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Nebraska Retirement Systems Committee
March 25, 2009

[LB427]

The Committee on Nebraska Retirement Systems met at 12:10 p.m. on Wednesday, March 25, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB427. Senators present: Dave Pankonin, Chairperson; Jeremy Nordquist, Vice Chairperson; Lavon Heidemann; Russ Karpisek; LeRoy Loudon; and Heath Mello. Senators absent: None.

SENATOR NORDQUIST: (Recorder malfunction)...slash afternoon. My name is Jeremy Nordquist. I'm the Vice Chair of the Retirement Systems Committee. Today we'll be hearing one bill, LB427, introduced by Senator Pankonin. I just want to remind you if you have any cell phones please turn them to silence. We welcome all testifiers. We'll take proponents, opponents, and then neutral testimony. Please try not to repeat testimony. I'll introduce senators as they come in. Denise Leonard is our committee clerk; Kate Allen is legal counsel for the committee; Senator Heath Mello is already here from District 5. Senator Pankonin, the Chairman of the committee, will open on LB427.

SENATOR PANKONIN: Thank you, Senator Nordquist and Senator Mello and members that will be forthcoming, we hope. I'm Dave Pankonin, D-a-v-e P-a-n-k-o-n-i-n, and I represent the 2nd Legislative District. LB427 adopts the County Law Enforcement Officer Retirement Act. The bill would create a defined contribution retirement plan for county commissioned law enforcement employees. Proposed contribution rates would be based on a 1.5 to 1, employer to employee, ratio. The plan would allow for five-year vesting if the employee is not already vested in their current plan. Pension contributions would be portable from one county to another. County law enforcement officers may continue to participate in deferred compensation programs as may be available in their respective counties, and existing death and survivor benefits will remain unchanged. Retirement plan administration would also remain unchanged. As proposed, county payments for increases in contributions due to this legislation would be outside the lid and levy restrictions. This bill has been introduced to keep the discussion and negotiations between the parties alive. Unlike LB426, consensus has not yet been reached between the parties for a retirement plan for county law enforcement officers. The committee will continue to work with all parties involved to try to reach an acceptable agreement. Thank you. [LB427]

SENATOR NORDQUIST: Thank you, Senator Pankonin. Any questions from the committee at this time? Seeing none, thank you. We'll begin with, first, proponent testimony. I'll remind you to fill out a sign-in sheet in the back and you can drop that in the box by Denise. And please, remember to state and spell your name at the beginning of your testimony. Thank you. [LB427]

TERRY WAGNER: (Exhibits 1 and 6) Thank you, Senator Nordquist, members of the committee. My name is Terry Wagner. I'm the sheriff of Lancaster County. That's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

W-a-g-n-e-r. I'm here today representing the Nebraska Sheriffs Association in support of LB427. LB427, and there's a handout being passed out now, but LB427 provides for enhancements to the current retirement system for deputy sheriffs in counties. I think the reason this bill is needed is that it's incumbent upon us to try to build our retirement accounts to a level that can sustain our retirement years and to still be healthy enough to do so. Last week I passed out a letter that outlines some of the generalities on why an enhanced law enforcement retirement plan was necessary. Today I'm going to speak specifically to the provisions of LB427 and talk about why LB427 should be advanced to the floor. I think initially, you know, law enforcement is not an old person's game, and I don't mean that disparagingly toward old people, but having a deputy sheriff in the 60- to 65-year range chasing a 19- or 20-year-old suspect is just a recipe for disaster. I did a survey of workmen's compensation plans for Lancaster County over a ten-year period and found that claims from deputies over age 50 were five times higher than claims from deputies that were under age 60. Noted John Violante, who is a retired New York State trooper and a researcher with Buffalo State University, did an article that stated the average life expectancy of a law enforcement officer in America was 66 years of age, clearly ten years younger than normal Americans. With that, I think it's the years of stress and shift work and the danger that's faced that creates that human stress, and law enforcement officers need a chance to try to rid themselves of those years of stress. Currently, there are about six statutes that govern deputy sheriffs across Nebraska. The third page sort of outlines all of the different levels of contributions from the varying statutes that govern deputy sheriffs. Statute 23-1118 pertains to all Lancaster County employees, including deputy sheriffs, and caps contributions at 13 percent. Nebraska Revised Statute 23-2301 pertains to all county employees of counties under 150,000 population, which caps total contributions at 11.25 percent. In addition, 23-2307 and 23-2308 establish the contribution rates, specifically the 1.5 to 1 ratio of employee to employer. In 1991, the Legislature saw fit to enhance the contributions for law enforcement officers in all counties except for Lancaster and Douglas, keeping in mind that Douglas County has a defined contribution plan and is not included in the provisions of LB427. In 1991, Nebraska Revised Statute 23-2332 was passed that pertained to counties over 85,000 but less than 150,000, which is Sarpy County, and provided for 2 percent increase in contribution rates for both the employee and the employer. Statute 23-2332.01 provided supplemental law enforcement contributions for counties under 85,000, which were the other 90 counties in the state, that provided for a 1 percent employee-employer ratio. [LB427]

SENATOR NORDQUIST: Could I get...excuse me one second here. We're having trouble with the transfer machine. Before I continue, I want to make sure we get it all on the record. [LB427]

TERRY WAGNER: Okay. Hope I don't have to repeat all that. [LB427]

SENATOR NORDQUIST: (Laugh) That's all right. We'll kind of take it from where you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

were. Sorry. [LB427]

DENISE LEONARD: Sorry about that. [LB427]

SENATOR NORDQUIST: No. [LB427]

EASE []

SENATOR NORDQUIST: Before we resume, I'll introduce Senator Russ Karpisek from Wilber who has joined us, and Senator LeRoy Louden from the northern Panhandle in the 49th District has joined us. You can go ahead, Mr. Wagner. [LB427]

TERRY WAGNER: Thank you. LB427 would help to, how does the statute say, consolidate and harmonize all of Nebraska law enforcement officers' contributions. It would increase contributions in an incremental rate, similar to LB426 that was proposed last week. Beginning in October of '09, the contribution rate will be 6.75 percent for employees and 9.25 percent for employers, totalling 16 percent; and then in 2012 would increase to 7.2 percent for the employee and 10.8 for employers. I'm not really sure how all of the different statutes came about that created the law enforcement supplemental retirement. I'm not sure why Lancaster County was excluded in 1991. I think that everybody thought that we had a defined benefit plan like Lincoln and Omaha has, and we do not. But it's time to get everybody in line with the same level of contributions and enhance those contributions so that our retirement accounts can be enhanced. I think that those opposed to LB427 will tell you that if deputy sheriffs get enhanced contributions that other county employees will want the same kind of benefits, and I think that that's simply not a valid argument. It's not an apples-to-apples comparison. The work is vastly different. Employees in different offices or even clerical people in my office can work well into their seventies and not be affected by the rigors of the profession, where law enforcement officers simply cannot. The other issue obviously is always going to be the cost of the proposal. In Lancaster County, that 1.45 percent increase that would take effect in October would cost Lancaster County an additional \$65,818. And in assuming a 3 percent cost-of-living raise for the next three years, in 2012 the additional percentages would cost \$76,881. While that's not a minute amount by any means, I can tell you that the \$65,000 this year would be .03, at three hundredths of one percent, of Lancaster County's \$170 million budget. I checked with our chief budget officer for Lancaster County. That \$65,000 would increase a Lancaster County property tax owner of a \$100,000 home 40 cents per year. I think Senator Louden asked that question last week of the cost of LB426 and I wanted to make sure that I had that information in there for you. In addition, last year we were proposing a defined benefit plan and worked with Senator Synowiecki on that plan. The direction we were given was to go back and we, being law enforcement in general, work with the league and with NACO to come up with a compromise. I can tell you that a number of meetings were held where the league and NACO were at, NACO attended most those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

meetings, but would not negotiate because they didn't have direction from their board. Once NACO did, I attended one of the legislative meetings and they appointed a law enforcement retirement committee to study the issue. There weren't any negotiations with NACO. I think their committee simply voted to oppose LB427, and we really haven't had any dialogue regarding the amounts. I can tell you that the Nebraska Sheriffs Association and the law enforcement professions support LB427 and we urge you to advance it to the floor for debate. With that, I would answer...oh, I would ask one more issue, I guess. Page 47 of the bill, line 8, 9, and 10 talk about who the bill applies to. There's concern there that it excludes law enforcement officers in counties over 150,000 population. I'm not real sure why that was added in there but the bill is intended to include all counties except for Douglas County in Nebraska. With that, I'd answer any questions the committee might have. [LB427]

SENATOR NORDQUIST: Thank you, Sheriff Wagner. First, why...do you know why in the past they drew the distinction of the 85,000 population for counties, why they picked that number? [LB427]

TERRY WAGNER: You know, I don't know. The work is basically the same whether you're a deputy sheriff in Omaha or a deputy sheriff in Dawes County. It's just a matter of how many deputies are there for the population. I don't know how that came about. I wasn't involved in that procedure in 1991 and I don't know how that came about. [LB427]

SENATOR NORDQUIST: Okay. And with...it has a...under the bill you may retire at age 55? Is that right? Is that... [LB427]

TERRY WAGNER: I believe that's correct, sir, yes. [LB427]

SENATOR NORDQUIST: There's no cap on it though. We're not saying... [LB427]

TERRY WAGNER: No, sir. [LB427]

SENATOR NORDQUIST: ...you have to retire by a certain age. [LB427]

TERRY WAGNER: No minimum age. [LB427]

SENATOR NORDQUIST: And just do you have any projections of this kind of enhanced contribution where it would put somebody? I mean would it allow them to retire X number of years earlier or I mean what? I mean, I understand it's a defined contribution plan so it's what you want to put in there obviously, but... [LB427]

TERRY WAGNER: Exactly. And there are other folks who will follow me and I think specifically Deputy Mike Peschong from my office... [LB427]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

SENATOR NORDQUIST: Okay. [LB427]

TERRY WAGNER: ...who's a real new officer... [LB427]

SENATOR NORDQUIST: Okay. [LB427]

TERRY WAGNER: ...has worked out a proposal on what LB427 would mean to him... [LB427]

SENATOR NORDQUIST: Sure. [LB427]

TERRY WAGNER: ...over the life of his career and will answer that question for you. [LB427]

SENATOR NORDQUIST: Okay. Great. Thank you. First, Senator Lavon Heidemann from the southeast corner of the state has joined us. Are there any other questions from the committee? Seeing none, thank you. [LB427]

TERRY WAGNER: Thank you. [LB427]

JOHN FRANCAVILLA: (Exhibit 7) Senator Pankonin, Senator Nordquist and members of the Retirement Committee, my name is John Francavilla, that's F-r-a-n-c-a-v-i-l-l-a. I'm the president of the Nebraska state Fraternal Order of Police, representing over 2,700 law enforcement officers. Today I come to you in support of LB427. We have sent earlier testimony in regards to LB426. Both bills have been worked on by the Nebraska Fraternal Order of Police in conjunction with the other law enforcement organizations to bring harmony to law enforcement in regards to retirement. Today LB427 is different than LB426 as we were able to negotiate and have settled an agreement with the Nebraska League of Municipalities, however, we were unable to come to an agreement with NACO. What I ask you today is to support our bill for several reasons. Number one, when we began our process, we had a defined benefit plan. We spent a lot of time and money in regards to this defined benefit plan. We were given direction from the Nebraska Legislature that we needed to sit back down at the table with those parties involved in this process to come to an agreement. We have been willing, able, and we have been to the table two speak in favor of this bill, to work on agreements to this bill. In my personal opinion, the concessions on LB427 are drastically because of what law enforcement has done. We have stepped away from the defined benefit that would have guaranteed a rate of return for our members regardless of their contribution amounts and we've gone to a defined contribution plan where we will now place monies into an account and how that the accounts earn money and allow our membership to retire at an age young enough that they can at least enjoy those years. LB427 does have provisions for increasing the pension amount depending on the county that you're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

working for. Sarpy County is currently at 15.25 percent. At the end of the day, with LB427, they would be at 18 percent. The lowest county, Lancaster County, is at 13 percent and they will move up to 18 percent by 2012. We put incremental stages into this plan so that we would allow for the economy to adjust, as well as to allow those entities that would have to be making the increased contributions in the plan time to budget those allotments. We feel that this is a necessary piece of legislation to ensure benefits for our membership in the future. I did some minor research, I wouldn't go into a full array that I would be doing if I was sitting down at a negotiations table, but looking across the state of Nebraska the average deputy sheriff salary is right around the ballpark of \$35,000 a year, and I have those numbers from the Nebraska Law Enforcement Training Center's Web site. One county in particular I pulled out was Otoe County with the deputy sheriffs' salaries just around \$38,500 annually. With this piece of legislation, with our current proposal of 1 to 1.5, that would mean that the county would have an additional \$575 annually per deputy sheriff into the retirement plan in 2009, and then as we move on to 2012, another \$596 annually per deputy sheriff based off of that rate of \$38,500. We do not have the hard-line numbers yet as to percentage rates, if we're at the 1 to 1.5 yet, we're still willing to work on those to assist, but those will be baseline numbers for you. In regards to that, again, we as labor have sat down at the table. We have been willing to negotiate. We have worked towards an agreement. However, the NACO board was unable to negotiate with us at the time. And then once their board met to discuss it, they did not come back to the table. As I look at it from my labor perspective, you want fair labor practices at least to meet at the table to discuss things, to see what we can do to work out to meet a compromise, because that's what the Legislature directed of us and that's what we did. NACO did not. So today I am here in favor of LB427 and I ask that not only this committee move it out of committee but that you assist us in moving forward with this process. And at this time I will stand for questions. [LB427]

SENATOR NORDQUIST: Thank you, Mr. Francavilla. Any questions from the committee? Senator Karpisek. [LB427]

SENATOR KARPISEK: Thank you, Senator Nordquist. Mr. Francavilla, thank you for your testimony and I am in favor of the bill too. I guess I'm just going to ask, being a former mayor, where do we...where do they get the money? And I know that's kind of putting you on the spot, but I mean I think that's the whole issue here. I haven't heard anybody say they don't deserve it, they don't work, they don't deserve it. But we don't know where to get the money, and I sympathize with them, however, I sympathize with your side, too, so... [LB427]

JOHN FRANCAVILLA: In regards to the money, this bill has always been to where it was under the control of the state Legislature. We did ask at times it would stepped outside the state Legislature so our individual FOP lodges could negotiate pension enhancements on their own. That's still possible even with the bill in its current stage

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

where it is run through each county individually but directed from the state Legislature. There are times within the budget of the sheriff's department, the police departments themselves that if some of these monies had to be looked at they could look at whether it's the reduction in purchasing a cruiser, other savings that they can do within the budget. Some budgets right now turn in monies from the sheriff's department, as I talked to them, so they do not meet or fulfill their full budgetary monies that they've obligated. So there's still monies there within each county, and I'm sure that we could find it not only from law enforcement's end but the first-class cities and the counties themselves as they sit down with our memberships. [LB427]

SENATOR KARPISEK: Very good. Thank you. [LB427]

SENATOR NORDQUIST: Thank you. Any additional questions? Senator Mello. [LB427]

SENATOR MELLO: Mr. Francavilla, I'd like to thank you for your testimony and thank you for what you do to protect and serve. I know the citizens of Omaha thank you. Our legal counsel Kate Allen actually had asked a question which was in your testimony. You mentioned Otoe County, salary of a deputy was \$38,000, roughly \$38,500. How many people in Otoe County would be covered under this bill? [LB427]

JOHN FRANCAVILLA: I don't have the deputy sheriffs numbers from Otoe County. Some of the other counties that were very similar, we're looking at six to ten deputy sheriffs. [LB427]

SENATOR MELLO: Okay. Okay. That's helpful. Thank you. [LB427]

SENATOR NORDQUIST: Senator Louden. [LB427]

SENATOR LOUDEN: Yes. Thank you for your testimony. At the present time, these...do the counties pay Social Security on these sheriffs and deputies and them, or what kind of retirement is out there now? Is it Social Security contribution for your deputies? [LB427]

JOHN FRANCAVILLA: In a lot of the counties there is both a retirement plan that they have established as well as Social Security. [LB427]

SENATOR LOUDEN: But they have to pay Social Security. [LB427]

JOHN FRANCAVILLA: Yes, sir. [LB427]

SENATOR LOUDEN: Okay. And that's, what, about 7.65 percent or something like that on each side, or how is that? Isn't that figured out for 14.5 or something like that? [LB427]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

JOHN FRANCAVILLA: There is equal contributions between the county and the employee in regards to the Social Security benefits. As you look at the package that we propose and some of the numbers there, they would still come about even to what the Omaha Police Department is paying over 30 percent of salary between employee/employer. The Nebraska State Patrol, again, is higher than those numbers. So there are plans out there where there are Social Security payments as well as pension payments in there that are still higher than what we have proposed in our language. [LB427]

SENATOR LOUDEN: And let's see if I have your numbers right here. What do you...counties under 85,000, it's 6.75 percent. And the county would pay 9.25. Is that what you're planning? [LB427]

JOHN FRANCAVILLA: Currently right now, counties under are combined contribution of 13.25 percent right now, so they would increase for this fiscal year, '09, to bring them up to 16 percent. So that money would be at 1 to 1.5 and they would go from a 6.75 percent, would be the contribution on the employee, and 9.25 on the employer. [LB427]

SENATOR LOUDEN: Okay. And how...just what is your line of thinking here when your employee (sic) gives about, what, 50 percent more than the employee, whereas your Social Security is an even match? What's your reasoning for this, I guess? [LB427]

JOHN FRANCAVILLA: What we did is we followed the current procedures for the contribution levels where they're 1 to 1.5. We were, like I said, never able to get back to NACO to sit down at the table with them where that could have gone differently for any of the enhanced contributions that we are looking at today. That's what we used. We just followed those current practices in place. [LB427]

SENATOR LOUDEN: Okay. Now would that make any difference to you if that was a 1 to 1 match from the county and the employee? [LB427]

JOHN FRANCAVILLA: For the additional contributions, sir? [LB427]

SENATOR LOUDEN: Yes. [LB427]

JOHN FRANCAVILLA: If that were what it would take to get this bill through, because what we want at the end of the day is an enhanced benefit for our membership. We are willing to sit down and work out these numbers with you or with the NACO board. [LB427]

SENATOR LOUDEN: Uh-huh. Because you mentioned the State Patrol and I think the State Patrol is a defined contribution plan, isn't it? And I think that's the reason some of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

their contributions are probably higher than what you're looking at here. It's a little bit different plan. Is that correct? [LB427]

JOHN FRANCAVILLA: The State Patrol is a defined benefit plan, so they are...it is a different plan than what we have, yes, sir. [LB427]

SENATOR LOUDEN: Yeah. Okay. Okay, well, thank you. That's what I was wondering, if there's...if you haven't talked to NACO and there was a problem, if there is some room for negotiation in here. [LB427]

JOHN FRANCAVILLA: Yes, sir. We are willing to sit down at the table. We have been from day one when, again, as we were directed by the Legislature to sit back down. We've been willing to do that and I will speak on behalf of the FOP in this case. We are willing to sit down at the table. [LB427]

SENATOR LOUDEN: Okay. Thank you. [LB427]

JOHN FRANCAVILLA: Thank you, sir. [LB427]

SENATOR NORDQUIST: Thank you. Any other questions? Seeing none, thank you. [LB427]

JIM PESCHONG: Good afternoon, Senator Nordquist and members of the Retirement Committee. My name is Jim Peschong, it's P-e-s-c-h-o-n-g. I am here on behalf of the Police Officers' Association of Nebraska and we are encouraging your support for LB427. This bill is the result of the Police Officers' Association, the Police Chiefs Association, the Fraternal Order of Police, and the Nebraska Sheriffs Association trying to find common ground on the issues of providing better retirement benefits for law enforcement officers. As a result, LB426 was drafted and proposed for law enforcement officers of the first-class cities, and LB427 was drafted for most county law enforcement deputies. The goal here is to enhance retirement benefits for law enforcement officers and deputies so they do not find themselves in situations that they are not financially able to retire when they need to do so, or the fact that they become permanently disabled because they could not afford to retire when they should have. The proposed enhancements to the existing retirement plan found in LB427 are shared expenses by the employee and the employer. The bill does not ask the counties to stand the additional costs alone. In 2008, the RAND Corporation, which is a nonprofit research organization that provides objective analysis of challenges facing public and private sector, published a report on occupational safety and health or public safety employees assisting...or, excuse me, assessing the evidence in the implications for public policy. While it is no surprise that public safety employees are routinely asked to put their own lives and well-being at risk in order to protect the life and property of the ordinary citizen, they face injury, fatality rates that are as much as three times higher than those faced

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

by workers in nonsafety occupations. For law enforcement, approximately 37 percent of fatalities are attributed to vehicle accidents and another 37 percent are attributed to assaults. However, the study also found that injuries are dominated heavily by strains and sprains for law enforcement personnel. Obviously, this equates to loss of work time, increased employer cost for worker compensation claims. The percentage of public safety workers receiving disability and workers' compensation income is more than twice that of other workers, for example, about 2 percent for police and correctional officers compared to .9 percent for nonsafety employees. Also, the data showed that public safety employees are more than three times as likely to experience a permanent disability resulting from a workplace injury than other public sector workers in nonsafety positions. Permanent partial disability increases between age categories. For example, permanent partial disability increased from 39.5 percent for police officers under the age of 40, to 62.5 percent for police officers 60 years of age or older. This appears to indicate that either older public safety employees experience more severe injuries or that injuries they experience for a give severity level are more likely to disrupt their ability to work. The study found that police officers become more susceptible to work-related disability as they age in the sense that a workplace injury is more likely to result in a permanent disability for older ages. Therefore, we believe it is imperative that adequate retirement plans are established and implemented for law enforcement personnel. Research seems to be supportive of the fact that older law enforcement personnel are apt to be more costly to governmental entities through costs associated with permanent partial disability claims or worker compensation claims. Therefore, it would appear to be good public policy to ensure there are adequate retirement programs established for law enforcement personnel in order to minimize the higher cost associated with disabilities and worker compensation claims. The Police Officers' Association of Nebraska would strongly encourage the committee to support LB427 and move it forward. Thank you for your consideration of this matter. I'd be happy to answer any questions if there are any. [LB427]

SENATOR NORDQUIST: Thank you, Mr. Peschong. Any questions from the committee? Seeing none, thank you. [LB427]

JIM PESCHONG: Thank you. [LB427]

SENATOR NORDQUIST: Next proponent. [LB427]

MICHAEL PESCHONG: (Exhibit 8) Okay. Senator Nordquist and members of the Retirement Committee, my name is Michael Peschong, P-e-s-c-h-o-n-g. I'm currently employed at the Lancaster County Sheriff's Office and I'm here today to show my support for LB427. As a young deputy working at the sheriff's office, I'm very concerned about my ability to have accumulated enough money to carry my wife and I through our retirement years. Police work can be dangerous and stressful. Therefore, the ability for me to perform these duties when I'm 70 years old, because I was not able to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

accumulate enough retirement funds so I could retire, is not very realistic. Law enforcement officers are continually called upon to deal with situations involving violent criminals and/or high-risk situations where they may be injured or killed. We must make quick decisions while on duty, yet be tactful and patient with people who are in trouble or have been victims of terrible crimes and abuse. Law enforcement officers work in partnership with the public and are on the front line in the fight against crime and the fear of crime. Our jobs run the gamut of dealing with the emotionally disturbed to the emotionally traumatized, and our hardened career criminals to the children who have just been sexually assaulted by a grandfather. We must be ready for anything at any time. One minute we could be writing out an official citation for speeding and the next minute we could be wrestling around with an intoxicated male who doesn't want to go to jail after having a physical domestic (sic) with his wife. Police protection is provided 24 hours a day regardless of holidays, birthdays, graduations, kids' activities, or other family events. As a young deputy, I look at my future and want to make sure I'm able to do all that I can to make it so I can retire when I need to. By increasing the level of contributions I am allowed to set aside now for my retirement will have a significant impact on my retirement account by the time I'm ready to retire. I don't want to find myself in situations like many of my coworkers are today that they have not been able to accumulate enough wealth to carry them through their retirement so their only alternative is to continue to work, even though they know this may not be the best thing for them. However, after doing the job for 30 years, their skill sets in the job are good but somewhat limited in different careers, as well as finding new career paths for them to start them off with similar pay. I enjoy my profession. I am hopeful that I can make it a career for me. However, I also need to be a realist and ensure that I can adequately set aside money for my retirement years. I'd like you to take a minute to look at Attachment A that I have here for you. The first column is...basically at the very top, it says the hire age of 21 and say that I want to retire at 60. I have a 5 percent return on my money. Current starting wage is \$40,735 and over the years considered a 3 percent increase in my money. Currently, the employee is putting in 5 percent and the employer is matching it at 8 percent. The result at the age of 60, in my account I should have about \$1,025,317 or right around that. And the second column I figured at 6 percent of my money, 3 percent inflation, and withdrawing 60 percent of my salary at age of 60, I'm going to be running out of money at age 76. Attachment B, the next one, if you'd flip to that, it's the same values except the employee is putting in 7 percent and the employer is matching at 11 percent. At the end, I'll have just about \$1.4 million in my account. And at the right column, if you'd look, still pulling out 60 percent of my salary, by just adding that 5 percent, it's going to allow me to have enough money until I'm age of 86. So I'd have an extra ten years on just that 5 percent that we would be able to put in there today. And I'd like to thank you for your time and I'd be happy to answer any questions that you may have. [LB427]

SENATOR NORDQUIST: Thank you. Are there any questions from the committee? Seeing none, and I just want to make...this would be your account balance. This would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

not include your...any Social Security benefits (inaudible). [LB427]

MICHAEL PESCHONG: No Social Security, if we have Social Security at my age of 60. [LB427]

SENATOR NORDQUIST: Yeah. Sure. [LB427]

MICHAEL PESCHONG: So... [LB427]

SENATOR NORDQUIST: Yeah, we all worry about that. All right, thank you. [LB427]

MICHAEL PESCHONG: Thanks. [LB427]

SENATOR NORDQUIST: Any additional proponent testifiers? [LB427]

RICK BOUCHER: (Exhibit 2) Senator Nordquist, members of the committee, my name is Rick Boucher, B-o-u-c-h-e-r. I'm an attorney and the lobbyist for the Nebraska Sheriffs Association. Good afternoon. My comments will be brief. I want to kind of, if there's a unifying theme it's, within the last few years, I think law enforcement has tried to adopt more of a unified pension sort of system, not necessarily detracting either from the State Patrol or the Douglas County Attorney's...or County Sheriff's Office or the Lincoln Police Department but the rest of the group to put them in to a category together. The bills that we have worked through, through the years, either with Senator Synowiecki or others, have tried that. This year we've kind of broken them out into LB426 and LB427. We would ask that you advance both of them for various reasons, which I'll get into just briefly. Here also today, if a record could reflect certainly a large group of law enforcement, which you can see, Sheriffs Joe Yocum from Seward County, Nels Sorensen from Jefferson County, Bill Burgess from Fillmore County, and Chris Becker from Harlan County are amongst those that are here. They want to let you know that they certainly support them, but support LB426 and LB427. What I would suggest to you is really a couple of things. We know that all of these, whether LB426 or LB427, I visited with Kate Allen several times, there are some challenging aspects to address. Certainly our office as well as Mike Kelley for the FOP, we're willing to address those issues, certainly with Kate as well as the County Officials Association. I think what you're seeing is kind of an approach, sensible moderation. You know, it's not a question of really trying to work a system during a difficult economic time. Senator Karpisek, you're right though, where's the money come, that's the large issue. I think as governmental entities, whether we hear it each night about what are the core values of the federal government or we hear each day from you on legislative, I think that law enforcement fits in there. Certainly on the county level, I suspect if you took a poll, I haven't but if you did, most people would probably tell you that the Department of Roads as well as law enforcement is the core values, what they expect from local government, and certainly because of the importance of real estate, certainly the register of deeds office. What we

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Nebraska Retirement Systems Committee
March 25, 2009

ask you to do is certainly to acknowledge that law enforcement is a challenging and noble profession. I've had, in terms of litigation, had to...whether for wrongful terminations or looking at those issues where officers...you know, sometimes a concern is whether qualifying with a firearm or being able to drag a citizen or a colleague out of the middle of the street, or even the concern that goes through as they break down a door in a domestic violence situation, whether they're going to get back up off the floor or whether the shoulder or the knee gives out because of age or otherwise and they're left vulnerable to two adults who were otherwise warring parties. We would ask you to advance LB426 and LB427. We ask you to work hard, feel deeply, choose wisely, and send these both, LB427 with some work, to the floor for consideration by the full Legislature. If you have any questions, I'll try to answer them. I think...and with regards to, I guess, a couple and I'll try to anticipate the questions, with regards to the 150 percent, I think historically, and I've been doing this since 1983 and I had certainly a wonderful opportunity to work with Jack Mills, Larry Dix, who...Larry followed as head of the county officials, and at least my understanding was that historically cities paid a little bit more, counties paid a little bit less but the benefits were to be a little bit better. With regards to...and that's kind of a general understanding, not that I can quote anyone from any particular year or bill, but I think it's a fair representation. As to the supplement that came around for law enforcement, I think there was a question about how did 85,000 get in there. My only firm recollection of that was that Sarpy County at that point was one of the...was thought to be a break off; that Douglas County and Lancaster maybe had separate systems. So you know that longtime legend of law enforcement, Pat Thomas, I think came down and worked some magic and talked with senators about it. So it seems to me that it relates more towards Sarpy County and those below. [LB427]

SENATOR NORDQUIST: Thank you, Mr. Boucher. Any questions from the committee? Seeing none, thank you. [LB427]

RICK BOUCHER: Thank you. [LB427]

SENATOR NORDQUIST: Any additional proponent testimony? In addition to the people who testified, we did receive an additional letter of support from Sergeant John Davis from North Platte. (See also Exhibits 3, 4, 5 and 9.) Any opponent testimony on LB427? [LB427]

LARRY DIX: Senator Nordquist, members of the committee, for the record, my name is Larry Dix, spelled D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in opposition to LB427. And certainly there's been a lot said about NACO today and I hopefully will have a few comments in regard to some of the comments that were made. But first I would like to say when NACO looks at a bill we come at it from a little bit different direction than certainly our law enforcement do on LB427. I would tell you, NACO no more than anybody else appreciates what every one of these gentlemen, ladies and gentlemen do behind me. I work with them on many,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

many different issues and we certainly appreciate what they do. We have no doubt to argue about the statistical analysis of the nature of the job and that they're putting their life on the line; that there are times when, due to what they do, their careers probably will not last as long as maybe some of the folks who maybe worked inside the county courthouse, certainly no question about any of that. We've never had that dispute. One of the things, though, I would point out is NACO is the Nebraska Association of County Officials and we represent all county officials. We represent all 93 counties. And what was left off of this discussion to a certain degree and I would tell you that it's not only our goal, from NACO's perspective, so that our law enforcement folks can retire and accumulate enough wealth to retire at the age of 60 or 65, I would tell you it is the goal of a number of county officials, be it clerks, assessors and/or treasurers, that they, too, would like to accumulate enough wealth to retire at a specific age. The one thing I think, so that everybody understands, NACO is made up with a 17-member board. The sheriffs have a seat on the NACO board. They have representation on the NACO board, always have as far as I know. And when I say "always have," I think anywhere since about in the eighties. Prior to that, it was a county board member only. But from that time on, sheriffs have always had representation on the NACO board and we certainly appreciate that representation. It's very, very vital to the association. The issue being, and one of the things I think was a little bit left off the record, if we go back, and I sort of have this...I've been around county government to where I can remember some things and actually I was an employee of county government back in the eighties and so I was on the state retirement plan. I know what it was at that point in time. And then there was an increase in '93 for our employees, the percentage of share. Sheriffs received that increase. But the real important one I think came in 2002 and that was a bill that was introduced in 2001. It was LB186. That bill was introduced by NACO. That was our bill. We introduced it. We introduced it on behalf of county officials and contained within that bill was some of the exact same comments that you are hearing here from law enforcement that there should be a difference between the standard employee and the law enforcement employee. So at that point in time, it was at NACO's request to increase the law enforcement rate by an additional percent. That came about because, as an association, we as county officials approached the Legislature and said here's what it is, I think law enforcement is entitled to the additional 1 percent. That came into play in 2002. Unlike some of what at least I heard when I did attend the meetings, negotiated meetings, that I heard from the cities and counties in which their law enforcement retirement had not been increased for a significant number of years, ours did increase. We created it. Started in about '87. It was increased in '93. It was increased in 2002. And when we look at it, as I said before, NACO comes at it from a little bit different perspective, we come at it from all county officials. And so when the statements are saying, well, NACO just didn't negotiate, you know, I don't know that I would want to really get into that debate, if we did or if we didn't. We have law enforcement, we have sheriffs on our board. I have minutes here from the meeting of the committee that the NACO president created of which there was a sheriff on the committee. We did talk about it. We did throw out some additional examples. We did

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

throw out, although at that point in time the representation said, no, I think we want to stay with what's in LB427. We said that's fine; if you want to stay with what's in LB427 that's fine; we will take our vote. We did. NACO board voted to oppose it. So it's a little big disingenuous to say there was no negotiation. NACO will always do that. But I would tell you, we will do it as an association of county officials. We believe we went to bat in 2002, we went to bat for our county officials and for our law enforcement agency. If we were to come back, we would want to look at a retirement bill that addressed the needs of all our county officials, because they all have retirement needs and issues. And so, you know, with that, I don't want to really belabor that point, but I would tell you that's something that's very dear to our heart. When we do look at it, yes, it is about the money. And, Senator Karpisek, I would tell you, you and I have had these conversations, it will come from property tax dollars. That is an issue and it is an issue. And whenever you take a small component of county officials, it doesn't amount to a whole lot of money. Keep in mind, within this we're not talking about everybody who works in the sheriff's department. We're just talking about the certified law enforcement. When we come at it from a retirement point of view, we're going to look at it from all county employees. Everybody who works in the sheriff's department, not just the certified law enforcement. So then that number, it does change a little bit. And so with that, I'd be certainly happy to answer any questions anybody would have on this issue. [LB427]

SENATOR NORDQUIST: Thank you, Mr. Dix. Are there any questions from the committee? Senator Heidemann. [LB427]

SENATOR HEIDEMANN: Three part question: Are there any counties against the levy limit? How many do you estimate there being? And how would this affect them? [LB427]

LARRY DIX: Okay. Yes, there are counties against the levy limit. Now I've sat here...well, I haven't sat here in front of the Retirement Board and discussed levy limits but I know I've sat in front of the Retirement Committee for six years now and talked about taking anything outside the levy limit. And we've introduced bills every year to move some of our expenses outside the levy limit and in those six years we've never succeeded in moving any bill outside the levy limit. The counties that are up against the levy limit...and when I say up against the levy limit, these are ones that are sort of within striking distance. You get some counties, \$60,000 puts them at their levy limit. At any given time there are probably seven to ten counties that are within striking distance of that levy limit. I think you're going to hear, if you were sitting in Revenue Committee hearing across the hall this afternoon, Thurston County is going to tell you, they are at their levy limit. They're at the 50 cents. So, yes, there are. [LB427]

SENATOR HEIDEMANN: Then how will that affect them? [LB427]

LARRY DIX: Well, if this bill goes through and it's outside the lid, if the Legislature would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

allow that to be outside the lid, they would be able to levy above and beyond that. If that component is not in there, then obviously you're going to have to go through cutting services, cutting other staff. And keep in mind when you talk about...two things, when you talk about county government and you look at the cost, a large component of cost, county government is service. There's a lot of taxpayer services. And when you have a service-oriented industry, there's a lot of people to provide those services and so, with that, you're going to have to cut people. I mean that's...to really get to the meat of it. The other thing, in the summer I typically will tend to travel around a number of counties all across the state and try to get to a number of counties, and this year I specifically made it a point to stop in sheriffs' offices and talk to them about retirement. That was the summer before the bill was introduced. And I said if we are looking to retain young people in sheriffs' offices--and I would tell you a majority of the counties were farther to the west and to the northwest part of the state--would you keep more people if you increased their retirement, would you keep more people if you had a way to increase their salary. They said, if you're going to get young people in this day and age, you need to look at increasing the salary. And I thought that was pretty fitting. Now that puts us in the exact same box. You have to increase the salary. You still have the levy limits. You still have those limitations. We recognize and NACO does a salary study every four years. In fact, in that salary study, we only do it for elected officials but they are all elected officials. We recognize the sheriffs. We recommend every sheriff be paid 15 percent more than the other elected officials within the courthouse. So we recognize the job the sheriffs do. It's very, very important. But we want to look at this from a county government, county officials' perspective. [LB427]

SENATOR NORDQUIST: Thank you. Any additional questions? Senator Mello. [LB427]

SENATOR MELLO: Mr. Dix, I guess a question that probably some of the other committee members might be thinking, too, is where do we go from here then? You know, the state FOP and the Police Officers' Association, they've openly discussed in their testimony today that they're willing to sit down with you and NACO again to take another stab at this. Where do you see, from your perspective, will you be willing to meet them halfway to try to hammer out a compromise on this bill? [LB427]

LARRY DIX: From our perspective, and I will speak on behalf of the board because we had that question, from the NACO board's perspective, if they want to come and look at this, we want to look at it, not just sheriffs. We want to look at it, county officials, just like we did back under LB186 in 2002. And I've got to tell you, in 2002, not everybody in this room was round here in 2002 but all the other law enforcement organizations weren't jumping on the band wagon of 2002, say we have to separate out our police and make a special pot for them. We were working on behalf of the sheriffs and county officials. And if that's the direction they would want to go, that's the historical direction that NACO has went in 1987, in 1993, in 2002. [LB427]

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Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

SENATOR MELLO: Okay. Thank you. [LB427]

SENATOR NORDQUIST: Thank you. Any additional questions? Seeing none, thank you. [LB427]

LARRY DIX: Thank you. [LB427]

SENATOR NORDQUIST: Any additional opponent testimony? Seeing none, any neutral testimony? [LB427]

JOE SCHAEFER: Good afternoon, Senator Nordquist and members of the committee. My name is Joe Schaefer, J-o-e S-c-h-a-e-f-e-r, and I'm legal counsel to the Public Employees Retirement Board, on whose behalf I am testifying. Thank you for the opportunity to testify today on LB427 in a neutral capacity. I'll begin by saying that I have concerns about the bill as it is currently drafted. I believe it needs a lot of work before it could be implemented. I would note, for example, that there are a number of provisions contained in the bill which are not appropriate to a defined contribution retirement plan, such items as references to interest credit rate, regular interest, eligibility credit, and prior service annuities. I would also note that the bill attempts to describe annuity rates for retiring members on page 27, beginning at line 6. Because this is a defined contribution plan, without the pooled asset like a defined benefit plan or a cash balance plan, there is no source of funds from which to pay an annuity as described. Also on page 27, beginning at line 16, is a provision for an annual actuarial evaluation but, again, there's no pooled asset to be valued. The language is appropriate to defined benefit plans but not to defined contribution plans. After reading the bill several times, I couldn't find language clearly defining "member county" and do not know whether this is intended to apply to law enforcement personnel in all 93 counties or not. I would next note that the retirement plan established would be operative on January 1, 2010. It's simply not workable to pull all the necessary parts together in that short time. There are many, many details to be accomplished before a new plan can begin, especially when NPERS staff are already fully engaged in administering the six plans currently authorized. An item I wanted to bring to your attention is a provision previously mentioned in the current retirement system for Nebraska counties which sets a higher contribution rate for law enforcement personnel in that system. The statutes are found at 23-2332 and 2332.01. The first provides that in counties with a population in excess of 85,000, commissioned law enforcement personnel will receive a supplemental retirement benefit funded by an additional contribution of 2 percent of compensation by the employee and 2 percent by the county. The second provides that in counties with a population of 85,000 or less the supplemental benefit is funded by an additional contribution of 1 percent by the employee and 1 percent by the county. County law enforcement personnel, with the exception of the two largest counties in the state, already participate in the county plan which has both defined contribution and cash balance options, depending on when the officer was hired. In short, most of the

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Transcriber's Office

Nebraska Retirement Systems Committee
March 25, 2009

County Law Enforcement Officer Retirement Act envisioned here already exists in the retirement system for Nebraska counties. If the goal is to increase the retirement benefit, it would be more cost-efficient to consider those provisions already existing in the county retirement plan. With that, I'll try to answer any questions you might have. [LB427]

SENATOR NORDQUIST: Thank you, Mr. Schaefer. So basically you're saying that we could make a...change a few percentages in the current statute governing the current plan and probably accomplish a very similar goal. [LB427]

JOE SCHAEFER: If that's the goal, to simply increase the contribution rate and have more money available at retirement, I believe that would do it. [LB427]

SENATOR NORDQUIST: Uh-huh. Okay. Any additional questions from the committee? Seeing none, thank you. [LB427]

JOE SCHAEFER: Thank you. [LB427]

SENATOR NORDQUIST: Any additional neutral testimony? Seeing none, Senator Pankonin to close. [LB427]

SENATOR PANKONIN: Thank you, Senator Nordquist. I think the hearing today was very educational. We all learned a lot about a lot of work that needs to be done in this area and I'm sure we'll proceed under that idea that...whether that happens this year, but at least we got the discussion started and I think brought up some excellent points. Appreciate all the good questions. Senator Mello asked the question I would have, where do we go from here, but...and Senator Heidemann had a good question as well. So appreciate the discussion and thank you. [LB427]

SENATOR NORDQUIST: Thank you. That will conclude the hearing on LB427 and close the hearing for the Retirement Systems Committee today. [LB427]

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Nebraska Retirement Systems Committee
March 25, 2009

Disposition of Bills:

LB427 - Held in committee.

Chairperson

Committee Clerk