered lobbyist appearing today on behalf of the State Troopers Association of Nebraska. While the association does appreciate Senator Nelson's interest in the State Patrol retirement plan, the association is opposed to setting up two retirement systems, one for current troopers and one for new hires. Two areas of concern I would briefly share with you that are similar to, I think, things you've heard already. The effect of a new plan on recruitment and retention of new hires. It's my understanding that other law enforcement agencies and police departments have defined benefit programs. And we would hate to see the state lose its considerable investment in training new officers who would work for the State Patrol for a few years and move on to a police department or agency that has a defined benefit program. And the second concern, similar to what you've heard already, is the effect on the existing plan. Putting new hires into a new plan would only compound whatever funding problem exists now. Thank you for your time. [LB639]

SENATOR NORDQUIST: Thank you, Mr. Schaefer. Any questions from the committee? Seeing none... [LB639]

MATT SCHAEFER: Thank you. [LB639]

SENATOR NORDQUIST: ...thank you. Any additional opponent testimony? Welcome. [LB639]

MIKE HEAVICAN: Good afternoon. Mr. Chairman, I'm Mike Heavican; I'm the Chief Justice of the Nebraska Supreme Court. I didn't know Matt was going to testify about the state troopers, but I will take you back to judges one more time. I won't be redundant and talk about all of the things that those who have already testified talked about, all excellent points. The Nebraska Supreme Court supports everything that was said in opposition to this bill in regard to recruitment and so forth. I would call your panel's attention to the funding mechanism for judges, which has traditionally come from court fees. And every year we try to carefully monitor the legislation that is put forward, and almost every year someone has what they think is a very good idea for the use of court fees, and they want to add $1 or $2 onto court fees. And we always oppose that because we have tried to keep court fees focused on funding judges retirement. And we hope you will continue to do that. We have not traditionally had to ask for General Fund dollars for the judges retirement fund. We understand that there are problems with the fund at the moment and will be for perhaps the next few years. But we would suggest that it would be better to handle those problems with an increase in court fees. Nebraska's court fees are relatively low compared to those of neighboring states and states around the country. So we obviously are going to want to work with you addressing deficits in the fund, but we feel pretty strongly that that can be done by using court fees where possible without greatly affecting the access to justice by the folks who have to pay those fees. [LB639]

SENATOR NORDQUIST: All right. [LB639]

MIKE HEAVICAN: Questions? [LB639]

SENATOR NORDQUIST: Thank you, Mr. Chief Justice. Any questions from the committee? [LB639]

SENATOR CONRAD: I have a question. [LB639]

SENATOR NORDQUIST: Senator Conrad, please. [LB639]

SENATOR CONRAD: Thank you, Your Honor. Just as a way of comparison, I guess, to the legal world: when looking at the policy questions before this committee and ultimately this Legislature in regard to the soundness and solvency of these critical systems, I was just thinking about when the court is presented with a question, they have the ability to, maybe, choose a more sweeping solution or to decide a case on the most narrow grounds possible. And it seems to me that we're all in agreement that there's a policy issue to be addressed here, and I'm thinking that maybe your testimony suggests that we should follow the court's good practice and find the most narrow grounds possible to address the solution, if that's a possibility. [LB639]

MIKE HEAVICAN: Certainly in regard to judges, I think that's what I'm saying. [LB639]

SENATOR NORDQUIST: Okay, thank you. Thank you. [LB639]

MIKE HEAVICAN: Thank you all very much. [LB639]

SENATOR NORDQUIST: Any additional opponent testimony? Seeing none, any neutral testimony on LB639? Welcome again. [LB639]

PHYLLIS CHAMBERS: (Exhibit 6) Good afternoon again. My name is Phyllis Chambers, P-h-y-l-l-i-s C-h-a-m-b-e-r-s, and I'm the director of the Nebraska Public Employees Retirement Systems. I'm here to testify neutral on LB639. This bill enrolls newly hired judges and State Patrol in the state employees cash balance plan. We would...we have similar concerns that we did with the other plan, LB638. Is it the intent to close the judges and State Patrol defined benefit plans? If new hires in these plans go into a different plan, they would go into a different trust; therefore, how would you fund the defined benefit plans as the plan ages, as fewer active employees are paying in and more retirees are collecting benefits? You would need alternative sources to fund the judges and Patrol defined benefit plans. Also, the reporting requirements would be different. Again, the Court Administrator and the State Patrol reporting agents would have to submit separate reporting to our office and to Ameritas, which would complicate the reporting of payroll and reporting of contributions. It is our understanding the bill proposes that the judges and State Patrol would have the same...similar contributions and similar rules as the state and county employees follow at the present time for breaks in service, vesting, and return to work. But, specific to the State Patrol, the bill establishes age and service credit requirements for retiring and receiving an annuity, such as 10 years and 25 years of service and at ages 50 and 60. And I was unclear on that. Under a cash balance plan, a service credit is not used in calculating benefits. Currently, anyone in the state cash balance plan may select an annuity whenever they terminate or retire, regardless of their years of service or their age. The benefit is determined by the employee's cash account balance, in a cash balance plan. So the cash balance annuity would be based on an actuarial calculation of the member's age and the account value. And under this bill, would there be specific terms of employment required for Patrol members before they would be granted an annuity? I wasn't sure about that. The bill also mentions a supplemental plan for the Patrol. And the details of this plan are unknown and would need clarification. Again, the bill suggests...proposes that the retirement board would change to 12 members, adding 4 new public members. And we believe the current number and composition of the board allows the PERB to function very well as it is. Changing a plan is often more complex than adding a new one or creating a new one. The PERB and NPERS staff have not had ample time to review this bill completely, but we estimate that there are costs involved. We provided a rough estimate, in the fiscal note, of $75,000 the first year and $50,000 the second year and going forward. The costs would include an actuarial study, the programming, recordkeeping, staffing requirements, and implementation costs. So further analysis would be needed to accurately assess the needs associated with this bill. And I'd be happy to answer any questions. [LB639]

SENATOR NORDQUIST: Great. Thank you, Phyllis. Any questions from the committee? Seeing none, thank you. [LB639]

PHYLLIS CHAMBERS: Thank you. [LB639]

SENATOR NORDQUIST: Any additional testifiers on this legislation? Seeing none, Senator Nelson, would you like to close? [LB639]

SENATOR NELSON: Can you spare me five minutes? [LB639]

SENATOR NORDQUIST: Yes, whatever you need. We'll make the next committee wait; they don't need this room. (Laughter) [LB639]

SENATOR NELSON: Senator Mello's...thank you very much. I'm not going to talk at length. I simply want to reiterate some things that I said and that have already been emphasized here. We're not talking here, in these two bills, about the ability to make any changes in the existing defined benefit systems that we have. That's going to have to be addressed separately. What we are talking about here is the future, the new hires, the new State Patrolmen, the new teachers, as I understand, about 3,400 new teachers a year coming in. And I think I'll confine my closing comments to LB639 here, where we're talking about the State Patrol and judges. I'm flattered that the Chief Justice came down and also Justice Cassel. We had good testimony from them. I want to point out some things for your consideration. I'm speaking from the standpoint of a sole practitioner in the practice of law for close to 40 years now. And it depends on when you become a judge, but it's my impression that, especially with the county court system, that you have more applicants than you can count. The salary is attractive to them. I'm not so sure in my own mind that they pay that much attention to retirement benefits. Younger people don't think in terms of that. I will grant you that as you get into the 40s, where you're going for the district bench or on, like that, it may make a difference whether you can attract qualified persons. It's questionable whether lawyers make as much money, you know, especially in the solo practices, as bandied about in the newspapers. But the fact remains that I think in this day and age if you've been practicing law for 20-25 years you have your own pension plan in place. It won't go as long as you would hope if you're going to go on the bench. But, on the other hand, what we're saying here under the cash balance plan, you're going to have a guarantee of 5 percent on that plan. It depends on how long you stay. If you want to retire at age 65, you can go and you can take it with you; it's portable, that part of it. Whether you go into an annuity or not or lump-sum balance is probably immaterial. But I think you've got more sustainability with the plan for the judges. And it doesn't make much sense, if you're going to adopt these bills or consider the possibility, that if you're going to put the State Patrol in the cash balance then the judges probably should be in the same system. And, finally, I will grant you that the judges retirement right now is really in pretty good shape, doing well. But they pay from 1 to 9 percent of their own income; the balance is made up with court fees. And if you look at LB639, for new employees, their contribution would be about 4.8 percent and the rest would come from court fees. So that is my summary. I appreciate the attention and the time that you have spent here with the hearing. [LB639]

SENATOR NORDQUIST: Great. [LB639]

SENATOR NELSON: Thank you. [LB639]

SENATOR NORDQUIST: (See also Exhibit 4) Thank you, Senator Nelson, for your comments and for your interest in our retirement systems. Thank you all for being here today. That will conclude our hearing. [LB639]