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Nebraska Retirement Systems Committee March 22, 2023
Rough Draft

McDONNELL: I'm also the Chair of this committee. Committee hearings are an important part of the legislative process and provide an important opportunity for the legislators to receive input from Nebraskans. If you plan to testify today, you will find a pink testifier sheet on the table inside the door. Fill out a pink testifier sheet only if you actually testify before the committee, and please print legibly. Hand the pink testifier sheet to the page as you come forward to testify. There is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. This sheet will be included as exhibit in the official hearing record. If you are not testifying in person on a bill and would like to submit a position letter for the official record, all committees have a deadline of 12 p.m. Central Daylight Time, the last day-- the last work day before the hearing. Please note that the position letters to be included in the official record must be submitted by way of the Legislature's website, NebraskaLegislature.gov. A new feature of the website allows testifiers with disabilities to submit testimony for the record on the site. The website will be the only method to submission-- to submit a letter for the record other than testifying in person. Letters and comments submitted by way of e-mail, hand-delivered will no longer be included as part of the hearing record, although they are a viable option for communicating your views with an individual senator. Keep in mind that you may submit a letter for the record on the website or testify at a hearing, but not both. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents and finally anyone speaking in the neutral capacity. We will finish with closing statements by the introducer if they wish to give one. We ask that you begin your testimony by giving your, your first and last name and spell them for the record. If you have copies of your testimony, please bring at least 10 copies and give them to the page. If you are submitting testimony on someone else's behalf, you may submit it for the record but will not be allowed to read it. We will be using a five-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask you to wrap up your final thought and stop. As a matter of committee policy, I like to remind everyone to use-- the use of the cell phones and other electronic devices is not allowed during the public hearing, although you may see senators use them to take notes to stay in contact with staff. I would ask everyone to look at your, your cell phones and make sure they're in silent mode. Some senators will be using their laptops

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to pull up documents and follow along with each bill. You may notice committee members coming and going. That, that has nothing to do with how they regard the importance of your bill under consideration. Senators may have bills come, coming up to introduce in other committees or other meetings to attend to, and that will-- and that, I have the committee introduce themselves starting, with my right.

CLEMENTS: Rob Clements, District 2.

IBACH: Thank you. Teresa Ibach, District 44, which is eight counties in southwest Nebraska.

McDONNELL: Assisting the committee today are, to my right, Tim Pendrell, committee clerk. And to my left, Neal Erickson, the committee's legal counsel. The committee pages are not here today, so. We will begin with the testimony on LB686. Please, Senator Walz, come forward. Welcome.

WALZ: Thank you. Excited to be here today. First time in Retirement, I think. Pretty sure. So, good afternoon, Chairman McDonnell and members of the Retirement Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I represent Legislative District 15, which is made up of Dodge County and Valley. Today, I'm bringing LB686 on behalf of the Nebraska Professional Fire Fighters Association. As long as I've been here serving in the Legislature, my friend, Dave Wordekemper, or "Woody," who was a firefighter in Fremont, has told me about ongoing problems with his retirement plan. Anyone who knows Woody knows that he is the epitome of what you think of when you think of a firefighter. He is honest, humble, sincere, smart and driven to serve. Whoo. I might even cry over that one. He is a hero to many, including our family. A father, a husband and a friend. He doesn't complain-- believe me-- or ask for things that aren't needed. That is why when he told me about a need to address a change in his retirement plan, I knew it was important and I knew that it was something that I wanted to help with. LB686 is a shell bill for a cash balance plan for first-city class firefighters. This bill has been introduced in some form since I was a member of the Legislature. The thought, as I understand it, was to bring the 200 or so first-class city firefighters into a plan like our own state employees and our county employees enjoy. It's a hybrid plan, not a true pension plan that our larger cities of, of Omaha and Lincoln enjoy and not a true 401(k) plan that midsize cities currently have. It has a defined contribution and a guaranteed rate of 5 percent return. I am aware that there are ongoing negotiations between our firefighters and the League of Municipalities regarding their

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retirement plans. I also recognize that if this bill can be used to accommodate those negotiations, then, as I said, I definitely want to be helpful with that. It is troubling to me that our firefighters in middle-sized towns like Fremont are being swept aside and not recognized through their retirement plans as the heroes that they truly are. They deserve our respect, our appreciation and support on the job and after. Behind me, Darren Garrean, president of the Professional Fire Fighters Association, will testify and have better answers to specific questions that you may have. I do hope that you will take this matter seriously and help us find an answer to this dilemma once and for all. Thank you.

McDONNELL: Thank you. Any questions from the committee? Thank you.

WALZ: Yeah.

McDONNELL: First proponent.

DARREN GARREAN: Good afternoon, Chairman McDonnell and members of the Retirement Committee. My name is Darren Garrean, D-a-r-r-e-n G-a-r-r-e-a-n. I'm a full-time firefighter paramedic working 56 hours a week serving the citizens of Nebraska, as do most of my cohorts. In addition to my career as a firefighter paramedic, I'm president of the Nebraska Professional Fire Fighters Association, where today I'm representing over 1,400 career firefighters, paramedics who serve the citizens of this great state. I'd like to thank Senator Walz for the introduction of LB686 and recognizing that there are many issues relating to first-class city firefighters and the retirement crisis. I again must inform the committee that the retire-- the, the Nebraska Professional Fire Fighters Association is currently attempting to bargain in good faith with the League of Municipalities and their representatives on a more comprehensive retirement improvement plan with the current 414(h) system. LB686 is not one of those topics in those negotiations. We agreed to not push for a cash balance if-- and if we come to agreement with the current 414(h) plan. There's not an agreement at this time. We will continue to bargain in good faith for an improvement for our first-class city firefighters' retirement. For the record, I'd like to make a mention of test-- testimony of Senator Ibach's LB221 in addition to Senator Brandt's LB406 testimony from last week, as those items pertain to our retirement of the first-class city firefighters as well. So I gave a handout, and this 1980 handout shows a snapshot of the first-class city firefighter retirement problem that the cities had in 1980. They came to the Legislature then in 1982 and 1983, which resulted in the change of the first-class city

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firefighters' retirement beginning in 1984. I emphasize this because it was not your firefighters saying that something had to change. It was not the firefighters that caused the problem that ended up resulting in that change, but it was the firefighters that fixed it. They fixed it on their backs. They fixed it on their families' backs. It was a promise made to them in 1984 that this new change was going to provide a 50 percent benefit replacement upon-- upon retirement or possibly higher. History and the data shows that the 50 percent is just absolutely not true. Those firefighters are still paying the price nearly 40 years later. I again must point to this committee with their historical work that was compiled for these first-class city firefighters with LR230 in 2015. It points that, quote, "many concerns were raised, and it shows that Nebraska first-class city firefighters have a," quote, "retirement account balances funding at a retirement well below the goal of 50 percent salary," unquote. And it was intended from the changes made in 1984. LR230 goes on and mentions that, quote, "the retirement annuity that can be purchased is closer to a 25 percent of salary than the 50 percent, which was estimated when the firefighters agreed to move from a defined benefit plan to a defined contribution plan in 1983." Again, here we are knowing and confirming that there is a problem, but zero solutions have come to surface. Hopefully we can change that. I would also like to point out that the majority of the firefighters do not receive Social Security. This was not by their choice. The Retirement Committee did take a deep dive into the necessary Social Security debacle that is unique to Nebraska firefighters with the December 2022 publication of the Social Security report, which is listed under the Retirement Committee website. We've been able to move forward with some understandings on why firefighters' retirement relating to Social Security is so different. I'm going to close with this, that the firefighters are much like a paramilitary organization. When you give a firefighter a task, they will literally kill themselves until that task is completed. First-class city firefighter retirement task has not been completed, and we're not going anywhere until it's done. The Nebraska Professional Fire Fighters are here to assist in any way possible as we move forward. I'll be able to answer any questions, hopefully.

McDONNELL: Any question from the committee? Yes, Senator Conrad.

CONRAD: Thank you, Chair. Thank you, Darren, for being here. Just to put a finer point on it, how long have the good faith negotiations been happening recently? In recent times?

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DARREN GARREAN: So we, we began negotiating with the League this, this year at the beginning of the session.

CONRAD: OK. Just a couple of months then.

DARREN GARREAN: Yes, on, on a, on a comprehensive 414(h) improvement plan.

CONRAD: OK. Do you have a sense about what a reasonable time frame for those negotiations to continue might look like? I mean, I'm thinking it loses the veneer of good faith if it drags on for months and months and years and years. And, of course, our session will wrap up at some point. And I want to make sure the committee and the body has all options available to it to support working families.

DARREN GARREAN: I appreciate that, that input request. We've been talking about the issue of first-class city firefighters for 14 years now. And-- so, historically, the knowledge has been that there has been issues and, and for us to be in negotiations from January until now-- I can't tell you how long that that would take to come to a resolution. We've, we've met a few times. There has been scheduling conflicts and things have been pushed back, but we will work as much as needed in order to try to get something done. I, I, I wish I could say, you know, Saturday, we'd have everything completed--

CONRAD: Sure.

DARREN GARREAN: --but I won't be able to give a specific date, unfortunately.

CONRAD: OK. That's helpful. And, you know, I just want to be really clear about my intentions here. I think it's important that this committee and this body sends a strong message about what it takes to address this issue and to support first responders and their retirement. And if that helps to facilitate these good faith negotiations, I'm hopeful that that will be helpful to the process. But it's time to move forward. Thanks.

DARREN GARREAN: Thank you very much. I appreciate that.

McDONNELL: Other questions from the committee? Thank you, Darren.

DARREN GARREAN: Thank you.

McDONNELL: Next proponent.

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PHIL THOMAS: My name's Phil Thomas, P-h-i-l T-h-o-m-a-s. I'm a firefighter from Grand Island. Been on Grand Island for 16 years now. I'd like to thank Senator McDonnell and the committee for, for hearing this bill. I've been, I've been involved with this for quite a while. In 2012, it was actually Senator Nordquist that kind of surprised us and said, hey, why don't we get them in the cash balance? That was kind of a surprise to us. And then we started looking into it, and maybe that is a solution. And here we are all these years later, still trying to get something fixed. Our 401(k)-style retirement provides no guarantee of retirement. I would say us and Grand Island were probably the ones that raised the red flag because then right after 1984, when the law changed, we had a firefighter start in '85 and he needed to retire in 2008, when the market lost 40 percent of its value, around 40 percent of its value. He left with \$200,000 for retirement. That's it. No Social Security. I don't even believe he had any other stuff that he could have been putting in, like a 457. But basically, we raised the red flag and said, this has failed. This-- it's not working. We need to get something, something fixed. So we're only talking about 300 or so firefighters, first-class city firefighters. And we're, we're asking for your help. We do not get Social Security, which is a guarantee provided to everyone except public employees that have pensions. We are the only public employees in Nebraska that don't qualify for Social Security and do not have a pension. We basically have a 401(k). One point I want to bring up for Grand Island and other first-class cities: this is hurting retention of good firefighters in first-class cities because they want to go to Lincoln and Omaha, where they actually get a defined benefit. I'm sure the League will tell you that we wanted this in 1984, that there has been-- it has been proven we did not want a-- Grand Island firefighters actually spoke out at the Legislature against moving away from a pension. Our current retirement is a, is a failed law that promised at least a 50 percent benefit, which was proven false in 2015, when they did the study that-- it was closer to 25 percent as what you could buy an annuity for. Just-- I kind of want to be brief. But in conclusion, the state has been really good about approving bills recently for death and disability. What we're asking for you right now is approve something that can help us while we're still alive. I can answer any questions that you guys have any.

McDONNELL: Thank you for your testimony. Questions from the committee?

CONRAD: Thank you.

PHIL THOMAS: Thank you.

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McDONNELL: Thanks for being here. Next proponent.

ANTHONY STRONG: Chairman, Chairman McDonnell, members of the Retirement Committee. My name's Anthony Strong. I'm a Papillion firefighter. Been a Papillion firefighter for about 16 years now. I am here representing Papillion Professional Firefighters. Currently, I'm the president of our union, and I represent firefighters in Papillion, LaVista and Papillion's rural district. I'm here to testify as a proponent of LB686. This bill will assist firefighters in first-class cities with the retirement issue created by the Legislature in 1984. This bill will also assist a first-class city firefighter to retire at an age appropriate for firefighting. Over the years, I've heard countless stories of firefighters in physical pain who are unable to retire because their accounts did not provide the 50 percent benefit the 1984 defined contribution plan was intended to provide. I've seen firefighters put off retirement during down years in the market because they had no choice but to continue to work due to the massive financial losses in their retirement accounts caused by the down years in the market. This was due to several factors, the greatest being the fact that all the risk was placed on the firefighter to choose investments at the time they were hired and hope they picked the right investments. When I started working in Papillion, I was given a list of investments and told to pick the investments I wanted. I was 25 years old at the time, had never heard of the investments in front of me because I spent my time working to become a firefighter, not a financial advisor. After about five years as a firefighter, I noticed my investments were not doing so well, and I found a financial advisor who assisted me in getting better investments. I became a union officer of Local 3767 in 2012. From that time on, I have been explaining to our members the need for assistance from a financial advisor through workshops and inviting retirement plan directors to monthly meetings to help explain our retirement to them. This has helped, however-- this has helped. However, many fall short of the 50 percent retirement benefit intended by the 1984 change. After 30 years of working in a physically demanding profession, the sad fact is that our members must find other means of employment to supplement their retirement. Now that I am 42 years old and have lived through the 2008 financial crisis and these last few negative return years, I have come to understand the import-- how important retirement is. I understand how stressful it is for our first-class city firefighters to be put in a situation of choosing their future retirement investments on the first day of employment with no financial experience. I'm doing what I can to help our members as they come on, but we're trying to make the

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best of an insufficient retirement plan. So I do feel this bill is a step in the right direction to protect the men and women in first-class cities that keep their communities safe when someone needs help. I believe this bill has been brought before the Retirement Committee a few times. We have attempted to address all the League of Municipalities' concerns over these last 14 years. I hope this time you will understand the need of our first-class city firefighters to retire with a dignified retirement plan worthy of their years of service and comparable to many other states that are providing retirement plans for their firefighters. I would be happy to answer any questions you may have.

McDONNELL: Thank you for being here. Any questions from the committee members? Senator Ibach.

IBACH: OK. Thank you, Mr. President. So if the, if-- the 50 percent, obviously, from '84 is antiquated and way outdated. What, in your opinion, would be a retirement wage right now for retired?

ANTHONY STRONG: From the understanding and the, the information I've been looking up just online, it's-- about 75 percent is the income upon retirement that we, we'd like to have. So three-quarters of our, of our salary or income should, should be sufficient. But in this bill, we're trying to get just 50 percent. We're just-- we're trying to get something. We're working as hard as we can to think outside the box and find, find a way to get something on paper and just, just make it work.

IBACH: OK. Thank you. Thank you.

McDONNELL: Senator Conrad.

CONRAD: Thanks for being here. Appreciate that testimony. Just to put a finer point on it, is there any amount of individual education or personal decision making about the options available to you under the current law that gets you to what best practices tell us we, we should be at for a retirement system?

ANTHONY STRONG: I, I guess I'm not understanding exactly what you're asking there.

CONRAD: OK. So you recognize the problem that comes with asking people to chart their financial future and make decisions on their first day of employment or otherwise?

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ANTHONY STRONG: Um-hum.

CONRAD: Is it a matter of simply a lack of education and understanding and is it all about personal responsibility or does there need to be a law change to ensure that people have a retirement system that meets best practices?

ANTHONY STRONG: I think that could help.

CONRAD: OK.

ANTHONY STRONG: You know, I'm obviously not a financial advisor. I did notice--

CONRAD: I'm not either.

ANTHONY STRONG: --we're not going up, so I sought help. If, on day one, we can start from the first day and ensure that they're getting into viable stocks that are going to be worthy of getting a 50 percent benefit, that would be helpful. Obviously, nobody is a, a magician and can make it happen, but there are some stocks that are better than others. And if you are 25 years old, you don't know which ones they are--

CONRAD: Agreed.

ANTHONY STRONG: --in my, in my position.

CONRAD: Yeah.

ANTHONY STRONG: Somebody that has a financial degree, of course. Yeah, they could, they could pick their stocks. But firefighters need a little bit of help with that because we spend our time trying to help people and a little less time figuring out our financial needs, so.

CONRAD: Right. I, I think that's right. And I think everybody understands and appreciates the personal responsibility that we each have for our financial well-being and future. But if there are legal barriers that are preventing that from happening, I want to put a clear point on it for all of the stakeholders at the negotiation table or in this body that this is not a matter of firefighters making poor decisions. This is a systemic problem that needs to be addressed.

ANTHONY STRONG: It is.

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CONRAD: Do you want to respond to that?

ANTHONY STRONG: Yeah, I do think legislation would help. Maybe on that first day, making sure that the financial planner or advisor can assist you in picking the right stocks. I think something needs to happen with that. This bill would help that because you, you don't pick your stocks then, you know. It's all in the, the hands of the fiduciaries who understand how to make money grow much better than I do.

CONRAD: Very good. Thank you.

McDONNELL: Thank you. Next proponent.

DAVE WORDEKEMPER: Chairman McDonnell, members of the Retirement Committee. My name is Dave Wordekemper, D-a-v-e W-o-r-d-e-k-e-m-p-e-r, president of the Fremont Firefighters Local 1015, and I'm also the eastern vice president for the Nebraska Professional Fire Fighters. And before I start, if I may, a follow-up to Senator Conrad's question that you asked to Brother Strong. I believe that there does need to be a law change. Because in 2008-- I'm on the retirement committee. I've been on our retirement committee since 1999. And not only do we have a, a financial advisor that advises our committee and, and things like that, we had a third person-- I have another person, I, I communicate with. No one told me that the market was going to fall out in 2008. So there was no way to prepare for that. You can have plenty of education, plenty of financial advice, and I would probably ask you to reflect back on that. Were any of you warned to take your money out and put it somewhere in the backyard? The same thing happened in 2022 last year. Same circumstances. Nobody told me to pull my money out and move it. You know, I'm down over 15 percent for that time. So I just wanted to address that before my testimony. So I hope that helps.

CONRAD: Yeah, it does.

DAVE WORDEKEMPER: I am speaking as a proponent of LB686. Unfortunately, some people want to forget history, deny history or challenge what has happened in the past. Nevertheless, I'm going to speak about the history of the firefighter replace-- firefighter retirement plan in the state of Nebraska. In 1895, the firefighter retirement plan was started. It guaranteed to pay 25 percent of a firefighter's income in retirement after 21 years of service. In 1907, the guaranteed retirement increase-- guaranteed retirement income was increased to 50 percent benefit. 1943, firefighters started to

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contribute 3 percent towards their retirement to maintain the 50 percent retirement income. 1947, firefighters were required to work an additional four years to meet the requirement age, but this was reversed in 1963, back to 21 years of service. In 1977, contribution rates for firefighters were raised to 5 percent to maintain the 50 percent retirement benefit. Finally, we get to 1984. Under the threat of bankrupt cities and poor-managed pension funds that resulted in potential unfunded liabilities for our communities, firefighters answered the call once again, and we lost our dignified, secure retirement and forced into a defined contribution plan. Under the DC plan, a firefighter under the best conditions will be able to replace 42 percent of their pre-retirement income, according to a recent actuarial study. That would require each individual-- each individual firefighter to average 7 percent returns for the life of their plan. At the 5 percent ratio, it drops to 31 percent. As you can see, over the last 128 years, the last time retirement legislation was changed to improve retirement for a firefighter was 1907, going from the 25 percent benefit to the 50 percent benefit. In 1982-83, testimony was given that the cities had unfunded liability and they could not pay the 50 percent benefit. I would question if they were at their maximum taxing authority or if they sought any other opportunities to fund a potential shortfall, if there even was one. It was also stated that legislation did not require cities to contribute to the plan, but only to provide a 50 percent benefit when the firefighter retired. There is an old saying: "failure to plan is planning to fail." So take a moment and think about that. What outcome did the cities expect? Going forward, the cities opted to fund two plans: the existing defined benefit plan and also a new defined contribution plan. Why wasn't the option to contribute the 19.5 percent, which is the current rate going in, considered to be put into the defined benefit plan? Firefighters had no option but to take more control, basically removing cities from any future liability. One can conclude that the only option firefighters were offered was to enter an unproven retirement system. Defined contribution plans were in their infancy, designed by Wall Street and investment bankers that wanted money out of the public pension system and into individual employees' accounts so that they could increase profits from each individual employee through fees and investment costs. Interesting enough, in 2002, the state and county started cash balance plans for their employees. Testimony at that time states their reasoning was because they valued their employees, wanted to retain them and it was the right thing to do. The state and county cash balance plans have been managed very well. Fees are low. The lowest funding percentage was 91.5 percent. 14 out of the last 19

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years since it has been in inception, the plan was funded over 100 percent. Investment returns over the 19 years has been 9.24 percent. We have been told that police officers sure wish they had the retirement we have. I would question why they would not want to put 12.4 percent towards Social Security and 14 percent into a 401(k) and to only have 19.5 percent put into a defined contribution plan with an unknown benefit. Furthermore, I am unaware of any legislation that has been proposed to reflect that statement. I would like to reiterate my testimony from LB406. I believe most, if not all, firefighters would agree to contribute more into their retirement if it would eliminate any risk of a loss of funds. If you stop for a minute and imagine yourself as a young, new firefighter eager to join a fire department-- Senator McDonnell, I don't know if you can do that-- are, are you be able to reflect on that? But-- and ask the question, what is my retirement benefit? The simple answer is, I know what you're going to contribute and no one can tell you what you're going to get at retirement. I would think that would be a deciding factor on which city you would want to choose to work for. Less than a handful of firefighters left Fremont prior to 1984 to go to another fire department. Since the change to a defined contribution plan, we have had 33 firefighters go to cities with a defined benefit. I hope my testimony today, along with the testimony from LB406, shows an urgency to fix the first-class city retirement system. I want to thank Senator Walz for stepping up and introducing LB686, which would help the cities better recruit and retain qualified firefighters for the citizens living in their communities. I will take any questions if you have anything.

McDONNELL: Thank you for your testimony. Any questions from the committee members? Thank you for being here.

DAVE WORDEKEMPER: Thank you.

McDONNELL: Next proponent. Next proponent. Moving on to opponents.

LYNN REX: Since you don't have a page, [INAUDIBLE]. Good afternoon, Senator McDonnell, members of the committee. My name is Lynn Rex, L-y-n-n Rex, representing the League of Nebraska Municipalities. We're here today in opposition to this measure. I would like to give you a little bit of background why it is. As soon as you get your packet, you're going to see that you have the fiscal note to LB686, a number of them. And I would hope that you look at the very last page as to why we're opposing this bill and a cash balance plan. This was the fiscal note. We have others here from a number of cities: Norfolk,

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Grand Island and others. But this is the fiscal note prepared by Dr. Sue Crawford of York, Nebraska, the city administrator. I just-- this is the last page. If you just turn to the last page. She talks about what the plan overall does. She mentions that in 2021, LB478 sought to have NPERS-- obviously, the Nebraska Public Employee Retirement System-- include first-class city firefighters. At that time-- and I'm just reading from her-- in part from her statement, the very last page of your handout. NPERS estimated the, the added cost of adding firefighters to the \$803,301 over the first two years. She goes on to talk about the fact that what else is necessary, including the staffing and so forth. So the new first-class city firefighter cash balance retirement plan would have expenses greater than \$800,000 because it would be starting from scratch under this bill. LB686 does not provide funding for this new first-class city firefighter cash balance board. And I'm going to talk to you a little bit about some of the same history I referenced last week with the other two bills and other measures before dealing with cash balance plans. She goes on to say the cost will likely fall on first-class cities, estimating it would cost at least double the cost of adding a new plan to NPERS, \$1.6 million, and dividing that by the 18 first-class cities with full-time firefighters yields an estimate of \$88,880 as an estimate for the administrative work of putting the first-class city firefighter cash balance retirement board in place per city. This does, of course, not include the city match or any matching funds. It then goes on to talk-- excuse me-- talk about the actuarial issues. Right now, as you know-- we talked about this before, that firefighters under the defined contribution plan contribute 6.5 percent. The municipality contributes 13 percent. In contrast, in 1982-83, when the negotiations were had on the police side, the police officers contributed 6. The fire-- the city contributed 6. We negotiated over a period of years up to 7 percent for them. The difference, which I think is really huge-- and we've talked about this-- and this came out also, Senator McDonnell, when you and others attended the hearing-- it wasn't a hearing-- but the meeting at the Lincoln Fire Hall back in October, November of 2022, which is because of the issue of the Social Security, the firefighters are not covered by Social Security-- and there's a lot of narrative about why: why it is, why it wasn't. But at the end of the day, the issue is, right now, that cities from the very beginning have been contributing the 13 percent, in contrast to 6 for police, to make up that differential of 6.2 percent, which the city would be contributing if, in fact, the firefighter was under Social Security. And there's just a lot of things happening with this. And I know that, Senator McDonnell, and

your committee council has been aware of a lot of that. So as we move forward-- let me just share a couple of things here. Basically, no one was forced to come to the table in 1982-83. Cities, both on the police side and the fire side, worked with the League not because anyone was having their kneecaps broken to come testify or to come be involved or to negotiate with the League. It was done because of what happened and with the history behind these programs. And one of the things I thought was-- great history that was just provided to you, but what's lacking there is, what was the state contribution, as opposed to mandate after mandate after mandate, with not one penny going into these plans? In stark contrast to what's done in terms of other plans that are there. So if you ended up-- if you were a municipality that happened to have experienced firefighters that would be retiring within a few years, there's obviously-- absolutely no way that firefighter would be contributing enough to help offset a cost of 50 percent of the benefit. There were issues, no question about it and-- a city in the first-class looking at bankruptcy back in the day, and that is why the firefighters and the police wanted to negotiate. No one forced them to negotiate. No one forced them to do a defined contribution plan. They saw that as an opportunity to make sure that those funds were there when it was vested. So with that, I just want to underscore, too, we are in negotiations with the firefighters. We're trying to come up with some resolution within the context of a defined contribution plan. Senator Davis introduced a bill before. Senator Blood introduced a bill just recently. There have been other bills over the years introduced. And certainly, since Senator Davis's bill in 2015, we've indicated we're always willing to sit down and negotiate within the context of a defined contribution plan. I do think there is a-- this, what Sue Crawford calls the, the opportunity space, if you will, for helping to fund one's retirement. And that is that additional 6.2 percent. The cities are doing it through the 13 percent contribution. But the firefighter himself or herself, what about the other 6.2 percent that they have not contributed, whereas the police have been doing that? With that being said, we think that, with negotiations, we're hopeful that we can get to "yes." I hope so. I don't know that. But I know that in the various things that have been presented by the firefighters, there have been at least three of those issues that-- whether we get to a deal or not, there are three other issues that we're prepared to address outside of that. But I do think it's important for the committee to understand that not once, not ever has the Nebraska Legislature helped contribute. It has just been the mandates, the changes investing back into a defined benefit plan. All of those things, which cities like Fremont that thought they

were overfunded would find out overnight they're not. Now they're underfunded by over \$1 million, \$1.5, whatever it was back in the day. Some of you may or may not remember Jack Sutton, who was then the city administrator of Fremont, Nebraska, and the concerns he had about that. So some cities did better than others. But at the end of the day, this was an issue I wanted to just underscore, that, without a doubt, firefighters and police officers wanted to negotiate in '82-83. They wanted to make sure that they controlled it. My predecessor, my, my boss at the time, Dave Chambers, encouraged them to look at doing joint, joint investments. So you're, you're paying one administrative fee, not every city in the first-class paying their own administrative fee. And by the way, they're required by statute, as the police are, to have a retirement committee, and they hire professional, financial advancement-- financial folks to help them and assist them. Some, I'm sure, are better than others. But basically, back at the, back of that time frame, their rationale was from the firefighters-- and both from the fire and police, they did not want to do that. There were concerns because back at that time frame, the Legislature was discussing-- there were some members of the Legislature discussing using pension funds to pay tax incentive benefits. Think LB775. So in any event-- and that's why they said there is no way we are going to have the State Legislature being involved or any state access to our pension funds. We'll control that. And we want an individual retirement committee in each city. And so that was done at their request. That doesn't mean that that should be the way it always is. We're prepared to look at that right now. And in fact, we are looking at that. So in any event, I just wanted to underscore for you that we are, in fact, working in good faith trying to negotiate with them. I think that it's, it's been probably a frustrating experience for all concerned. But hopefully we can get to "yes" no matter what. Whether we get to a deal or not, we think that there's some things that can and should be done. But I do want to just implore the reason why, across the board, first-class cities are opposed going to a cash balance plan. A modified DB plan means that there's exposure on the back end. And again, the one thing that was-- has never really been discussed in any, in any real serious way by the Legislature is that the Legislature itself might want to help contribute some funding to these programs, because that has never been done. It's just been mandate after mandate. And so we think that that's important because, again, just to underscore this for the 80th time: when you have experienced officers that are going to retire within a few years, when they went from, for example, the 25 to 50 percent and their contributions at one point were 3 percent-- I think everybody at this table knows that's

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not going to fund a benefit. That's not going to fund a 50 percent benefit. So there's just a lot of things that go into why things developed the way that they did. But in terms of where we are today, we strongly oppose a cash balance plan. We are more than happy to continue negotiating. And hopefully, hopefully, Senator Conrad, we can get to "yes" sooner than later here. That would be a benefit to everybody concerned. But just one of the things that I think is important in contrast. So you know, right now, the city's on the, on the defined contribution plan for firefighters. They put in 13 percent as opposed to 6 because they're trying to offset from the beginning, the 6.2 percent that the cities were giving for police on the Social Security side. In addition, the employee puts in 6.5 percent. That's a total of 19.5 percent in terms of the firefighters, what's in their defined contribution plan for them. But outside of that, in there-- if there had been a 6.2 percent being invested by them someplace else-- which we hope can be done in our current negotiations-- that would raise that to 25.7 percent. On the police side, they were initially 6 and 6, and then we negotiated up to 7 and 7. We are prepared-- I think I shared this with you before-- to go higher than that. The police did not want to go higher than that. We're prep-- it's a matching basis. It's important for municipalities across the board what the cities put in, the police officer puts in and vice versa. Same thing on the fire side. That was always part of this. So in any event, the city-- 7 percent on police; the employee's 7 percent for 14 percent, plus the city put 6.2 percent outside of the DC plan for Social Security. The officer-- police officer puts in 6.2 percent. So they're at a total of 26.4 percent because they do have Social Security. So, again, as noted here, my gosh. I mean, I don't think Neal [PHONETIC] and certainly Kate Allen and others and the due diligence done in November, December of 2022 in terms of just the Social Security issues and what is at play and what isn't. We hope to work with the firefighters and to find out some-- get some definitive answers from Social Security about what the impacts are for Papillion, the impacts of a city that wasn't a city in the first-class in 1951 and what the implications are or not. So we're working on-- through all of those issues, but I think it's just really important to, to understand that this was not just a function of firefighters being forced to come to the table in '82-83. Again, I can't take credit for anything that happened then other than to say I was there and I did listen and take notes during those negotiations, and they were there willingly. They wanted to make sure that things were done. And even at that time, we were looking at adding in more than the 6, the 6 percent and the 13 percent, 6.5 and 13. And at that time, they didn't want to do that. And I understand

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that too because that's a deduction from their, from their pay. So I'm happy to answer any questions that you have. Again, we're working in good faith trying to get to the "yes," and we hope we can get that done.

McDONNELL: Any questions from the committee members? Yes, Senator Conrad.

CONRAD: Thanks, Chair, Chair McDonnell. Thanks, Lynn, for being here. You spent a great deal of time drawing the committee's attention to Senator Crawford-- now City Administrator Crawford, former Senator Crawford's fiscal note that she prepared for the city of New York, where I see an expenditure of, of less than \$90,000, just shy of \$90,000. And then she has got some additional notes and information there. Help me put that in context. And if you don't know off the top of your head, that's fine. We can look it up. I tried to, but the internet is not always in great here.

LYNN REX: Right.

CONRAD: What's the scope of the city of New York's budget? What is--

LYNN REX: I'm sorry. The scope of their budget, I don't know. It's on file with the Auditor's Office. I can give that to you. I can have it. Either if you want to go online, I can get you a link to it or I can send you the link to their budget. But what I can tell you is that-- the important part of this is not just the administrative fee, but everything else--

CONRAD: But I thought that's why you drew our attention to this specific amount.

LYNN REX: I did. I did draw-- I drew attention to that to show that it's not just the 13 percent contribution. It's not just the additional staff that would be done. If NPERS was-- and by the way, we would oppose it if this was a cash-- and we have opposed previous plans when it was before NPERS. This was one of the bills that basically outlines what the costs would be for NPERS, which I thought would be important for your consideration because, again, however expensive it is for NPERS, if they're looking at over \$800,000 plus expenses, it's going to be that for us as well.

CONRAD: So is-- your contention from your member agencies is that there's no breathing room in any aspect of their budgets to provide a dignified retirement for first responders?

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LYNN REX: That there's no room for a dignified retirement?

CONRAD: Yes.

LYNN REX: I think how you define what constitutes a dignified retirement, it would be the answer to that.

CONRAD: Do you feel like it's dignified, what you've heard from first responders who have prevented-- presented their case here today?

LYNN REX: I think it's not a total picture. I think at this point, there has not been a total picture presented to you in terms of what has happened. I think that there had been no question apparently from what has happened here that some of the firefighters are not retiring. And from what they say, all of them are not retiring with the appropriate benefit amount. We did financial and numbers and hired a professional firm to look at all of that back in '82-83, or we wouldn't have said that we think that this could generate a 50 percent benefit. So-- and again, we don't control the market either.

CONRAD: Sure.

LYNN REX: But at the end of the day, Senator Conrad-- I mean, this was-- this is a situation where I think, too, if the employees themselves-- and I think that some of the firefighters, from what we understand, basically have been putting money aside because they weren't contributing to Social Security. So that really would add to their retirement, their overall retirement too. I think it is a function of the personal responsibility. It's a function of the city itself. But if the answer is, are municipalities strapped? The answer to that would be yes. I mean, you've got 31 cities in the first-class. Those cities are under a maximum levy limit. And for most of the cities in first-class-- but not all-- for most of them, they're not-- most of them are not up against a 45 plus 5. But Senator Conrad, they're all facing the issues of the 2.5 percent lid on restricted funds plus 1 on a super majority vote. So when you compi-- when you, when you have the, the competing interests here of the mandates-- previous mandates that we're still dealing with, because the deal that was cut in '82-83 was that if you were an officer hired before January 1, 1984, you get the greater benefit. If you were hired after that, it's defined contribution. But you deal with the mandate and then also have-- and now the Legislature's providing caps on the levy and the lid. It has-- of course, it has an impact, a dramatic impact.

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CONRAD: Yeah. I appreciate and understand that, and I think those constraints do make local elected officials' jobs more challenging. But I think there's no disagreement that public safety is a core function of government.

LYNN REX: No question.

CONRAD: So if we can't figure out how to prioritize, maintain and grow our public safety needs and goals now and into the future all across Nebraska, we got a lot bigger problem out there. And they're-- I haven't looked in detail at all of the localities' individual budgets, but I, I'd imagine that those folks who are elected to put together those budgets still retain some sort of discretion in terms of the decisions that they're making. And if they have to make some hard calls to prioritize a dignified retirement where first responders are not working when they're hurt, which impacts our public safety, are not working second and third jobs to make ends meet for their family and inhibits their ability to be at their best when they're on duty, something has got to give here.

LYNN REX: Well, I will tell you that, basically, as I indicated with the-- what the amount is for firefighters right now, 19.5 percent. And with the 6.2 percent and other things that we've talked about, we can-- in our negotiations, we're up to almost a 30.1 percent if they choose to go with some of the proposals we've brought forward-- if they, if they choose to do that, but that requires them to make some contributions, too, in addition to what the city is doing, Senator. And with that, our understanding is-- unless I misread something that was given to us-- that that would fund over-- a 50 percent type benefit. So that's at 30 percent. With respect to police officers, they are now at 26.4, but taking into consideration that includes their Social Security on the side that they put in 6.2-- city puts in 6.2. And again, they're at 26.4. They've wanted to negotiate. We'll be negotiating with them as soon as the negotiations are finalized with the firefighters, and we hope that they will be sooner than later. And we're prepared to look-- and will negotiate with the police too. And they're prepared-- I'm guessing they want to go up a couple more points. I know our folks are prepared to do that. And that would be certainly funding a significant benefit. But again, there-- it is one of those situations where without having any state dollars coming in, which never happened; with having ongoing mandates, which happened on a regular basis under the defined benefit system for sure; then coupled with the lids and the levy limits-- those things really matter. And trying to make all of that align is different. But I think

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that what we're talking about here is having them make a better, a higher contribution. One of the things which I really appreciated in our negotiations at the very first meeting is that Darren Garrean made the comment-- and I think John Corey [PHONETIC] may have, but certainly Darren did, that the firefighters recognized they need to contribute more to their, to their retirement. And I think that's, that, that's true. That's certainly a starting point. But do I think employees ought to be-- I think all employees, all employees ought to be entitled to a dignified retirement.

CONRAD: Agreed. Thank you.

McDONNELL: Any other questions from the committee? In your, in your testimony, you talked about the state contribution. Have you looked at the city, the firefighter, the state? What's your thoughts potentially on what that, that would look like?

LYNN REX: If the state contributed some funds?

McDONNELL: If the-- yes.

LYNN REX: I think that would be a game changer. I mean, we can start running some numbers on that. I think that would be a huge game changer. But I think, too-- I, I mean, I do think that we're going to get-- no. I shouldn't say we're going to. I don't know. One of the offers on the table would bring them up to 30.1. That's an offer. We're coming forward with them contributing more, the city contributing more, and-- but that would include overtime. So with respect to that-- including the overtime within the context of this, Senator. So with that, then I think we crunch numbers on what it takes to get to where they would like to be. Being at 75 percent retirement, I don't know. Maybe they're-- I know-- I don't know what the other systems are. I think I've been told Omaha has that. I don't know of other cities that have that. I don't know of any municipal employee that has that on-- other than maybe like in Omaha. And I, I don't-- I'm not here as an expert talking about Lincoln and Omaha because I don't know. But in terms of the goal of getting to 50 percent-- I mean, everybody would love to have 75 percent. Everybody would probably love to have 100 percent. But again, we're looking at a scenario of what's possible and what people can afford and how we can make this happen.

McDONNELL: Do you have an idea, a thought right now what people could afford looking at the state contribution, the city and the, the, the

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firefighter? Do you have an idea right now without doing that, that research? A guesstimation.

LYNN REX: In terms of like what--

McDONNELL: Contribution level.

LYNN REX: --what kind of contribution levels? Yeah. I mean, we think that-- yes. The short answer is yes. So if you-- if the firefighter would take the 6.2 percent, we've looked at maybe increases of year one. This is-- these are just rough ideas, Senator. They have-- I'm not saying they've accepted them. They haven't. So we suggested that, for example, in the three-year phase in that the city would put in-- would do the overtime, use that as the base in making the contribution rate going into the DC plan. The firefighter in year one would put in 1 percent. In year two, the city would put in 1-- an additional 1 percent. They would put in an additional 1 percent. In year three, the city would put in an additional 1 percent. They would put in an additional 1 percent. That they put in a 6.2 percent into another type plan of their choice that would be statutorily mandated. And so those, those kinds of discussions.

McDONNELL: And the state would be a-- state would be at what level?

LYNN REX: We haven't-- we have not discussed--

McDONNELL: No, I'm just talking about us right now today. I know you haven't discussed that at the table.

LYNN REX: Yes.

McDONNELL: I just thought if you had thoughts today for the committee of what the state level potentially could look at.

LYNN REX: I, I don't want to guess, but I would think if you're prepared to put at least what the city is right now, which is 13 percent-- that's what the city has been contributing.

McDONNELL: OK.

LYNN REX: I mean-- and I don't know. That is just off the top of my head. But the one missing piece that I think can be so easily overlooked is that there literally has been no state participation in these plans that would be of assistance. And if there ever was a time to do that, I think this is it. But also, too, this committee needs to

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decide what-- with your own employees. Are your own, own, own employees getting 50 percent? Is that what the, is that what the target is for them? And I do think public safety is different. I do think public safety officers are different. Utility workers are different. Utility workers have the most dangerous jobs in the state according to a lot of different folks. But you look at police, fire, utility workers, oh my goodness. Takes a lot of courage to do what they do. And I do understand that you have to be physically fit to do those jobs too.

McDONNELL: Thank you for being here today.

LYNN REX: Appreciate all of your help. And again, appreciate your leadership or the negotiations probably would have never happened. So we really appreciate that because I think that there is a-- we hope that we can get to "yes." That's all I can say.

McDONNELL: Thank you. Next proponent.

LYNN REX: Any other questions?

McDONNELL: Sorry. Next opponent. No. No, no further questions.

LYNN REX: Thank you very much.

McDONNELL: Any other opponents? Any other opponents? Anyone in the neutral? Anyone in the neutral? Senator Walz.

WALZ: Alrighty. Well, first of all, I want to say thank you to everybody who came to testify. I really don't have a whole lot more to say, but I do want to say this: one way or another, we're going to move forward. And it is my sincere hope that negotiations taking place are thoughtful and that we are doing the very best, making our best efforts to promise or to provide benefits to our first responders-- not just get by with doing the very least, but fulfilling our duty and finding solutions. And I hope we do that with integrity, with commitment and with honesty. Again, putting forth our very best efforts. When our firefighters respond to a 911 call for help, they do not respond and do a substandard job. Instead, they exert every single effort to save a life. And I sincerely hope that we make every effort that we can to do the very best we can for them as well. That's all I have to say.

McDONNELL: Thank you. Any questions for Senator Walz? Thank you for being here.

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WALZ: Thank you.

McDONNELL: Thank you for introducing the legislation. That will close our hearing today. Thank you all for being here.