[LB655]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Thursday, February 25, 2016, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on AM2178 to LB655. Senators present: Mark Kolterman, Chairperson; Al Davis, Vice Chairperson; Mike Groene; Rick Kolowski; Brett Lindstrom; and Heath Mello. Senators absent: None.

SENATOR KOLTERMAN: Welcome to the Nebraska Retirement Systems Committee hearing. I'm going to introduce the committee staff and the members of the committee. Senator Groene will be joining us. He's from North Platte. He's on his way. My name is Mark Kolterman. I'm Chairman and I'm from Seward. Senator Al Davis to my immediate right is from Hyannis. He's Vice Chair. Senator Rick Kolowski is from Omaha. Senator Brett Lindstrom is from Omaha. Senator Heath Mello is from Omaha. Way too many from Omaha. (Laughter) Anyway, welcome today. Our committee counsel is Kate Allen and our committee clerk, Katie Quintero. Brandon is our...UNL student, is our page. We're here today to talk about AM2178, which is an amendment to LB655. I would encourage you to turn your cell phones off. Those wishing to testify can come to the front of the room as soon as the last person finishes. We'll start with proponent testimony, then opponent, then final neutral testimony. Please complete a blue sign-in sheet if you plan on testifying. For the record, please spell your name, state and spell your name and please keep the testimony concise. Try not to repeat. I believe we have three from each position, both proponent and opposition and one in the neutral. So with that, we're going to start even though Senator Groene is not here. So those...Senator Davis you're open to open on your bill.

SENATOR DAVIS: (Exhibits 1-3) Thank you, Senator Kolterman and committee members. I'm Senator Al Davis and I represent District 43. I'm here today to introduce AM2178 to LB655. I introduced LB655 last session as a placeholder bill which would create a state-administered cash balance plan for first-class city firefighters structured like the state and county cash balance plans. The League of Municipalities testified in opposition last year similar to past testimony raising several concerns centered around the cities' inability to take on any costs and concerns about treating firefighters differently than other city employees. The League pledged to cooperate and work with the committee. I introduced interim study LR230 in order to collect additional data and work with the cities to address their concerns. I have handed out the main body of the report so it can be made part of the record. Before I get into those details, I want to give you a brief background on how we got here. When the DC plan was put in place in 1984, firefighters were assured that under the new DC retirement plan they could retire at age 55 with retirement benefits roughly equivalent to the 50 percent of salary benefits the firefighters were getting under the previous defined benefit plan. Firefighters are eligible to retire at age 55 because of the physical demands of the job. Regardless of why the decision was made over half a century ago, firefighters are not covered by Social Security unlike all other city employees. The current defined contribution retirement benefit is the only pension firefighters earn through their work as a firefighter. And as you will hear later, even if they work other jobs, the Social Security benefits are reduced for firefighters and their spouses. So in response to cities' concerns about creating unequal treatment among city employees, firefighters are already being treated differently, and in fact, are receiving less-than-equal pension benefits than other city workers. According to data collected in 2012 by the Nebraska Professional Firefighters Association, based on the average account values of their most senior members the average retirement annuity they can purchase is approximately $16,129 which is closer to 25 percent of salary rather than 50 percent of salary. When monthly health insurance premiums are factored in, this amount is below the poverty level. As a result, retirement is not an option for firefighters upon reaching retirement age of 55 and they are left to do dangerous work well past their retirement age, increasing the risk of disabling injury. During the interim, a survey was sent to the 15 first-class cities with paid firefighters; 14 of the cities completed the survey. Alliance declined to respond. The survey responses are included in LR230 for your review. Last fall, Darren Garrean, president of the Nebraska Professional Firefighters, Retirement counsel Kate Allen, and I visited seven cities: Fremont, Hastings, McCook, North Platte, Papillion, Bellevue, and Norfolk. We listened to concerns of city officials, answered questions, and explained how the state and county cash balance plans work. City officials were provided information about the windfall elimination provision and government pension offset as they apply to firefighters and their spouses, information many city officials were unaware of. You have fact sheets on these provisions in your handouts. The windfall elimination provision applies to firefighters who qualify for Social Security retirement benefits from work in other jobs for which Social Security taxes were paid. The government pension offset reduces the spousal Social Security benefit by two-thirds of the firefighter pension benefit and may completely eliminate the Social Security benefit. Others will testify after me who can provide more information about these provisions and can answer questions about how they work. We stressed in all of our meetings with the cities that is my goal and the goal of firefighters to not create additional costs for the cities. At the same time, maintaining the current death and disability benefits are important benefits to retain. Under the current defined contribution plan and as proposed in AM2178, firefighters or their beneficiaries receive an annuity based on a percentage of salary for job-related death or disability. In order to relieve the cities of their cost for these benefits, firefighters in the cash balance plan are willing to increase their contributions by .5 percent. These contributions would remain with each city to be used exclusively to fund death and disability benefits for firefighters in the cash balance plan. There is no city match for this additional contribution. The .5 percent amount was calculated by an actuary who is here today and can go into greater detail about how the amount was determined. Throughout the process, we have worked to address the cities' concerns about preventing increased cost to the cities under the bill. AM2178 addresses these concerns. The firefighters' primary goals are to receive an adequate retirement benefit and continue receiving the current death and disability benefits which firefighters will now pay for. AM2178, which becomes the bill, includes the following provisions. The contribution rate for the cities would remain the same at 13 percent for both defined contribution and cash balance firefighters. The contribution rate for firefighters in the cash balance plan would increase from 6.5 percent to 7 percent. Contribution rates for firefighters who remain in the defined contribution plan will remain at 6.5 percent; .5 percent of the cash balance firefighters' contribution would remain with each city in trust to be used exclusively to fund death and disability benefits for these firefighters. Cities would continue to determine death and disability benefits for both defined contribution and cash balance firefighters. The state would have no role in these determinations. Cities will be mandated to participate in the cash balance plan so all current firefighters would have the option of joining the cash balance plan. Current firefighters will be able to opt in to the cash balance plan in 2017 between July 1 and October 31. The cash balance plan will not go into effect until January 1, 2018, in order to give NPERS adequate time to make the necessary technology programming changes, prepare educational materials, and provide education sessions about the cash balance plan. All firefighters hired after January 1, 2018, will become members of the cash balance plan. The state assumes liability for any actuarially required contribution, or ARC, for the firefighters cash balance plan so the cities would not incur any liability. As you can see from the chart I have handed out, since its inception in 2003 neither the state nor county cash balance plan has had an ARC despite experiencing a 27.4 percent reduction in investment return in 2009 during the worst recession the country has experience since the Great Depression. I believe the cash balance plans have been structured well to provide sufficient cushion for these plans to be able to pay the 5 percent interest credit rate without risking state taxpayer dollars. Firefighters have been working since 2012 to collect data, educate policymakers, address financial and other concerns of cities, and craft a solution so they can receive the adequate retirement benefit they were assured in 1983. Currently, firefighters are being treated differently than other city employees. Any Social Security retirement benefit they may accrue through other jobs is being reduced. Unlike city employees who are able to reap full Social Security benefits, this proposal will help address this disproportionate treatment. AM2178 addresses the concerns that have been raised over the years by the League of Municipalities and city representatives and deserves to be advanced to General File for debate. One final note, I have been working with the committee legal counsel on some necessary technical amendments, most importantly an amendment to create a separate fund in each city for the .5 percent contribution, so they are not coming up with the funds that they hold for current forfeitures. Thank you and I would take any questions. [LB655]

SENATOR KOLTERMAN: Thank you, Senator Davis. Questions for Senator Davis? Okay. You're going to close, I assume. [LB655]

SENATOR DAVIS: I will close if there's time. [LB655]

SENATOR KOLTERMAN: Proponents. Go ahead when you're ready. [LB655]

WILLIAM FORNIA: (Exhibit 4) Good afternoon. Thank you, Mr. Chairman. My name is William Fornia. I'm an actuary hired by the Nebraska Professional Firefighters Association to do some analysis on this bill. I'm a fully credentialed actuary, a fellow of the Society of Actuaries. I've been practicing in this arena for 35 years. And this testimony today will mark the tenth state legislature, legislative body that I've testified in front of, so that's kind of exciting for me. Most of my...I have my own practice, Pension Trustee Advisors in Colorado. But my work is very disparate. I've worked all around the country. I was an expert witness in the Detroit bankruptcy representing some of the European banks that lost money because of their bad loans. I've worked for various cities--city of Baltimore, city of Philadelphia--in working on pension reform. About a quarter of my work is work similar to what I'm doing now where my client is a union or labor organization. And so I try to keep a very good balance in the kind of work I do. I've worked for a lot of pension systems similar to Nebraska PERS. In fact, the last time I was in Lincoln was in the 1990s when my firm, Buck Consultants, was hired to become the ongoing actuary for Nebraska PERS. And then a couple years later I was involved...not...I wasn't the primary author, but I was partially involved in the benefit adequacy study that was done because this is...so this is 2000. Basically the defined contribution plans that you all had in this state covering your state employees and your county employees were not quite cutting it. And we did a pretty rigorous study of the benefit levels that could be expected from those plans and the end result was this cash balance plan that was created. I think it was 2002 or 2003. I could be off a year. And that plan has been relatively successful. And now fast-forward 15 years or 14 years and now we're kind of encountering the same thing with your Class I city firefighters. You know, they're discovering that the defined contribution plan that they have is just not quite providing adequate level of benefits. In the meantime, professionally for me in 2008 I wrote a paper for the National Institute on Retirement Security analyzing nationally, you know, how these DC plans were--DC means defined contribution--how these plans were working and how they compared to defined benefit plans. And the paper that we wrote basically found there's two problems with defined contribution. One is that you don't know how long you're going to live. So you know, I'm a private...I have only private sector plans and I don't have much in the way of defined benefit. So I've got to save enough money to figure out...and then I'm going to pay myself out of this savings for as long as I'm going to live but I don't know if I'm going to live till 73 or 83 or 93 even though actuarially speaking, I'll live to 83, let's say, on the average. I might live longer. So therefore, I need to take...I need to save extra in case I live longer than average. Well, then the Nebraska PERS cash balance plan is really well set up to accommodate that because they offer an annuity conversion where when you retire you can choose to take a payment for as long as you live. If you only live five years, you didn't make a very good decision, but if you live 35 years you made a great decision. And so the pooling that they do allows these defined benefit plans or cash balance plans to be more efficient than a defined contribution plan. And then, of course, the second advantage is just the returns are better. You know, you don't have to do individual recordkeeping for each person. You don't have to do individual communication on how to make your choices and frankly professionals are better than the average individual in figuring out how to invest. You know, some individuals are better than average but on the average they're not as good as the average professional. It's the same thing in any field. So anyway, so I can see why this group wants to do a move to the statewide...state...a cash balance plan similar to what the state and county employees have. It makes a lot of sense logically. But as Senator Davis mentioned, there was a little problem with forfeitures. What happens now under DC plan is if you quit before I think it's seven years of service, part of the money that the city contributed for you goes back to the city and the city is using that money to help pay for death and disability benefits. So now if they were going to join NPERS they wouldn't get that anymore. The NPERS wouldn't be refunding that. So that's why they hired me to do some arithmetic and figure out how much is this costing these cities. So what we did is tried to figure out how much the city would be getting on the average in forfeitures under the current structure and then the firefighters want to just pay the extra money so that the cities are kind of kept whole. And that's what this report that was just passed out does. It's very technical, a lot of actuarial stuff in it. I certainly don't intend to go through it in great detail. But basically what I did is I looked at experience from other states and Lincoln and Omaha who have to defined benefit plans. See, any defined benefit plan...well, you all were in general session, you heard them talk about the experience studies that have to be done every three or four years...I guess four years is the new bill, what the actuaries do is they go through and they look in great detail as to what the likelihood of people doing all kinds of things is. For example, they look at how many people quit after one year, how many people quit after two years, after three years, and you know and then...and that's the key thing for the forfeitures. So I took a look at Ohio, Colorado, Lincoln, and Omaha and saw what their actuarial studies showed for how likely firefighters are to quit in the various...after one year, two years, three years, and so on. And I use that data along with average salary data and average investment return data to kind of figure out what I thought was the right number for how much they should be paying extra so that the cities are kept or held harmless, so to speak. And my...you know, there's just pages of arithmetic in here and actuarial analysis. And basically I conclude that 0.44 percent was the right number. So you know, based on that they're proposing putting in 0.50 percent as the extra amount so that the cities are not hurt by losing the forfeitures that they've been relying on in all these past years. That's basically was my work and some of the background and I'm happy to take questions at this point or as the Chairman's pleasure. [LB655]

SENATOR KOLTERMAN: Go ahead, Senator Lindstrom. [LB655]

SENATOR LINDSTROM: Thank you, Chairman. Thank you for being here. And you said you work across the country on plans, right? [LB655]

WILLIAM FORNIA: Correct, Senator. [LB655]

SENATOR LINDSTROM: How often do you see a DC plan without Social Security? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Lindstrom, Alaska has it for the new hires since 2005. I've kind of made a statement, most Americans have a defined benefit plan. I've got Social Security. I think your firefighters, and I suspect police officers as well, are probably one of the largest groups in the country that don't have any kind of defined benefit plan. I think Washington, D.C., might. There's very, very, very few citizens in this country that don't have either Social Security or a public sector defined benefit plan. So your Class I city firefighters are very unusual...unique in that regard. [LB655]

SENATOR LINDSTROM: Unique. What would...I guess I've never in my capacity as a financial adviser I just have never seen someone have a DC plan and not have Social Security. I just wondered back when the deal was done, I believe it was in 1994, why that would even be proposed or accepted because you made the comment cutting it, I'm assuming you're talking about the amount of money that the person has at the...when they retire to live off of during retirement and not be able to obviously live off that. So I'm just curious why...how that all came about and why somebody would say, yeah, let's go ahead with that plan. [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Lindstrom, I don't know the answer to that but let me speculate. I was the actuary for Boeing Company, the large aircraft manufacturer, from 1980 to 1984. And that's when they introduced their 401(k) plan. These things were really popular. I mean the market was starting to take off in 1982. You know, we'd kind of come out of a recession, the whole personal responsibility thing. Defined contribution plans were very, very popular in the '80s and '90s when the markets were doing so well. And I know in my state, Colorado, we did a major pension reform in 1978 and gave each town the option of going DC or defined benefit. And you know, maybe a third of the towns...the members, the firefighters and police officers, chose to do defined contribution plans. So I think we thought things were going to be good. [LB655]

SENATOR LINDSTROM: But Boeing is still getting their Social Security. [LB655]

WILLIAM FORNIA: Correct, Senator, yes. [LB655]

SENATOR LINDSTROM: And these other towns are getting Social Security. [LB655]

WILLIAM FORNIA: Colorado, there are some of these towns that are like your firefighters also. [LB655]

SENATOR LINDSTROM: Okay. [LB655]

WILLIAM FORNIA: That are not in Social Security. [LB655]

SENATOR LINDSTROM: Okay. That's it. Thank you. [LB655]

SENATOR KOLTERMAN: I have a question for you. So at Boeing did they keep their defined benefit plan and just add a 401(k)? [LB655]

WILLIAM FORNIA: Mr. Chairman, Boeing kept...they introduced a 401(k) in '82 I believe it is. They have...the unions still have a defined benefit plan today, what, 33 years later. The engineers just last week, I think, agreed to phase out. And I think the management employees a few years ago phased out. Companies are in many cases for a variety of reasons phasing from defined benefit either to cash balance or to a defined contribution plan in some cases. [LB655]

SENATOR KOLTERMAN: And is it true that most companies today don't have defined benefit, they're all moving towards a 401(k) defined contribution type of plan? [LB655]

WILLIAM FORNIA: Mr. Chairman... [LB655]

SENATOR KOLTERMAN: Private sector I'm talking about. [LB655]

WILLIAM FORNIA: Yeah, I would say certainly most companies. There are still...keep in mind the big...I'm a company. I mean, I'm a one-man company and I don't have a defined benefit plan. Certainly most companies have...are shifting in that direction or did already for a variety of reasons. The popularity in the '90s when the returns were so good made the move easy. And then just the government regulations are tricky. And companies have a solvency necessity that's stricter than the governmental entities do. But yes, there's no question that there has been some movement away from defined benefit plans either to cash balance plans like we're looking at in Class I city situation, or to a defined contribution plan. [LB655]

SENATOR KOLTERMAN: Okay. Thank you. Senator Groene, you have a question? [LB655]

SENATOR GROENE: But isn't the reality the reason they went away from defined benefit because it was breaking the companies and they didn't have taxpayers to make the ARC? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, there's a lot more to it than that. I think in the '90s the pensions were actually income so they were able to take on the books of the companies, the pensions were overfunded. They were getting nice little bonuses based on their profit and loss of the companies based on the overfunded pension situation. Once that flipped it was a big negative on their costs. I don't know if they're breaking the company. I'm not too sure how many pensions have actually broken the companies. Certainly in some of the bankruptcies they've been...the pension has been a problem. [LB655]

SENATOR GROENE: Well, wasn't there some, employees got...lost it, too, because the companies used the money out of the pension plans as part of their assets? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, not exactly. They could use the money on the books, but they weren't able to actually...I mean if they filed for bankruptcy then there just wasn't enough money in the plan and the federal government took over. There have been cases where individuals have lost benefits for that reason. [LB655]

SENATOR GROENE: (Inaudible.) [LB655]

WILLIAM FORNIA: But I'm not aware of any that actually took money out of the plan. [LB655]

SENATOR GROENE: You've given advice to let's say the state of Nebraska and they say...and we're in a market, an iffy market right now that's sitting on a high bubble and you bring in this money and automatically you're guaranteed 5 percent and the market crashes 30 or 40 percent. Would you advise them to make an ARC, do something like that make an ARC...the risk of that making an ARC immediately within a couple years? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, if...okay, so in this environment, let's see. We do the transfer, the market crashes 30 percent roughly like it did in 2008. I mean, the good news, if there is any, is that these people don't need to take the money out right away. So by guaranteeing only 5 percent and earning more than 5 percent in...over the next 30 years from that time, there's a pretty decent chance that they would recover. So certainly wouldn't do it right away if... [LB655]

SENATOR GROENE: What do you mean if they don't need it? There's...there will be firemen right at close to retirement and could roll it over, couldn't they? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, I'm not sure if there's a provision where they...they can't take the money out. The money gets paid out as an annuity. [LB655]

SENATOR GROENE: All right. Yeah. [LB655]

WILLIAM FORNIA: So I mean there could be some cash flow issues, but you raise a valid point. [LB655]

SENATOR GROENE: But you're the actuary and you come in and you say at two years later and the market crashed 40 percent, are you going to...and you do the audit, are you going to recommend to the state we make an ARC right away to make that whole? [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, well this is 40 percent on top of the 30 percent you just had us do or...? [LB655]

SENATOR GROENE: Well, no. You said 30 percent. [LB655]

WILLIAM FORNIA: Oh, I thought you said 30 percent. Excuse me, Senator. In this situation, a 30 percent crash from two thousand...what was it? [LB655]

SENATOR GROENE: 2017 or 2018. [LB655]

WILLIAM FORNIA: 2018 to 2019 or 2017 to 2018. [LB655]

SENATOR GROENE: Starts in 2018. [LB655]

WILLIAM FORNIA: Sure, it would be a problem. I'm not sure we would immediately start asking for additional payments. But flip it around, please, Senator. If these people that are getting ready to retire that have their own money...first of all, if NPERS has a 30 percent crash, these guys are going to have a 40 percent crash. So now all of a sudden you've got a lot of firefighters that might have been a year or two away from retirement that are now, you know, five years or ten years away from retirement. And they're going to be having to work in their 60s and so on. [LB655]

SENATOR GROENE: Because they got a 401(k) like I do. [LB655]

WILLIAM FORNIA: Exactly. [LB655]

SENATOR GROENE: All right. [LB655]

WILLIAM FORNIA: Exactly, and the tricky part is where me, for example, Senator, and perhaps you, our jobs don't...I plan to work until I'm 65 even if I could save, I mean even if I could retire, because I love my work and it's not that rigorous. Traveling to Nebraska is a little bit of a chore from time to time, but it's not that rigorous whereas jumping off fire trucks and getting up in the middle of night is a job I wouldn't want to do past about age 55. [LB655]

SENATOR GROENE: But also, when we did it with the county employees and the state employees, didn't we hit it right? When we went into 2003 the market was coming off the bust and... [LB655]

WILLIAM FORNIA: Mr. Chairman, Senator Groene, I'm not so sure. [LB655]

SENATOR GROENE: ...now (inaudible). [LB655]

WILLIAM FORNIA: I mean 2003 wasn't too far away from 2008. I don't...I haven't looked at what the NPERS returns have been for the cash balance plan since inception. [LB655]

SENATOR GROENE: Too far away from the airplanes hitting the buildings either. [LB655]

SENATOR KOLTERMAN: All right, thank you. We're going to move on. [LB655]

SENATOR GROENE: Okay. Thank you. [LB655]

SENATOR KOLTERMAN: Thank you for your testimony. Additional proponents. [LB655]

WILLIAM FORNIA: Thank you, Mr. Chairman. [LB655]

RON SANTHOFF: (Exhibits 5 and 6) Good afternoon, Chairman Kolterman, members of the committee and staff. My name is Ron Santhoff. I'm the pension resources director for the International Association of Firefighters here speaking in support of LB655. You just had an interesting discussion in part about Social Security and its impacts. There's a couple points I would like to make. You have handout information both on the windfall elimination provision, the government pension offset, and some other documents that we will get to in terms of what happens. As you know, all Class I cities are not in Social Security. What is not that well understood is how WEP and GPO works and how it impacts people who draw a government pension from an agency where they did not make or were not participating in Social Security. The other piece of it that's a little more arcane and not understood is how the calculation of benefit starts in the first place. If you are eligible for a Social Security benefit, your average wage is calculated based on 35 years of employment history, 35 years. So if you...some firefighters may have Social Security credits either from work before they became a firefighter, part-time work perhaps while they were a firefighter, or work after they became a firefighter. But generally speaking as you know it takes 40 credits, i.e., ten years of service to qualify. So we just did an example to put this in context. When you work ten years, by the way, regardless of your salary, it's averaged over thirty five to come up with what your monthly average salary is going to be. It's not what you made in those ten years. It's those ten years averaged over 35 and 25 of those years are going to be zero and so that's how the calculation is going to be made. They do have a factor that takes an older number and brings it to present-dollar value, but nonetheless, zero is still zero. So if you took a firefighter...we did an example just to point out the disparity in these benefit levels. If you take a firefighter that made $40,000 a year average in the last ten years and you brought that forward and say, okay, what's that person's benefit going to be? Their straight Social Security benefit with no offsets of any kind where they...that were that was their employment, they're going to wind up with a benefit of $802.24 a month. That's going to be their benefit, not a great benefit, but they only had ten years of service credit. Even though they were averaging $40,000 per year, that's what their benefit is going to be. And that's a lifetime benefit as you know and it has COLA provisions as well. Under the windfall elimination provision, if you are receiving a retirement from an agency that did not participate in Social Security, the WEP will change that benefit from $802.24, it will be reduced to $398.24. So it's basically going to be cut in half. The way Social Security works is you get 90 percent of the first $856 of income that you earn as your monthly income on that 35-year calculation that I just described. The windfall elimination provision changes the 90 percent number to 40 percent. You only get 40 percent of that. And that's true all the way up to you have 20 years of service. If you have 20 years of qualified credit in Social Security, the same offset applies. If you get 21 years, from 20 to 30 years the offset is reduced by 5 percent a year so that in ten years there is no offset. If you have 30 years of full Social Security credit and you're receiving a government pension then the offset doesn't apply. But that means you'd have to have 30 years of qualifying Social Security credit. The government pension offset is a little more...it's different but it has a pretty severe impact. If you are receiving a government pension from an agency that does not participate in Social Security and you're entitled to survivor benefits from your spouse, those survivor's benefits are also offset by two-thirds of the amount of your pension. So whatever your pension was, two-thirds of that amount is going to be subtracted from what the survivor benefit would be that you'd be entitled to from your spouse's work in the event that they deceased and you receive those benefits. So that's a fairly significant hit as you might imagine as well. That one is not as well understood. It doesn't apply in as many circumstances, but nonetheless, it does exist. The third thing is, as you know, in Class I cities in the state of Nebraska, there is no healthcare provision after retirement. Not...they don't receive any kind of a stipend or any kind of a payment. And in addition to that, they're not eligible to participate in the city-sponsored plan. They can for 18 months under the COBRA law. They can participate for 18 months. But after that they're basically on their own. And so as such, at that point in time they have to go out and they have to secure healthcare on their own. And because of the Affordable Care Act, We did a calculation--and you have this document in front of you--what does that mean and what is it going to cost to a firefighter? Now I understand and you all are aware, our folks are in Medicare. Medicare became mandatory for all city employees after April 1 of 1986. Anybody hired before that is not in Medicare. You may have employees in Class I cities if they predate April 1 of 1986, they're not a Medicare member and unless they have qualifying credits somewhere else they don't qualify for Medicare. Everybody hired after April 1 of 1986 is mandatorily enrolled in Medicare. So all Class I employees are so enrolled. However, as a firefighter we don't work until 65. It's not practical to work a firefighter at 65 because of the physical demands of the job. That is borne out in the disability rates. Disability rates from 50 to 55 double. From 55 to 60 they double again. It is a young person's jobs. It's a physically demanding job. And disability rates literally double twice in that last ten years between 50 and 60 because of the onset of the age and disability and the physical demands of the job. If you look at this handout what you will see is a single individual age 50 and a single individual age 55. We took two numbers to give you a variance. Monthly premium for the bronze, the lowest cost plan that is available under ACA is $290, but the deductible is $6,300 meaning the first $6,300 is an out-of-pocket expense that you bear. And after that then you're covered under ACA. You can see silver and gold and then you can see married. And by the way, the age 50 and 47, that's the primary and the spouse. That's what the difference of the two ages are: monthly premium, $550; for the gold, it's $1,270. If you have a family, the monthly premium is almost $2,000 a month for the gold. It's $820 for the single. And the deductibles, the higher level you go the deductibles go down. The point of it is this is an after-tax expense that these retired firefighters have to bear. This is not something you get to deduct from your taxes. The reality of it is the payment that you're going to make is going to be an after-tax amount. And as was pointed out earlier, there was an example under Class I cities of a person that had the highest account balance, when you annuitize that value for their service on a lifetime annuity, a single-life annuity, they're going to get approximately 25 percent of pay. All retirements are predicated on what is the replacement income on which you're going to base your retirement? Experts will tell you between 75 percent and 80 percent is what is necessary in order for you to maintain a standard of living upon retirement that you enjoyed as a working individual; 25 percent is going to be the income level under the current plan for the majority and that was the highest level. Unfortunately, 401(k)s suffer a great deal of difficulty, not only investments, but also leakage, people...money comes out for a number of different reasons and doesn't stay invested. It can be hardship withdrawals, divorce. There's a number of different factors that can impact the amount of money under management. So the reality is that 25 percent has to sustain that individual. And on top of that 25 percent, the net of that 25 percent meaning the after-tax value has to come out to pay for healthcare. So that person is literally left in a position where they are not able to maintain themselves. They either have to work another job or they have to continue in employment which is what we see happening. People either go off to another job, or in the case of Class I cities, people are taking that are leaving, they're taking a lump sum. They're rolling it into a tax-qualified plan, they're taking a lump sum, and they're living off of the lump sum because they simply can't do it any other way. And that's only going to last for a limited period of time before they run out of money. The last thing that I want to discuss and you have a handout from the SEC here, it has to do with fees and it talks about the differences of different fee structures and how that impacts your investment earnings over time. What this proposal basically does is give you the benefits of pool resource, dollars under management professionally managed, asset allocation, and basically reduce the cost. It is literally a more efficient investment of the same dollars. What is being requested here is to take the amount of money that's already being contributed, 19.5 percent of payroll, and maximize the value of that contribution over a working life. That is done by reducing fees primarily. The fees are less. The management is better. I served on a 401(k) board for six years. I've done national research on this. Unfortunately, most of us are not that astute at investing. And what tends to happen is every time there's a market downturn like we're just facing now, people sell. They moved their money from their equities, they move it into a cash account. And then as soon as the market goes up when it's at the high side, they buy. And so what they're doing is they're selling low and they're buying high, and believe me, this is a national phenomenon. When you look at the difference in return rates just on fees alone, there's an almost double, sometimes triple. The average fee basis for a defined contribution...benefit plan, excuse me, is under .5 percent for all dollars under management. And that's usually a highly allocated stocks, bonds, real estate, securities, everything, many different subclasses in all of that. You have a 401(k) account, you're going to pay for stock fund alone 100 basis points, double that amount. If you want a target date fund, it can be 150 to 200 basis points. It was mentioned earlier about the stock market downturn. The average pension fund, defined benefit pension fund in the downturn of '08-09 lost 25 percent of their assets. The Dow and the market in general went down 50 percent. The average 401(k) plan went down almost 50 percent and I'm sure you're aware--it's pretty basic math--if you lose 50 percent, in order to get yourself whole you have to earn 100 percent. You had $100,000 under management, you lost half, you're down to $50,000. So you have to now earn 100 percent return on that $50,000 to get back to where you were. You don't have that issue under the cash balance plan. That doesn't exist. It's a pooled resource. So we're making more efficient use of the funds available to provide a more meaningful retirement which ultimately pays benefits to the taxpayers of the state of Nebraska. The more money that an individual has upon retirement, that money is spent in the local community. They remain here; 90 percent of your people stay within the jurisdiction of where they worked. That money goes into a local economy for goods and for services and for taxes paid. We covered the fees. That's basically...I believe that everything that I had at this point in time. I'd like to turn it over to President Garrean. He has some... [LB655]

SENATOR KOLTERMAN: Thank you. Do you have any questions? [LB655]

RON SANTHOFF: I apologize. If anybody had any... [LB655]

SENATOR GROENE: Just a quick clarification. [LB655]

SENATOR KOLTERMAN: Sure, yeah. [LB655]

SENATOR GROENE: Your 25 percent was based on ten years of service? When you said... [LB655]

RON SANTHOFF: No, sir. That was...the 25 percent in terms of...what we did is the cash balance plan, as you know, has been in...I'm sorry, the defined contribution plan has been in effect since 1984. So we looked for the person with the highest balance at 30 years, at...having worked that period of time, if you took that amount of money and you bought an annuity with it so that you had a lifetime stream of income, a single-life annuity, it would provide a replacement income to their current salary of 25 percent. And when you buy an annuity on the open market, you're buying a profit-making item. The company that issues that annuity doesn't do it for free. You know, they mitigate their risk and... [LB655]

SENATOR GROENE: If they left it in the market and just did an index of the market, what would they have had? [LB655]

RON SANTHOFF: That's a great question. Typically what will be advised, if you want to have a lifetime income based on a pool of funds, you can safely...and ensure that you don't run out so that you...for as long as you're going to live because none of us know, of course, you take out 4 percent. That will sustain you in a lifetime benefit. So if you have $100,000 on account and you take out 4 percent, you're getting $4,000 a year. If you have a $500,000 on account, you're getting $20,000. [LB655]

SENATOR KOLTERMAN: All right. Thank you. Thank you for your testimony. [LB655]

RON SANTHOFF: Yes, sir. [LB655]

SENATOR KOLTERMAN: I'm not trying to rush you, but we only have a short period of time. [LB655]

RON SANTHOFF: I understand, sir. [LB655]

SENATOR KOLTERMAN: How many more proponents are there? [LB655]

DARREN GARREAN: I think just me. I will be brief. [LB655]

SENATOR KOLTERMAN: Okay. Thank you. [LB655]

RON SANTHOFF: Thank you, sir. [LB655]

SENATOR KOLTERMAN: Appreciate your testimony. Thank you. [LB655]

DARREN GARREAN: (Exhibits 7 and 8) Chairman, members of the committee, I will be brief because I know we're short on time and you've heard quite a lot of testimony. My name is Darren Garrean, D-a-r-r-e-n, last name is Garrean, G-a-r-r-e-a-n, president of the Nebraska Professional Firefighters representing approximately 1,300 paid, full-time firefighters and paramedics across the state. We're here talking about the first-class city firefighters population, that being 5,000 to 100,000. And what brought us here is recognizing there's a problem. Similar to the state recognized there was a problem for its employees around 2000 as testimony earlier, we've recognized that there is a problem of first-class city firefighters and their retirement. Recognizing that problem, is now how do we address it? We wanted to address this problem in a systematic way, try to provide a solution that was fair, equitable, not creating additional costs, and take our time in doing it correctly. As part of that problem, we wanted to meet with cities that may have concerns. Senator Davis introduced the LR230 which we went out and met with various cities--Fremont, Hastings, McCook, North Platte, Papillion, Bellevue, and Norfolk. We listened to them and wanted to make sure moving forward that we, again, address things correct recognizing there may be some costs in that moving forward. So addressing that, we asked for an actuary to figure out if there was a true cost. And there was and the firefighters paid for that actuary study with good intent, good merit, making sure, okay, if there is a cost, how much is it? The actuary was done, found out it was .44 percent. We're willing to do the .5 percent, pay that back to the cities to make sure that they are not enduring a cost in doing this. A good-faith effort on our side is making sure that it's being done and not to create that additional cost. So we told our firefighters we'll pay that .5 percent back to the cities just to have the ability to move forward into the cash balance plan. The cash balance plan that was put in play in 2002, as you heard, came from a result of a study that it was inadequate for the state. That's kind of what's brought us here today. Some of the testimony...not the...and we went around to the cities. The concerns were we don't want to treat our employees different. The fact is they already are treated differently. One of the handouts that I gave you is the police officers and some of those changes that were incurred recently as 2012 have been treated differently. And the biggest one that's been talked about is the Social Security aspect of it. We are treated differently. And, unfortunately, that's the case and we've recognized the problem and we want to address it. I want to try to be brief, so I'm going to skip over some things. I know there's a concern about the 5 percent being too rich and the potential of a downturn. I think that is warranted in any climate and we want to make sure that we're not doing anything that would create a burden upon the state in addition to the cities. I think this current plan as you can see from the required contributions that needed to be made was zero through the Great Recession, stuff like that, this is a well...the cash balance plan that is currently in place, is well managed and well done, well thought out. We're not trying create something new. We just want a different vehicle of managing those finances which ends up being a better retirement for the firefighters. The time to do this is now. We've recognized that there is a problem. We've come to a solution that I think is fair, reasonable. We understood that there may be some current concerns. We've tried to address those. None of us can go back in 1984 and, you know, change what happened back in those times. But the intent of the Legislature at that time was to create an equitable 50 percent value of retirement. Obviously, we're nowhere near that. This, what we've proposed, is something that I think is fair and would provide a good benefit for our firefighters of the first-class city. I'll keep it brief, so if there's questions. [LB655]

SENATOR KOLTERMAN: Darren, thank you very much. You've worked hard on this. I appreciate all the effort and work that you and Senator Davis... [LB655]

DARREN GARREAN: There's been a lot of group effort in this, yes. [LB655]

SENATOR KOLTERMAN: ...and legal counsel Kate have put into this. So I've had plenty of opportunities to visit with you so I don't have any questions. Any other questions for Darren? Thank you. [LB655]

DARREN GARREAN: Thank you. [LB655]

SENATOR KOLTERMAN: Okay, seeing no more proponents, opponents. (Exhibits 13-16) While he's coming up, I'll read into the record that we have Grand Island Professional Firefighters, Local 467, Phillip Thomas is a proponent, supportive of change; Fremont Professional Firefighters, Local 1015, Dave Wordekemper, is a proponent; and then we have an opposition letter from the city of Grand Island, Marlan Ferguson; and then also, this is the city of Columbus. Welcome. [LB655]

DAN HOINS: (Exhibits 9, 10) Thank you, Mr. Chairman, members of the committee. My name is Dan Hoins, D-a-n H-o-i-n-s. I serve as the city administrator for the city of Papillion. Today I am representing, in the interest of time, multiple entities and I'd like to read a list of other city administrators and managers that are also in the room and oppose this: Papillion, Alliance, York, Grand Island, Fremont, Norfolk, South Sioux City, and I believe you may hear from two others of those administrators that I just listed. I'm also obviously wearing the hat for the city of Papillion. The United Cities of Sarpy County has taken a position of opposition and I'll also be presenting and answering questions on behalf of the League of Municipalities in the interest of time. So I'll be very, very brief so we can get on with this. The thing before this committee, Mr. Chairman, committee members, really at a very high level the question is this: LB655 is a fundamental shift in risk from an individual employee to be taxpayers of the state of Nebraska assuring a 5 percent rate of return. We all know that it's not a matter of if, but rather when there's a market decline. And if that takes place and this bill passes, the taxpayers across the entire state are going to bear the burden for assuring that 5 percent. I'll also say, I didn't come prepared but I'm going to attempt to address it, because I do have some information from Papillion's perspective, the issue of Social Security. It's been represented here they're treated differently and maybe unfairly. I have a different take on that. I was not around. As I understand it though, the firefighter, the national firefighters lobbied Congress to not participate in the Social Security system and they were successful in that lobby. That's why they don't have Social Security. Here's the point I'd like to make. First off, in Papillion and every other first-class city, police officers are part of Social Security. They do participate in Social Security. At face value that may appear to be unequal. But in Papillion, for example, I think it's reflective of the other first-class cities if you're a police officer--and by the way, disclaimer, some of you may know I'm a retired police officer, so just to tell you that--from the city of Papillion. In Papillion if...the employer contribution to a police officer's pension is 7 percent I think up to 12 percent, the employer contribution for a firefighter is 13 percent and that 13 percent is designed to make up for the 6 percent or the 6.2 that they don't get. So it's true there is a difference, but it's .2 percent, that the firefighters get above and beyond what a police officer or other general employee gets from the city of the Papillion. On the other side, the employee contribution, firefighters only have 8.5 percent of their pay withdrawn for Social Security. Police officers and every other employees have 15.2 percent of their pay withdrawn for Social Security. So they keep that 6 percent on the employer's side and they're given the 6 percent on that. Now there's no question and we're very sensitive and it's difficult for me because I think we all in our communities know and respect those folks and what they do. And in Papillion I can tell you that I feel blessed beyond measure the relationship we have with our firefighters. We negotiate contracts in a matter of weeks and they're reasonable and I think we have a very, very good relationship with them. Just a couple of other things I'll throw out and so we can move on. The issue of fees...I think I gave you an e-mail from our investment adviser. The basis points for the city of Papillion plan is .89, I believe, and then the state is .55. So it is higher, but he details, you can weigh that and put value to that according to what you see. The...one other issue that...we don't have...we have...in Papillion we have 57 firefighters full time. Now we serve three jurisdictions, the city of Papillion, and we own and operate the fire department, if you will. But we are partners with the city of La Vista through an interlocal agreement and the rural fire district through an interlocal agreement. That's been a very, very good process. I'm going to conclude my testimony here. There may be questions. I threw a lot at you and I've got a lot of stuff here that I didn't touch in the verbal testimony that's in the letter. But I'd take any questions, Mr. Chairman. [LB655]

SENATOR KOLTERMAN: Thank you very much. [LB655]

SENATOR GROENE: Just a quick one. Go ahead. [LB655]

SENATOR KOLTERMAN: Let's go with Senator Mello first and then Senator Groene. [LB655]

SENATOR MELLO: Thank you, Chairman Kolterman, and thank you, Dan, for being here today. I've probably asked this question to all the opposition just because I've been on this committee now eight years and this is an issue that's not gone away. And so I'll ask you and all the other opposition. What's been done to try to...from your end of being a city government official, what have you done to try to provide a solution to what we know essentially is an underfunding of essentially retirement benefits for this specific class of public employees knowing that, as we've heard in this bill multiple years now, we've got firefighters qualifying for public benefits at the state level that to some extent shows that there is a direct connection to the lack of funding to their benefits from the local level. So what's been done on your guys' end to try to find a resolution to this issue that's in front of us? [LB655]

DAN HOINS: Very fair question, Senator, I appreciate the question. On our side what we did several years ago, I'm going to say five years or more ago, the city of Papillion...and again, in the interest of employee fairness, which is very important to us across employee groups--public works, police, fire--is we created the opportunity for all employees, including firefighters, and many of them take advantage of it, to participate in the 457 plan. What the city offered was we will match dollar for dollar up to 2 percent of your salary so that you can enhance your retirement benefits. And most have so there's an additional 4 percent. That would be my first response. The second one, if you look at our union contracts whether it's, again, police or fire, we put death and disability benefits in those and I know that's a benefit at the local level that we pay for in the process. And finally, Senator, as recently as yesterday afternoon met with...because it was raised to your healthcare, not a healthcare issue but I think it's germane to the subject here. We are looking and having a very productive discussion with our firefighters and our police officers and our public works people to bridge that 55 to 65 gap and I think we have some very creative solutions that don't cost the city of Papillion or the state of Nebraska to bridge that ten-year gap for healthcare. So three things specifically. [LB655]

SENATOR MELLO: Can I? [LB655]

SENATOR KOLTERMAN: Go ahead. [LB655]

SENATOR MELLO: A couple follow-ups. Thank you, Mr. Chairman. Just for clarification purposes, the 457(b), I'm fairly familiar with 457(b) plans. That would require them to have to put more money into their retirement to get matched though, correct? [LB655]

DAN HOINS: Correct. [LB655]

SENATOR MELLO: Okay. Walk me through the opposition. Walk me through the opposition in regards to...from the city's perspective against moving from a defined contribution plan to a cash balance plan when the way I understand the bill, there's no requirement that the city would have to make up any ARC, so to speak, and in light of the material we've gotten, the state has never had to make an ARC since the creation of this plan close to 12 to 13 years ago. What's the opposition from a municipality's perspective? If the liability is not being placed on the municipality and the state, under the amendment, is willing to take on that liability? [LB655]

DAN HOINS: Another very fair question, Senator, and I'll try to just limit it to what I think I may have some knowledge on because I certainly don't profess and not presenting to be an expert on retirement benefits. The opposition is really based on...I'm somewhat of a student history and actually teach some public administration classes at Bellevue University and this topic comes up frequently. There is a very dark line drawn between cities regardless of size--Detroit, others--between their economic stability and two key things: defined benefit pensions and retiree healthcare. Those two things will get a city in trouble faster than any two agreements. So that on a very high level is just...it's bad public policy and it's not economically sustainable. And there's many, many examples. When you have people that can retire at 45 or 46 years old with six-figure pensions, in many cases, it's the slippery slope, Senator. [LB655]

SENATOR MELLO: So that's...that's your sole argument is that slippery slope of not...yet to be determined? I mean, you didn't even mention a city's financial concern, so to speak, but just the overarching philosophical concern of cash balance plans, which I remind you has never had an ARC in the creation of the cash balance plan in the state of Nebraska, that's the concern that the cities have, is the fear that they may be asked somewhere down the line, even though it's spelled that the state picks up the responsibility of that? [LB655]

DAN HOINS: Well, I don't think the fear is unwarranted to think if the state takes responsibility today that tomorrow they might put it back on cities. That's certainly a concern that the cities would have with this. I think there's some history there too. And we could go on for a period of time and have this discussion, but there are many tentacles that go down to that that started the unsustainable economic policy that come down to public works people have almost as high, at least the city of Papillion workers' comp accidents, as firemen do. And those folks at 55 years old, it's tough for them to get down in those holes. And so I know Mayor Black has been very, very clear with all of our employee groups that if you work for...you work for the city of Papillion. You don't work for the fire department or the police department or the public works department. So this sense of fairness...and it's managing the risk of...you know, it goes back to the individual managing the risk and not the taxpayers making insurance, because that's who this lands on is the taxpayer somewhere, whether it's the city of Papillion or Seward, Nebraska, it lands on them. [LB655]

SENATOR MELLO: And I will reiterate just to clarify for the record, because this is a public record, over 12 years or 13 years, there has been no responsibility taxpayers have picked up for the state's cash balance plan for county employees. And we went through the greatest recession since the Great Depression and there was still no ARC that the state of Nebraska picked up for any of the 93 counties or their county employees. So I will clarify just to the sense, too, that public works employees of Papillion have Social Security between the ages of 55 and 65. And to some extent I'll find out from you maybe after the fact of whether Papillion keeps firefighters on between 55 and 65 in some administrative nature. But I'll give you that opportunity if you want to clarify in the sense of knowing that the state has never picked up an ARC for a cash balance plan yet, the fear that you're expressing, whether it's demagoguery or it's genuine fear, that we've never asked county governments to pick this up in the 12 years. I'll give you a chance of responding because I like you, but I just want to make sure you get the opportunity to clarify in sense of the demagoguery of the great unknown when we just got out of...I was here in the Legislature during the Great Recession. We got out of the worst economic time the state has been in since the Great Depression. And the ceiling did not fall, so to speak, on our cash balance plans. [LB655]

DAN HOINS: First, Senator, thank you. And, hopefully, my disclaimer of I'm not an expert, I certainly will defer to you as to what the state plan has done, because I don't have a clue quite frankly. And so I can't address that. But I have studied other areas and it's really the fund...to answer question, it's the fundamental guarantee of that rate that we find problematic. [LB655]

SENATOR MELLO: Okay. [LB655]

SENATOR KOLTERMAN: Thank you. Senator Groene. [LB655]

SENATOR GROENE: So your firefighters, your policemen, your public works are all in the same retirement plan? [LB655]

DAN HOINS: No, sir. No, sir. They have different...it's different pots of money, Senator Groene. But it's the same investment, but it's... [LB655]

SENATOR GROENE: A 401(k) type. [LB655]

DAN HOINS: Yeah. Percentagewise, but for the Social Security that I addressed earlier, they're very close, within .2 percent. [LB655]

SENATOR GROENE: So if you combined Social Security payments by a public works employee, the city's portion, 7.65 (percent), 7.65 (percent), and what the city puts into public works plus what they put into the retirement, that total amount of money, is that comparable to the firefighters who don't have Social Security? [LB655]

DAN HOINS: Yes, Senator. In Papillion, and these are the total combined contributions including the additional 2 percent, so the maximum--and most do exercise that--the firemen are 23.5, but they keep the 6 percent in their paycheck. So you if you added that, they'd be 29.5. Police are 30.4. Public works are 28.4. So it's within a point as the total retirement package. [LB655]

SENATOR GROENE: So...but the city is putting the same amount in basically for each employee. [LB655]

DAN HOINS: Yes. [LB655]

SENATOR GROENE: All right. It's just that the public works are in Social Security so they're put another 6 percent or 7 percent out of their paycheck. [LB655]

DAN HOINS: Instead of sending it to the IRS through the Social Security, we send it to the Voya account, the additional 6 percent for the firefighters. [LB655]

SENATOR GROENE: All right. Thank you. [LB655]

SENATOR KOLTERMAN: Okay. Seeing no more questions, we're going to move on to the next opponent. Thank you very much. [LB655]

DAN HOINS: Thank you, sir. [LB655]

SENATOR KOLTERMAN: Go ahead. [LB655]

J.D. COX: Good afternoon, everyone. My name is J.D. Cox. That's initials J-D, last name is C-o-x. I'm the city manager from the city of Alliance and I thank you for your time this afternoon. I just have a few brief comments to share with you. Mine are very high level. I had met yesterday with Senator Davis and I appreciate the time that he took to meet with me yesterday. My perspective that I'd like to share with you today is just a sense of fairness from a high level. We strive for fairness at every turn. We've heard some great testimony today. And in Alliance, just like probably everywhere else in the state, we have really great folks that are firefighters. Ours...we only have four in Alliance and they are not an exception to that. They also are all great folks and I enjoy working with all of them. However, when something is proposed that one perceives will create a situation that will not result in fairness to all, it raises some concern, and that was the perspective that I had when I first heard from Senator Davis' Office when they initially contacted me about this particular proposal. It does...when one perceives that there's going to be special deals that will be carved out for certain groups it can cause inequity and that, again, causes concern. And it raises the question, well, why do you wish to discriminate for one group against all the other groups? We heard great testimony about the rigors of the job the firefighters and I have...I do not doubt that for one moment. They do work hard and I've been there with them, in fact. They've given me great opportunities to share in some of the experiences that they have on their day-to-day jobs and I'm not questioning any of that. What I am though sharing with you is that we also have other folks that have rigorous jobs that they do as well. Our electric linemen work very, very hard. They're running out in the middle of the night in windstorms and in snow and doing very difficult work. We have also refuse collectors that have difficult, strenuous jobs that they do. We have water sewer maintenance worker folks that are down in holes doing difficult jobs in the toughest of conditions. We have parks department people that have similar types of responsibilities and duties. And I share all that just from the standpoint of my perspective which is we try to keep fairness for everyone. And again, the perception was that here we were going to carve out a special deal for firefighters and we heard some great testimony for how a defined benefit plan, a cash contribution plan would be very beneficial to someone to have. Well, I would take that argument a step further. It would be great for everyone to have. Can we afford to do for one if we're not going to do for all? And that, in essence, is kind of my point that I'd like to share with you. And how sustainable does that become? If we do for one group, can we sustain and do that for all groups? And we have seen that at times...I think probably Senator Mello had asked a question earlier of a previous person, Dan Hoins's testimony about the...if there was anything that would give us cause for concern about the state not living up to its part of the bargain. I think there's just a little bit of hesitancy. You all are probably familiar with the Municipal Equalization Fund, and you know, see that number kind of go down a little bit over time and how sustainable, again, is everything. And so there's no real...you can't hold future Legislatures to a deal that you kind of work out today and we don't expect you to. But what we're here today is to discuss what is before us. And that in general is my position, is that we'd just like to make sure that we do...if we're going to do it for one, let's do it for all. [LB655]

SENATOR KOLTERMAN: Thank you. Any questions? Senator Mello. [LB655]

SENATOR MELLO: Thank you, Chairman Kolterman. Thank you, Mr. Cox. I've only got a couple questions. [LB655]

J.D. COX: Sure. [LB655]

SENATOR MELLO: One, in Senator Davis' testimony, the intro testimony, he said your city did not reply to his survey, that I know this issue has been on our radar for at least the last six years. Is there a reason why the city of Alliance chose not to reply to get some information back for the committee in light of this survey study? [LB655]

J.D. COX: I think...I apologize, first of all. I think there was a misunderstanding of what the question that was being proposed to us. I think it was more I perceived it more of a, is this something that we would be interested in doing, not would we...I'll always have the door open for Senator Davis or for anyone else that wishes to visit with us about any topic. I think that was the way I perceived the question was, were we interested in doing that? And the answer for the reasons I just gave a moment ago was why that was. [LB655]

SENATOR MELLO: Does the city of Alliance keep...the city of Alliance hire your parks...I think you went through an example of parks employees or sewer employees. You mentioned electrical line. Is that for the city of Alliance... [LB655]

J.D. COX: Yes. [LB655]

SENATOR MELLO: ...has a public power district of their own that the city manages? [LB655]

J.D. COX: Yes, Senator. [LB655]

SENATOR MELLO: Do they have a defined contribution plan that the public employees that work for the electric company, the electric public power district? [LB655]

J.D. COX: They are the same as the rest of our general employees, yes. [LB655]

SENATOR MELLO: Do they, to some extent, work to the age of 65? Is that traditional or do they all retire at 55 based on the strenuous nature of their job in the parks department, the public works department, or the electrical line? Do they all retire at about of the same age of 55? [LB655]

J.D. COX: We just had one retire at 65, so I think there's a general...you know, it's a tough thing because you...let's use the water sewer maintenance worker. I mean they're having to climb down into holes and so you provide some reasonable accommodation for them to be able to continue to be able to do their job. And you know, and firefighters, again I'm going to say have nothing but glowing comments about the jobs that they do. In our community they're not only firefighters but they're EMTs also and they provide a very valuable service. So I don't know...right now we have no one that is over 55 that is on our fire department and I don't...I have not heard of any of them planning to retire anytime soon. But there certainly are still some valuable services they could provide beyond 55. [LB655]

SENATOR MELLO: Last question and I'll check and see if...I assume Lynn Rex will be testifying as well, so this is something that she can probably address if you're not able to do so, Mr. Cox. My understanding is that a pension plan...that an agreement is made between a governmental entity and that employee, that that's a legal document. That's a contract that cannot be broken. And so if we were to move public employees, in this case firefighters, into a newly created state plan and somehow along the lines the concerns that we're going to...the state then would be breaking the contract legally to firefighters if we tried to say that cities now have to cover a legal component of that cost, walk me through--and I'm looking to Lynn in case she wants to make this argument on your behalf if you're not...are unaware of it--how would we not be breaking the law if we tried to offload any potential ARC even though, as I'll reiterate on the record every time today, the state has never made an ARC contribution to the county plan or the state plan when it came to cash balance? How would we not be breaking or violating state law by trying to offload this cost to the cities knowing we would be entering into a contract with first-class firefighters? [LB655]

J.D. COX: Senator, respectfully with that being a legal question, with all due respect, I'd like to defer that. [LB655]

SENATOR MELLO: Okay. Thank you. [LB655]

SENATOR KOLTERMAN: Thank you. Any other questions? Final testifier. Thank you for testifying. [LB655]

J.D. COX: Thank you all very much. [LB655]

SHANE WEIDNER: (Exhibit 11) Good afternoon, Senators. Shane Weidner, S-h-a-n-e W-e-i-d-n-e-r, city administrator for the community of Norfolk, Nebraska. I'm here today again to offer some perspective from not only a city administrator but also from my time as a firefighter. I've been a firefighter for a first-class city, Norfolk in particular, for 25-plus years in one form or another. And I clearly understand and appreciate the roles and responsibilities of the firefighter and the job duties and everything about it to be honest with you. So I have a great affection for the firefighters' role in my community and firefighters themselves. So I'm up here with some trepidation because of that a bit. But I am the city administrator and I have a charge to the community of Norfolk, to their taxpayers, not only to the taxpayers but the rest of the employees in my community: public works and our police officers. And I have the same concern that the other city administrators addressed, so I'm not really going to go over those in great detail but it's a real thing for us. We really try to keep our employees the same to the best of our ability. For example, when the police officers moved to vesting in their pension from six to six and a half and then now to seven, we moved our general employees along. So the .2 percent that the firefighters are behind now is a real thing from our perspective, but I'll remind you that the firefighters and in my whole time as a firefighter...almost my whole time as a firefighter, they were far ahead of the police officers and the general employees as far as their contributions from their communities. The Social Security thing is quite interesting. I could tell you when the mayor asked me to be the city administrator, I fought tooth and nail to my best ability to stay in the firefighters pension. I had been in it for 21 years and I looked at it and I looked at the state of our federal government and the state of Social Security and it made me question that opportunity in my career; question hard, frankly. I was the fire chief then and I looked at my pension ability and my ability to manage those dollars individually and with our local pension committee there in Norfolk with people I knew and trusted and I could reach out and talk to on a daily basis if necessary. And it gave me and it gives our firefighters frankly some sense of responsibility and some sense of trust because a far-away place, even as far away as Lincoln, Nebraska, sometimes doesn't give you the trust that you would have of having your pension board right next to you and having members of your own department and/or community serving in that capacity. And we have that currently in the city in Norfolk. Every study that I saw when it comes to Social Security was going to expire in about 2033. I don't know if you've seen those studies. I'm sure you are and they're kind of a moving target. But it seems to be 2033...was in my brain. Well, that's the year I turn 65. So I thought about that and I thought I'd rather keep my money and I'd rather invest it locally in with my pension committee and pension opportunities that are available to us versus rely on the federal government. So the Social Security thing is real, but it's real on both sides of that coin. So I give you that experience as a firefighter for many years and now as the city administrator. I also have just the...the handout I gave you was the windfall elimination provision. That, as you know, is a federal situation. But, when we crunched the number, I had my finance director crunch the numbers on that. When you compare police officers and firefighters with or without the windfall elimination provision and you look at the same benefits of $4,000 in salary and $1,000 part-time job, even with the windfall elimination provision the firefighters still get more Social Security benefit than a police officer with the same part-time job. It's kind of an interesting dynamic. It is a kick in the pants though for the firefighters, you know. I mean I can understand why they have some concerns about that because it does...the gentleman said...I don't know what he said, half, 50 percent or more of their...of the provision really eliminates that pay for their part-time work. That's a true statement. But even at that, the same part-time work for a police officer or a general employee versus a firefighter, actually the firefighter in our example there that you see comes out a little bit better. That's a federal situation and I don't know if we can solve that here in the state of Nebraska or not, but it's worth a try I suppose. When I ask my firefighters do they want to get back in Social Security, let's get back in Social Security, no way, was the answer I got. And I think if you ask the firefighters in the room if they wanted to get Social Security, they would say no way just because of the reasons I explained and reasons I think a lot of folks know about the state of Social Security. And I don't know what the...I don't know what that's going to happen with Social Security. [LB655]

SENATOR KOLTERMAN: I hate to cut... [LB655]

SHANE WEIDNER: I suspect you don't either. [LB655]

SENATOR KOLTERMAN: ...into your testimony, but it's 1:20 and we've got to open this room up for another hearing. [LB655]

SHANE WEIDNER: All right. Well, I'd be happy to answer any questions about it. [LB655]

SENATOR KOLTERMAN: And we have one more to testify, so I appreciate your... [LB655]

SHANE WEIDNER: Sure, yeah. I could probably yak a long time, Senator, about that. [LB655]

SENATOR KOLTERMAN: Sorry to be short to everybody, but the reality is (inaudible). [LB655]

SHANE WEIDNER: For those reasons we would be opposed to the presentation here and the law change. I'd be happy to answer questions. [LB655]

SENATOR KOLTERMAN: Thank you. Any questions? Thank you very much. [LB655]

SHANE WEIDNER: All right. Thank you. [LB655]

LYNN REX: Senator Kolterman, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. I apologize because I told you that we were consolidating testimony and I wouldn't be testifying, but Senator Mello asked the question, we will explore that. But I do think that one of the concerns that municipalities have is that we have lost state aid to municipalities in terms of that line item in the budget. We have lost the Municipal Infrastructure Redevelopment Fund. We have virtually little of nothing left in terms of funding. So in terms of municipalities in the state of Nebraska, thinking that the state of Nebraska if there was a concern because our experience historically has been that when the State Legislatures has have issues and fiscal crises, localities have had to pick up the difference. And that is a real valid concern I think. But we will look into your legal question. I didn't mean to take any time but I... [LB655]

SENATOR KOLTERMAN: Nope, thank you very much. [LB655]

LYNN REX: ...didn't want to not respond. [LB655]

SENATOR KOLTERMAN: We have one more to testify in a neutral position. [LB655]

LYNN REX: And obviously we oppose the bill. [LB655]

SENATOR KOLTERMAN: I gather that. (Laugh) [LB655]

ORRON HILL: (Exhibit 12) Good afternoon, Chairperson Kolterman and Retirement Systems Committee members. My name is Orron Hill, O-r-r-o-n H-i-l-l. I'm the legal counsel of the Public Employees Retirement Board. I'm here to testify neutrally on AM1790 to LB655 at the direction of the PERB. As my testimony is in hard copy, I'll just hit a couple of the key points. I'm sure there may be some questions. First, the PERB feels that an experience study done...sorry, an actuarial study is a requirement when adopting a new plan. We have yet to see any such study and it makes it hard for us to assess the quality of the plan without such a study. There are some unique plan designs based in this compared to the county and state cash balance plan. We anticipate that that would also cause some additional start-up costs and additional requirements for making sure the plan is consistent. Those are noted in our fiscal note and I know that they're articulated well there. The final concern to PERB raised at our Monday meeting was the need for additional staff to ensure proper and efficient addressing of this new plan. They're concerned that the NPERS staff is already tasked to its maximum and that creating a new plan with a unique structure would require additional staff. So subject to your questions, that will conclude my testimony. [LB655]

SENATOR KOLTERMAN: Thank you, Orron. One question. [LB655]

SENATOR MELLO: I've got about five, but I'll list them all at once, Orron. Thank you, Mr. Chairman. You can provide this information. We can request it or I can get it requested or ask the counsel to request it to you in written format. Obviously, I have significant issues regarding the fiscal note in light of seeing what was done roughly in 2002 when the cash balance plan was created. That was created for state and county employees and the entire cost of creating a statewide plan and 93 counties with roughly $85,000 in comparison to $270,000 cost to create a plan for roughly 385 members. So obviously, good or bad, I know we can probably talk about this later and I'll make sure I grab the Fiscal Analyst as well, because I did notice on her Fiscal Analyst report it showed that the number of staff positions appear high. I would ask you to find out how many members are there in the cash balance county plan and the state plan, how many employees work on the state cash balance plan, how many employees work on the county cash balance plan. And the costs associated with your fiscal note says that it's going to cost $380,000 in regards to ongoing costs of roughly 350, I'm sorry, 350 plan members. That's more than $10,000 per plan member it costs to administer it. I'd like to know what the cost member it is per breakdown by county. So for the county plan, how many members, and what's the administrative cost to administer that plan. I'd like to have a little analysis if we could get that done. Would the three employees that you're requesting, full-time employees, would they be specifically only allowed to work on the firefighter cash balance plan? Is that something that...would they strictly work for just that plan and not all the other cash balance plan and not work for any other aspects of NPERS? [LB655]

ORRON HILL: That's a question I would need to defer to the director, but I could certainly add that to the list, Senator. [LB655]

SENATOR KOLTERMAN: Senator Mello, I've got to open a testimony. [LB655]

SENATOR MELLO: I will get the rest...my next question regarding IT costs, I'll get it to them. [LB655]

SENATOR KOLTERMAN: Would you close the hearing for me? [LB655]

SENATOR MELLO: Okay. [LB655]

SENATOR KOLTERMAN: I apologize, I've got to open on a hearing. [LB655]

SENATOR MELLO: Orron, I guess would be just looking at the IT costs. There's a $171,000 IT contract. The question I've got is my understanding is that there's...you've not...NPERS has not done any real upgrades to its technology in regards to I think it's called the NPRIS system. And the question I've got is that $171,000 request, is that exclusively to be only used for the firefighters cash balance plan consulting, or is that for the entire system in the sense that there may be other system needs that this individual staff person would be contributing to as well? [LB655]

ORRON HILL: Again, Senator, that is a question I will defer to the director, but we will certainly get you that answer. [LB655]

SENATOR MELLO: Okay. Thank you, Orron. Any other questions from the committee? Seeing none, thank you, Orron. [LB655]

ORRON HILL: Thank you, Senator. [LB655]

SENATOR MELLO: Senator Davis, would you like to close on your amendment, AM2178 to LB655? [LB655]

SENATOR DAVIS: I would just briefly. I appreciate the interest that the committee has shown in this. In so many ways the things I want to say are...have become very personal to this bill because we've worked very hard on it. When it was introduced last year, the League promised that they would participate and discuss this with us. That really didn't take place. In fact, we were shut down in many of our attempts. The initial work that was done in sending out surveys, you know, we had good response from that. And shortly after that when we announced that we were going to try to schedule meetings with the cities themselves, in some respects, we were shut down by some. Some refused to meet with us, which I thought was very poor representation on the part of the city managers. Now that wasn't the way it was everywhere, but I wanted to get that on the record. You heard one of the opposition talk about the Social Security part of it and the implication being that the firefighters are getting away with murder because they've got a better deal. Well, you know, you can look at Social Security as kind of a defined benefit. That's what it really is. So if they don't have Social Security or if it's affected by the windfall profits piece I hardly say that they're being treated in a better manner than anyone else. They wouldn't be here if they didn't have some concerns about their retirement and about what they're going to do when they retire and they don't have the resources to even pay for their health insurance. So they end up working longer, it costs the city money in disability. I don't know why the city won't look at that part of it, but they haven't. But that's an important piece that they really should consider. So some of the things that I heard in discussion, not here today, I heard, well, these people all have a part-time jobs somewhere else and there that's where they can earn their Social Security, as can anyone. Anyone can have another job somewhere else. Why are we singling out firefighters and saying, yeah, but you're doing something else over here. So I think there's a little bit of misconception about this. We have really bent over backwards to appease the cities and trying to make them whole. We've done that. I think it's a simpler approach for the cities. I think they'll like it better. They'll have that .5 percent to fund it. The firefighters had an actuarial study done to look at this. When we visited with the cities this summer, you know, one of the approaches that they had with us, well,you should take everybody and do this with everybody. And I'm not averse to doing that. I'm not averse to that, but I have a feeling that if we were to do that we'd have the same opposition because a lot of what we're fighting here is the perception that what happened in 1984 was so bad. Look, it was. It was bad for the firefighters and it was bad for the cities. But that's history. We're moving forward from here. I would urge the body and this committee to look at this very closely and I'd like to see it moved to floor for full debate. Thank you. [LB655]

SENATOR MELLO: Thank you, Senator Davis. Are there any questions from the committee? Senator Groene. [LB655]

SENATOR GROENE: In North Platte it's not over. We still have six or seven employees from 1984 that every homeowner with $100,000 valuation is paying $49 for seven employees, to retire those accounts. So it's not over. It's not history yet. So... [LB655]

SENATOR DAVIS: Can I reply to that, Senator? [LB655]

SENATOR GROENE: Yeah, that's a question to you. [LB655]

SENATOR DAVIS: That was a decision that was made in 1984 apparently in a bargain between the cities, the firefighters, and the Legislature. This is 2016. This is 32 years later. So why are we going to hold a decision that was made 32 years ago against what is a sensible and logical solution to a problem now? [LB655]

SENATOR GROENE: Thank you. [LB655]

SENATOR MELLO: Senator Davis, I've got one question. What, in light of...and I should have asked Lynn Rex. I'll ask it to her afterwards as well. You heard me ask the question of city administrator from Papillion of what have cities brought forward as their solutions because this has been an ongoing issue from this committee, that the cities have said they would come forward and provide solutions to look at alternatives. You heard that they mentioned about using 457(b)s which does give another match rate but it also requires the individual have to put more money into the plan on top of what they've already put in. Have you heard of any other solutions that were provided during your meetings with other city administrators or the League throughout the interim in regards to other options that are available? [LB655]

SENATOR DAVIS: No. [LB655]

SENATOR MELLO: Okay. Any other questions from the committee? Seeing none, thank you, Senator Davis. [LB655]

SENATOR DAVIS: Thank you. [LB655]

SENATOR MELLO: That will close today's public hearing on AM1790 to LB655. [LB655]