

Transcript Prepared by Clerk of the Legislature Transcribers Office
Nebraska Retirement Systems Committee May 24, 2023

McDONNELL: Good afternoon and welcome to the Nebraska Retirement Systems Committee. My name is Mike McDonnell. I represent Legislative District 5 in Omaha and I also chair this committee. Committee hearings are an important part of the legislative process and provide an important opportunity for legislators to receive input from Nebraskans. If you plan to testify today, you will find a pink testifier sheet on the table inside the doors. Fill out a pink testifier sheet only if you're actually testifying 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 today's confirmation. This sheet will be included as an exhibit in the official hearing record. If you are not testifying in-person and would like to submit a position letter for the official record, all committees have a deadline of noon-- 12 p.m. Central Daylight Time, the, 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 at nebraskalegislature.gov. A new feature of the website allows testifiers with disabilities to submit testimony for the record on the site. Website will only be the method for submission of letters for the record other than testifiers in-person. Letters and comments submitted by way of email are hand-delivered and will no longer be included as part of the hearing record. Although they are a viable option for communicating your views with individual senators, 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: introducers opening followed by the proponents. If you're submitting testimony on someone else's behalf, you may submit it for the record but you will also be allowed to read it. We will use-- using-- we will be using a five-minute light system. When you begin your testimony, the light on, on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask that you wrap up your final thoughts and stop. As a matter of committee policy, I'd like to remind everyone, the use of a cell phones and any other electronic devices is not allowed during a public hearing, although you may see senators use them to take notes and stay in contact with staff. I would ask everyone to look at, at, at their cell phones and make sure they're on silent mode. Some senators will be using their laptops to pull up documenta-- documents and follow along with each bill. You will notice committee members coming and going. That, that has nothing to do with how they regard the importance of the matter under consideration. Senators may have bills

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coming up to introduce in other committees. I will now have-- like to start introducing from my right, with Senator Clements.

CLEMENTS: Rob Clements from Elmwood. I represent District 2.

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

HARDIN: Brian Hardin, District 48 from way out west.

McDONNELL: The-- assisting the committee today are: to my far right, Tim Pendrell, committee clerk; and to my immediate right, Neal Erickson, the committee's legal counsel. The committee's pages are not here today. We appreciate-- and now we will, we will welcome Jason Hayes. Please come up, Mr. Hayes.

JASON HAYES: Chairman McDonnell and members of the Retirement Committee. My name is Jason Hayes, J-a-s-o-n H-a-y-e-s. And it is an honor for me to be here today as a confirnee for the position of director of the Nebraska Republican Par-- sorry-- Nebraska Public Employees Retirement Systems. I have been involved in some form or another with Nebraska's public pension plans for the past 25 years of my career. After graduating from the Nebraska College of Law in 1998, I worked with Attorney General Don Stenberg and Jon Bruning in the Attorney General's Office as an assistant attorney general, providing counsel to state agencies. In 2003, I served as legal counsel to this committee-- the Nebraska Retirement Systems Committee-- with then-Chairwoman Senator Elaine Stuhr. While serving the committee, I learned the important role the committee serves in overseeing the retirement plans, its investments and the agencies under its purview. In 2007, I served as deputy state treasurer and legal counsel for the State Treasurer's Office, working with Treasurer Shane Osborn. While there, I was involved with Treasury operations, including the State Investment Council, the College Savings Plan and the Child Support Division. Beginning in 2010, I served as legal counsel for NPERS, the retirement agency, which had me testifying before this committee on a number of agency technical bills and other retirement-related legislation, and working with then-Director Phyllis Chambers and the current NPERS director, Randy Gerke, when he was the accounting manager. For the past 10 years, I've worked with the Nebraska State Education Association, where I've-- I have had the opportunity to assist plan members in answering various retirement questions, drafting retirement legislation and being involved in government relations for the association. I want to thank the Public Employees Retirement Board for recommending me for this position. I want to

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thank Governor Pillen for approving my appointment, and I especially want to thank my wife, Christina [PHONETIC], who is here today and has been very supportive of me throughout the process. With that, I'm happy to answer any questions you may have.

McDONNELL: Questions from committee members? Yes, Senator Hardin.

HARDIN: Sometimes people with retirement dollars get testy about what happens with those dollars. Can you just kind of speak to your consensus-building process and kind of the softer side of retirement systems and how to build enthusiasm about directions overall and differences of opinion and how to resolve those. It's just a very general question--

JASON HAYES: It's a very good question.

HARDIN: --on how to kind of resolve conflict.

JASON HAYES: Yeah. And I think-- it's, it's really important. I mean, the, the key word that comes to mind with any kind of retirement plan is continuity, because you have people that are getting close to retirement, people that have retired, and it's important that they know that the level of service is going to continue, that their retirement plan's going to be stable, that you're not going to be making dramatic changes, especially for those people that are getting close to retirement. That's very important. So in terms of consensus building, you want to make sure that you have stakeholder input, that you have all, all parties, you know, have-- are-- you, you give notice to people if it's an agency regulation change, and really work in educating both the public of what's the ongoing operations of the Retirement Committee-- or, the retirement agency, as well as-- I think it's-- it, it's very important. And I've worked with three directors over the last 25 years, whether as counsel to this committee or counsel for the agency. And I think the qualities that, that make a really good agency director are those that, that communicate very well with the senators, with the oversight-- with the Public Employees Retirement Board, which is the governing body of the agency in terms of its day-to-day activities. And so I hope I've answered your question, but it's, it's really making sure that you're bringing all sides in, you know, not-- sometimes not doing all the talking, but doing a lot of listening and getting their input and then making good decisions based upon that input.

HARDIN: Thank you.

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McDONNELL: Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Mr. Hayes, for being here. Been looking at your resume. I, I come from a, a small town where I've been in the same job for 44 years. And I'm seeing 5 years, 3 years, 3 years, 2 years, and now 10 years at this position. And just wondering, is there a reason why you've had so many changes? And especially, how long do you plan to stay as director? I'd like to see a director that's long-term because things change, and history is real important in a director. 2 years, 3 years, 10 years or more. Did you have a plan on how long you would stay?

JASON HAYES: Well, my, my plan is to be here for 15 years. I'm 53. And so, well, depending on my retirement age, to be for the remainder of, of my working career at the agency. And I, I think one of the things with state government is that, many times, there's a, there's a transfer from one position to another in state government. By and, by and large, prior to my time at NSEA, I worked for the state of Nebraska. So that was, you know-- I, I did have a break after the Treasurer's Office for a couple of years. But essentially, from the time that I was at the Attorney General's Office, through working at the agency, I worked for the state of Nebraska almost the entire time, except, I think, maybe a year and a half. And so one of the things with-- you know, when I was retire-- or legal counsel for this committee, Senator Elaine Stuhr was the Chair. She was actually term-limited. And so I-- you know, I know, many times, when you have a new senator come in-- coming in as Chair, they will rehire or continue the legal counsel in that position, but not always. And so that's, you know, at the time where I was-- you know, it worked out to move over to the State Treasurer's Office at that point. So I hope I answered your question. I-- in, in, in some respects, I guess I could have done my resume showing that I was at the state of Nebraska the entire time and, and that I served in these different roles.

CLEMENTS: I see.

JASON HAYES: But that's maybe a better explanation than what the resume suggests.

CLEMENTS: Well, that does connect it better. Thank you. And another thing that we've had discussion about this year is ESG policies, investment policies with retirement funds. And I wondered if you have an opinion about that kind of investment.

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JASON HAYES: Well, I, I, I think there's some concerns regarding ESG. I also think it's important-- I mean-- and I'm going to use this opportunity to say it-- is that as an agency director, I need to be very careful that I don't take policy positions. You are the policymakers and you make policy decisions on that. Even-- I guess you could say the State Investment Council makes some policy decisions with regard to how they're going to invest. I know that the State Investment Council is looking into that and, and I, I think they even have a, a meeting planned in-- on June 8 to go through some of that. So I think there are some concerns. I'm glad that they're looking at it. I-- you know. But as, as agency director, you know, my, my job is going to be not necessarily taking positions on, on policies or should you do this bill or not that bill, but more in terms of, you know, here's the information that you need to-- so that you can make a, an informed decision moving forward.

CLEMENTS: Are you willing to follow what the board policy is--

JASON HAYES: Yes.

CLEMENTS: --rather than advocate for your own?

JASON HAYES: Exactly.

CLEMENTS: Thank you.

JASON HAYES: There, there was a, a director a few years back that, that had some-- you know. I won't get into that.

CLEMENTS: OK.

JASON HAYES: But it, it-- I've just seen the-- it's important-- in my-- my view, an agency director is providing information and not getting in the middle of policy decisions.

CLEMENTS: One more question, Mr. Chairman.

McDONNELL: Yes.

CLEMENTS: Regarding the staff that is with the agency now, are, are you planning to keep the current staff or do you have other staff that you've planned to bring in?

JASON HAYES: I'm planning to keep the current staff. I know there's, there's limitations and, and protections for agency personnel. Obviously, as, as people retire or people will transition into other

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positions, you know, I, I would hire those positions. But I, I-- from what I hear from the PER Board as well as Director Gerke that there's a, a great staff in place right now, and I look forward to working with them when I start.

CLEMENTS: Well, I was hoping that you would say that. Thank you. Because I think they-- their experience will be helpful to you if you'll keep their experience. When I became the senator, I inherited staff that had been here a number of years. And I didn't know at all what I was doing, and it was very helpful for me, so.

JASON HAYES: But they knew that-- they probably knew the district very well too, so.

CLEMENTS: Yes. Thank you. Thank you, Mr. Chairman.

McDONNELL: Any other the questions? Yes, Senator Ibach.

IBACH: I have one. Thank you. In looking through your information, your resume, it is very impressive. I feel like you're a really good fit. And I just wanted to comment that I know you testified a couple of times this year in front of the committee and did a great job. Is there anything that you look forward to maybe changing or modifying in the, in the department?

JASON HAYES: Well, you know, I'll go back to kind of my earlier response, which-- in terms of the continuity, I think it's important that I come in and-- I'm, I'm a problem solver, so I like to get in and learn how things work, learn all the, the minutia, the mechanisms of, of how an agency runs, the different divisions, and then, you know, then making recommendations for possible changes. When I testified before-- or, when I did my interview before the PER Board about a month and a half ago, one of the things that I mentioned is I wanted to certainly find efficiencies in the agency. You know, there were-- a huge part of the agency is service delivery. People file their retirement application paperwork, and then it's a, a number of months before they actually get their benefits to start. There's a reason for that. They want to make sure that the information that they have, the documentation is, is, is solid or certain with regard to how that benefit is paid out. But I'd be looking for those types of efficiencies in the agency as well as-- you know, sometimes over a number of years, things are done a certain way, and I think it's always helpful to look back and say, well, why are we doing it this way? Is it-- you know, maybe it, it makes sense to look at some other ways to do it if it's-- if it makes more sense to do that. And so I

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think that's always a good process when you have a new director coming in to agent-- any agency to kind of review, you know, what are the current policies in place, and are there things that-- you know, is there a reasons that we're doing this, or it's just we've done this for the last 20 years and so we just keep doing it? So those types of items, I--

IBACH: OK. And that's very helpful. Thank you very much.

JASON HAYES: Sure.

IBACH: Thank you, Mr. Chair.

McDONNELL: Yes, Senator Hardin.

HARDIN: You've mentioned continuity a few times. There are 43 states that are not in very good shape across the country with their retirement scenarios, particularly as regards to unfunded liabilities. Seven are in pretty good shape; we're one of those, and I think we're the only one that's a non-energy state, of those seven. That puts us in rare company, I guess you would say.

JASON HAYES: Rare company.

HARDIN: Philosophy question: how do we stay there?

JASON HAYES: Well, you make sure that you're-- that the, the, the contributions that are coming in exceed the amount of benefit being paid out. And of course, a component of, of that equation is the investment returns, making sure that the money is properly invested, you know, with, with a certain amount of risk but not too much risk. And, and so how do we continue to stay on, on track for that? You know, it, it kind of goes back to LB553, back in 2013. And I was one of the individuals that was working on that bill, and that, that really started the, the creation of that second tier for the school plan. And, and so I think it's, it's important. You know, you can make little changes 10 years ago that, you know, now gets the plan into a place where we're about 100 percent funded for the school plan, the largest. And so I think, you know, really looking forward into the future in terms of what are some things that we can do to keep that, that, that ranking, I guess you-- if you want to call it that. But I know that once we get to 100 percent funded, once we get-- you know, we're on a trajectory to be, you know, over 100 percent funded in the school plan. And, you know, at that point, there's going to be, I'm sure, a lot of different ideas of what we can do on that. And, you know, I guess my advice on that would be is to try to maintain that,

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that same level of-- that the contributions are a little bit larger than the benefits going out and enough to be a cushion so that when there is a downturn in the market, which there always is, it would be sufficient to cover it.

HARDIN: Can I ask about general ideas about defined benefits versus defined contributions and potential upsides or downsides with either side?

JASON HAYES: Sure. So a defined benefit is a, is a, a formula calculation. And if the formula is just right, everything works. If-- and I, I found this when I was back as legal counsel for this committee, because you, you do have groups from time to time come in and say, we'd like a benefit enhancement or we'd like to start a new retirement benefit. And that's fine. If you've got a good actuary report, you've got good information determining what the cost of that benefit is and that there's sufficient contributions coming in to cover that. And so that's-- so you're con-- you're-- I guess with the defined benefit, you know, you're constantly trying to make sure that that contribution is exceeding the benefit. With a defined contribution plan, you don't necessarily have that same concern because the, the contributions that come in are, in essence, the money that's being paid out. Now, the cash balance plan is, is what's termed as a hybrid between the both. There is a formula to the hybrid-- I mean, to the cash balance plan that the state employees and the, and the county employees currently have. So it's just that the, the benefit that's being paid out is much lower than some of the other defined benefit plans that the state has. So certainly different things to, to keep in mind when you're-- different liabilities, different responsibilities from a defined benefit versus a defined contribution plan. And, you know, what I've always advised people, you know, from the beginning of my work with retirement plans is, if you don't want changes, make sure that your contributions are greater than the benefits being paid out. Because when you start having an actuarial-- I mean, when you start having a, a projected shortfall-- and that's-- back in 2013, that's what we saw with the school plan. We had-- there was a \$100 million projected shortfall, and that was each year. And so LB553 took away some of the sunsets that would have reduced the contribution benefits for the school employees and, at the same time, reduced or curtailed some of the benefits for the tier-two employees that were, were new hires. And so it's-- that's something that-- as members of the committee, I'm sure you're well aware of it when you get the actuary report and if there is a shortfall to keep an eye on it.

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HARDIN: Thank you.

JASON HAYES: So.

McDONNELL: Any other questions? Is there anything you'd like to add?

JASON HAYES: No. I-- really looking forward to starting, so. And again, it truly is an honor to be here before this committee. I've done a lot of work, both on your side of the, of the desk and on, on this side over the last 20 or so years. So, you know, from a career standpoint, this is a meaningful confirmation process.

McDONNELL: Well, we'll be going to an Executive Session here shortly. And we'll be contacting you this afternoon. Thanks for being here.

JASON HAYES: Thank you very much.

IBACH: Thank you.

McDONNELL: Motion to go into Exec Session?

NEAL ERICKSON: Wait, no--

VARGAS: We gotta wait.

KELLI ACKERMAN: Can I talk [INAUDIBLE]--

McDONNELL: Oh, I'm sorry.

KELLI ACKERMAN: -- if it's OK.

IBACH: Is she opposed to it?

McDONNELL: Supporters. Thank you.

KELLI ACKERMAN: Supporters. Yes.

McDONNELL: Welcome.

KELLI ACKERMAN: Thank you very much. My name is Kelli Ackerman, K-e-l-l-i-- I know everybody misspells it-- Ackerman, A-c-k-e-r-m-a-n. I am chair of the Public Employees Retirement Board. So I'm here excited to support Jason in his role. After an extensive national search, Jason Hayes was selected by the board as the Nebraska Public Employees Retirement System director on April 17 at our board meeting. The board looks forward to his leadership as the new director. He brings his knowledge of our retirement plans, great leadership through

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his career and ability to work collaboratively as key attributes to being an outstanding director. His valuable experience of working for the Nebraska State Treasurer's Office and the Nebraska Department of Justice shows his commitment as a servant leader. His previous work for NPERS and knowledge of retirement plans in Nebraska will make him a great leader for the system. As director, he will continue to communicate retirement plan needs with the Retirement Committee of the Legislature. Jason Hayes will begin his duties as the NPERS director on June 20, 2023. He will replace Randy Gerke, who is retiring and has shown exemplary leadership for the past 20 years that he worked at NPERS, and especially the last 6 years as director. Governor Pillen has officially appointed Mr. Hayes to the position on the recommendation of the board. His appointment is contingent upon approval by the Nebraska State Legislature. Thank you for your consideration of Jason Hayes as the new director.

McDONNELL: Thank you for being here. Is there any questions from the committee? Yes, Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Miss Ackerman.

KELLI ACKERMAN: Uh-huh.

CLEMENTS: The-- was the vote of the committee unanimous?

KELLI ACKERMAN: Yes. The board. The whole board voted.

CLEMENTS: The board, excuse me.

KELLI ACKERMAN: We had opened, opened the interviews into a public session on April 17. But we had it down to two finalists. And we had already done a semifinalist group earlier than that that the Personnel Committee interviewed. So, yeah. Everybody was really excited. So, yeah.

CLEMENTS: Thank you.

KELLI ACKERMAN: You're welcome.

McDONNELL: Any other, any other questions? Thank you for being here.

KELLI ACKERMAN: Great. He got the hard ones. Thank you, guys.

McDONNELL: Any other proponents? All right. Thank you all for being here. Motion to go to an Exec Session?

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CLEMENTS: So moved.

IBACH: Second.