

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Nebraska Retirement Systems Committee February 20, 2024  
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**McDONNELL:** Good afternoon and welcome to the Nebraska Retirement Systems Committee. My name is Mike McDonnell. I represent Legislative District 5, south Omaha. Also 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. Today, we're here for a hearing on AM2285 to LB686. We're holding this hearing because AM2285 is substantially different from the original version of LB686. 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 write legibly. Hand the pink testifier sheet to the clerk as you come forward to testify. There is also a yellow sheet on the table if you do not wish to testify, but would like to record your position on a bill. The sheet will be included in-- as an 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 Standard Time, the last workday before the hearing. Please note that the position letters to be included in the official record must be submitted by the way of the Legislature's website at [nebraskalegislature.gov](http://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 for submission of the letters for the record, other than testifying in person. Letters and comments submitted by way of email or hand delivered will no longer be included as a 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 ask that you begin your testimony by giving 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 you will not be allowed to read it. Today, at least initially, we will not be using the light system. Because time will be tight in order to finish before the Education Committee's hearing this afternoon, we will allocate a half an hour to each side. I will encourage both the proponents and opponents to organize your presentations to fit within that time frame. As a matter of committee policy, I'd like to remind everyone to use-- the use of cell phones and other electronic devices is not allowed during public hearings. Although you may see senators use them to take notes or stay in contact with staff, I would ask

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everyone to look at their cell phones and make sure that they are in silent mode. Some senators will be using their laptops to pull up documents and follow along with each bill. You may notice committee members coming and going. That has nothing to do with how they regard the importance of your testimony. Senators may have bills coming up to introduce in other committees or other meetings to attend. And with that, I will have the committee introduce themselves starting with Senator Clements.

**CLEMENTS:** Rob Clements, District 2.

**IBACH:** Senator Teresa Ibach, District 44, which is 8 counties in southwest Nebraska.

**HARDIN:** Brian Hardin, District 48: Banner, Kimball, Scotts Bluff Counties.

**MCDONNELL:** Assisting with the committee today, to my far right is Tim Pendrell, who is the committee clerk. And to my immediate right is Neal Erickson, the committee's legal counsel. The committee pages today are Molly Penas and Julie Skavdahl, both who attend UNL. We appreciate them being here today. With that, I'd like to invite Neal Erickson, the committee's legal counsel, to provide a brief overview of AM2285.

**NEAL ERICKSON:** Chair McDonnell, members of the committee, for the record, my name is Neal Erickson, N-e-a-l E-r-i-c-k-s-o-n, and I'm legal counsel for the Nebraska Retirement Systems Committee. What I'm going to do today is give you kind of what's in LB2285 [SIC], and not go into a whole lot of detail. We have a number of people here that I want to-- I think will want to testify and so I won't go into a whole lot of detail on any of the items, but. So I'll attempt to be very brief because of the tight time frame and describe the components of AM2285. AM2285 introduced 2 introduced bills: Senator Ibach's 221-- LB221 that changes the definition of salary to include overtime call back and call in, in the definition. The amendment also includes LB197 by Senator McDonnell to allow police and fire who are currently excluded to participate in a referendum to be covered by Social Security. One of the big components is the changes to the employee-employer contribution system and the details that are contained in Sections 5 and 6 of the amendment and on page 2 of the summary that you have lays out those changes. They're actually divided into 2 groups, those within an absolute coverage group, which is receive Social Security, and those not in the absolute coverage group.

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For the absolute coverage group, the contribution rates would stay the same at 6.5% for the employee and 13% for the city. For the nonabsolute coverage group, the employee contribution over about a 3-year period would increase from 6.5% to 12.7%. The city rate would change from 13% up to 15% during that time period. Other topics that are included in the amendment include language regarding a surviving spouse who remarries with no minor children will be entitled to the remainder of the employee account, less any benefits paid. The amendment also allows for investment pooling of the defined contribution funds and allows local retirement communities to pool, subject to an agreement, investment administration funds with a single agent. The-- there's also a provision regarding retirement-- health insurance during retirement age and allows the retired employee to stay-- to continue with the city's health insurance by continuing to pay the employee share for the first 2 years, and the employee share and 50% of the city share after those first 2 years. As mentioned, the Social Security provision in LB197 would allow for firefighters to participate in a referendum to amend the Section 218 plan and receive coverage under Social Security. Currently, we are the only state that still has that exclusion for police and firefighters. And that's basically the contents of this amendment. And I know it's very brief but, like I said, I think you probably want to hear from the people impacted as opposed to me, but I would answer any questions you might have.

**McDONNELL:** Any questions from the committee? Thank you, Neal. First proponent. Welcome.

**GARY BRUNS:** Good afternoon. Good afternoon, Chairman McDonnell and members of the Retirement Committee. My name is Gary Bruns. That is G-a-r-y B-r-u-n-s, representing the Nebraska Professional Firefighters Association, which advocates for 1,400 paid firefighters, EMTs, and paramedics across the state. I am also a veteran firefighter with the Army Reserves, having served in Operation Iraqi Freedom, and a 21-year veteran as a fire apparatus operator with Lincoln Fire and Rescue. We firmly support LB686, amended by AM2285, aimed at rectifying an unfilled promise made in 1983's LB531. Back then, firefighters transitioned from a secure defined benefit plan to a defined contribution plan with the assurance of receiving the same death and disability benefits as in present statutes as you can see for yourself in Exhibit 1 in the binders that were handed out. Unfortunately, this promise remains largely unfilled for 40 years. Cavanaugh Macdonald's actuarial report, and that is Exhibit 2, highlights this issue. Even in the best case scenario, a retired firefighter receives only 42% of

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their salary, falling short of the promised 50% and well below the 70 to 80% retirement experts say you need to retire with. My apologies. Defined benefit plans are crucial for firefighters and law enforcement. Retirement ages differ from other professions, leaving insufficient time for substantial contributions in a defined contribution plan. Significant investment gains occur near career ends when the interest compounds on a larger basis. Since firefighters retire around 55, they miss out on this critical period. This forces them to work longer, jeopardizing their safety and the public's while raising costs. Retaining older, higher-paid employees hinders replacing them with younger, healthier, low-paid counterparts. Additionally, older employees are more susceptible to severe work-related injuries, leading to increased costs for lost work time, medical bills, workers' compensation, and overtime wages to cover injured firefighters as articulated in Exhibit 3, a better bang for the buck. We firmly believe defined benefit system is the most effective and efficient for firefighters. We understand, though, that the traditional defined benefit plan may never readily be approved by this body. Therefore, last year, as proposed in LB686, the state's cash balance plan as a solution to address the shortcomings of the current retirement plan. And we've been doing so since 2012. And a timeline is in Exhibit 4. While the cash balance plan isn't a defined benefit plan, it will offer protections the current plan doesn't, lessening firefighters exposure to market volatility or an off-duty disability. A particular concern we were trying to fix in AM2285 involves 250 of the 400 first class city firefighters not contributing to Social Security through their fire department salaries, meaning they will not receive Social Security, leaving them without a financial safety net and disability protection. Furthermore, if these 250 firefighters had outside employment not covered by-- covered by Social Security before, during, and after their firefighting service, those benefits are subject to the windfall elimination provision and the government pension offset, effectively reducing earned Social Security benefits by two-thirds. And those rules are in Exhibit 5 and 6. During the LB478 hearing, the question arose, and LB478, I believe, was introduced in '21. The question arose, why aren't firefighters in Social Security? Could they opt in? And a comprehensive accounting of that history is in Exhibit 7, with the full report available in your archives. This report revealed that questions were very complex and decisions were made over many years. The research revealed that some jurisdictions were mandated to participate in Social Security, while others are under a statutory prohibition. AM2285 acknowledges this with absolute and nonabsolute coverage groups. Exhibits 8, 9, and 10.

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This leads to the issue of contribution rates, which you'll find in Exhibit 11. The amended contribution rates for absolute groups remain at the 1983 levels of 6.5 and 13, with the addition of Social Security at 6.2. For nonabsolute coverage groups, contributions will gradually increase to match the absolute groups' 12.7 on the firefighter side, while the city's portion will rise incrementally 2 year-- 2% over 3 years, along with changes made in the salary definition. Changes in AM2285 aim to harmonize existing language currently in place with law enforcement and other city employees while we acknowledge the cost to the cities. It's important to note that employees share this cost with the overall increased contributions calculated on their overtime. And it is our understanding that 3 cities, Bellevue, McCook, and Columbus have already implemented this despite current statutes. Giving the retirement councils the ability to pool investments, along with increased contribution rates, would allow for the larger group to purchase high-performance investment funds with lower fees and be another crucial component to a more secure retirement. This has been demonstrated recently in, in Lincoln, Nebraska, with a 90% fee reduction in high-performance mutual funds. And you'll see the results of that in Exhibit 12. While retirement health insurance will be addressed by the next speaker, I would just like to highlight normal retirement age is 55 and 21 years of service for first class city firefighters. Regarding surviving spouse benefits, families face-- facing a line-of-duty death are forced to choose between a lifetime 50% benefit, but that is lost if you were to get remarried, or they can take the accumulated account balance. And we propose retaining the lifetime benefit while returning the remaining account balance to the family if that person so chooses to remarry, alleviating additional hardship for these families. In conclusion, AM2285 is not a defined benefit or the cash balance plan. And while our members are not ecstatic about the amendment, they recognize it as a fair compromise offering a fighting chance for a dignified retirement. Thank you for your time and I'm happy to answer any questions.

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

**CONRAD:** Thank you so much, Gary, for all this information. I know we're all just kind of digging through it and the, the committee amendment as well and there's been some discussion amongst the committee and some talk with, with impacted stakeholders about how some of these issues play out with Bellevue and Papillion and health insurance and retirement and some of those kind of things. Could you maybe help us unravel some of that a little bit or, or talk through some of those issues?

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**GARY BRUNS:** In our discussions, we spent a lot of time about-- on Social Security, this issue of Social Security. Should you be in Social Security, should you not be in Social Security? And I would just like to point out in the exhibits that this is above all of us and some of these decisions were made decades ago. But Social Security Administration has identified and it's highlighted in the Retirement Committee's report of who should be in and who should be out. Did that answer your question?

**CONRAD:** That works. Thank you.

**McDONNELL:** Any other questions from the committee? Thank you for being here.

**GARY BRUNS:** OK. Thank you.

**McDONNELL:** Welcome.

**JOHN CORRIGAN:** Thank you, Mr. Chairman and members of the committee. My name is John Corrigan, J-o-h-n C-o-r-r-i-g-a-n, and I'm here to testify as a proponent of the amendment to LB686, AM2123 [SIC]. If you spend any time in the Retirement Committee, you know that we've been pounding on this door for a long time, me, being a representative of the Nebraska Professional Fire Fighters Association. The reality of, of retirement in Nebraska for firefighters has had a kind of a patchwork of fixes and Gary provided in your documents some historical documents. And the former, esteemed committee counsel Kate Allen put together a wonderful recitation of the history behind not only the application of retirements for firefighters in Nebraska, but also the application of Social Security and how that really happened. And, you know, to me it was enlightening having been practicing law for 20 years or 25 years at the time that it came to, you know, the understanding of the committee that the reason that public employees weren't covered by Social Security when it was enacted, because most people at the time believe that the United States Supreme Court would say that that was unlawful on a separation of powers basis that the legislative-- the federal Congress couldn't impose that on state and local governments who had some ability to govern themselves. And after the war, after everyone's, you know, experience with the Social Security system, the general consensus was, you know what, this is probably a good system, it's something that we want to participate in. And so they became eligible for participation in what are called the 218 Agreements. And if you-- there was, I think, a lot of existing plans for firefighters and police throughout the country that had

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existing retirement programs so they didn't want to participate in Social Security. And we have some cities in Nebraska who didn't have professional firefighters at the time those 218 Agreements were entered into, in particularly Papillion and Bellevue. They, they had volunteer departments. They brought in all of their employees in what's known as the absolute coverage group. And under the Department of-- or the Social Security Administration's application of the statutes and rules, once you come in as an absolute coverage group, everybody comes in. And that's what happened. And there was some dispute about that. But as of January 1 of 2024, contributions are being made for Social Security on behalf of employees and employer in the city of Papillion, Nebraska. They have been doing that in the city of Bellevue once Bellevue transferred from at one time was the largest volunteer fire department country to a paid staff and that's gone off without a hitch. But in any event, that quirk of history has kept us from getting to the, the heart of how do we fix the retirement system. And there is a, a memo in the file that Gary provided to you just looking at how retirement is treated for firefighters in the states that border Nebraska. In the first class cities, we have a, a pure DC plan. And as, as Ms. Pat Beckham pointed out, you know, in her, her February 1, 2024 letter, if you-- if the employee contributions and employer contributions had an investment return rate of 7%, which is roughly what the investment assumption rate is for the state retirement systems, then they'd have a 42% chance of-- or they would have 42% of their wages replaced by the retirement that they were able to generate based on years of service in retirement age 55. That's simply not acceptable. If the-- if those investment rates go down 6%, 5%, that's goes from 42% to 36% to 31%, meaning that, you know, obviously your, your investment return assumption drives the amount of wage replacement you might expect the employee to earn. And if we look at how the surrounding states treat firefighters of similar communities, they offer defined benefit plans. And, you know, if I'm a firefighter and I'm 22 years old in, in Norfolk or, you know, say-- and I look over and I'm don't live too far from Iowa and in Iowa I can contribute 9%, the employer contributes 23%, and I get to retire with a 66% pension after 22.5 years, maybe that's why one of the reasons we're having a hard time keeping people once they become trained and, and able to operate as paramedics or firefighters, EMTs in our communities from going to those defined benefits. And they wind up in Lincoln, they wind up in Omaha, they wind up in Kansas or Missouri or Iowa even-- I mean, even South Dakota. So I only point that out to, to express to you there's a lot of difficulty among our own membership in saying, why would you agree to put more money in a plan that doesn't

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work? And our position is we got to put more money in the plan so you can retire. And we cannot let the perfect be the enemy of the better. And the Legislature has told us and the League of Municipalities told us point blank last year, about a year ago, this time last year, there is no discussion on a defined benefit or cash balance plan. OK. Well, then we need to talk about how we're going to get more money in this fund to take that 42% and make it more possible for people to retire with a living retirement benefit after engaging in a, a full career of first responder work, which is work you don't really want to have to expect people to do after age 55 or 60. And, and that is something that-- that's-- that is the policy of the state of Nebraska from the State Patrol to police and fire throughout our municipal-- our large municipalities. So that table, if you-- if you can look on Ms. Beckham's letter, which is in Gary's notebook at page-- at Exhibit number 2, page 3, that tells-- that's the tale of the tape. We're taking-- we're asking the Legislature to pass a law that forces firefighters to contribute 6.2% more of their compensation into a system that many of them don't like. But in order to get more money into that retirement system, by passing this amendment and passing this bill, you will force those gentlemen and ladies to pay more money into the retirement rather than have take-home pay. It will also decrease the ratio in terms of the amount funded by the employee versus the amount funded by the city as it currently stands. Right now, we're basically two-thirds city, one-third employee, and it goes to a, a 46/54 ratio under our proposal. And a 7% investment return is estimated to provide a 60% wage replacement benefit. That's still not as good as 22.5 years in Iowa. And you can look up and down what maybe some of the other opportunities are for retirements, but it makes sense because it gets better for our folks. It requires the cities to contribute a little bit more money, although a 2% [INAUDIBLE] 2% increase. One important note is that there is, as proposed in the original bill, is to include overtime, call back, call-in pay. That's-- in changing the definition of salary, that's a really important aspect of this. But, you know, it's also important to understand the employees are going to be making those contributions too. So not only are we going to contribute a higher percentage, but they're going to contribute more of their wages. And when most employers in the-- in our first class cities are employing people on an average of a 56-hour work week, there's always overtime built into their pay that they've not been getting retirement contributions on every week. So that-- that's something that should change regardless. The other aspect of the, the amendment is the healthcare component. Normal retirement is age 55. And the, the, the idea is that the



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employee would be able to participate in the group-sponsored health coverage through the employer at the same rate that they would have participated as an active employee. Typically, that's 18 or 15% of the contribution for premium paid by the employee, sometimes 20. We have, you know, of all the different contracts that I participate with, it's anywhere from 85 to, to 80% employer paid, 15 to 20% employee paid. And that would continue for a period of 2 years. After that, if the employee wanted to participate, they have to pay 50% of the amount until they reach eligibility for other-- for, for coverage through Medicare. That's a small number of people in relation to, you know, the total number of firefighters because you, you know, you've got a big age difference between the people that come on and the number of people that are retired. And it's an really important gap towards closing that gap so that people can have coverage. Mind you, they're going to pay for it in, in some way until they're eligible to transition to, to Social Security or, or Medicare coverage, which all employers, they don't participate in Social Security most of them, but everybody participates in Medicare. So that's the, the, the hope. And, you know, if there's some desire to say, well, we want to change that so it's a limited amount of time at an initial age. I mean, we're open to amendments in that regard. But from our perspective, we have people working past age 60 now for this-- only for this purpose, that increases injuries, it increases risk for firefighters and citizens alike. And so we think that's a sound way to go forward in terms of the policy offering that benefit to first responders.

**McDONNELL:** Questions from the committee? Thank you for being here.

**JOHN CORRIGAN:** Thank you.

**McDONNELL:** Next proponent. Next proponent. Opponents.

**KORBY GILBERTSON:** Good afternoon, Chair--

**McDONNELL:** Welcome.

**KORBY GILBERTSON:** --McDonnell, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the League-- the Nebraska League of Municipalities. Slow down a little bit there. There's 2 things being handed out to you right now that I want to try to focus on, because obviously time is short so I want to try to cover as much as I can. So I'm not going to relive, relive any of the past. I want to focus on kind of where we

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are with this bill and what-- where-- how we got here through negotiation. So there's 2 sheets. The first one is a 3-page document that gives you an outline of each of our negotiation meetings and kind of where we started and how we ended up here. The second is a copy of the League's last, best, and final offer, which was turned in on November 30. So I want to give you kind of a brief summary of where we are. I am not going to spend time on the issues on which both parties agree, but I wanted to kind of highlight some of the differences between what we had offered and what has ended up in the amendment. So first of all, our first kind of opening to our negotiations happened back in January last year when we received an email that outlined 4 different things that the firefighters wanted to discuss: number 1 was increased contribution rates, number 2 was strike base wage in current statute and implement salary base, which the proponents talked about already, and then the third one was pooling of resources for retirement purposes, and number 4 was agreed to be, quote, begin a discussion of pooling resources for healthcare purposes with the goal of reducing costs for both parties and implementing plans, more structure for firefighters needs, i.e. cancer screenings. And that's important and I'll explain why in a little bit. So I'm not going to take you all the way through this. But if you look through each of these pages, you will see where we started each time we began a negotiation, what the offers were, what the responses were, and then where we went for the next negotiation. So the, the bulk of, I, I would say, the bulk of everything was the first two meetings. That's where we really made some differences and trying to agree to what would happen. And looking at it from the League's perspective, our main objectives were to negotiate in good faith, make sure that there were increases on both sides, but the League has to remain mindful that they also have a fiduciary duty to be responsible for all of their other employees, and then also be mindful of the impact on property taxes. Senator McDonnell and I sit next to each other sometimes at the Governor's tax policy working group and we hear constantly, we are not going to allow any, any lids to be lifted or any exceptions. So this-- we have to remain mindful of what this does to city budgets. So when you look at the second document, which is our last and best final offer, we'll-- I'm going to go through the contribution rates and what the proponents talked about in the initial contribution rates, I think we all have somewhat of an agreement on. The city has generally maintained that the firefighters should come up to the same level that the cities are contributing. And if you look historically, the city has contributed 13%, as opposed to the 6.5%. That 13% was to represent the remainder that would have gone to Social

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Security had they been covered by that. The firefighters elected not to do that other 6.5% or 6.2%. So we agreed upon a number of things, but where the biggest 2 issues are, include the absolute coverage groups, which is the Social Security issue. And if you look at the amendment, it immediately creates winners and losers, because you have the folks that are covered by Social Security having a much larger contribution, where you have total amount of their income as opposed to those that are not in the absolute coverage rate. So if you look at page 2 of our offer, we took all of that into consideration and tried to come out with contribution rates that would be equal for both, because I don't think it takes a big leap to know that if there are-- if there isn't equality in this, there's going to be comparability issues and then those will be obviously back before you or CIR or somewhere soon. The second issue is with healthcare. I pointed this out earlier because it was never part of any of our discussions. Not one time during our negotiations did this issue come up. It was proffered to us as something that would be a later discussion. And so the healthcare section of this bill has never been discussed between the parties. Healthcare is an issue that is regularly negotiated between the cities and the unions as a bargain for benefit so we are opposed to having it in here. If the original intent of finding a way to pool some money for healthcare or cancer screenings, as it was told to us, that is a different issue, but this is not the same. So with that, I'm going to stop and let everyone else get back up here.

**McDONNELL:** Questions? Questions? Thank you for being here.

**KORBY GILBERTSON:** Great. Thank you.

**McDONNELL:** I'm sorry.

**CONRAD:** Oh, Korby.

**McDONNELL:** I'm sorry.

**KORBY GILBERTSON:** I'll do a little circle.

**McDONNELL:** Senator Hardin.

**CONRAD:** You almost made it.

**KORBY GILBERTSON:** Better run. Yes.

**HARDIN:** Can you unpack a little bit of that last piece that you provided regarding the other post-employment benefits, as far as the

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healthcare goes, can you kind of contrast that for me to what it has historically looked like in terms of healthcare?

**KORBY GILBERTSON:** So there, there is someone behind me that will go deeper into the issue of healthcare so I would defer to them.

**HARDIN:** Great.

**KORBY GILBERTSON:** Yep.

**McDONNELL:** Thank you.

**KORBY GILBERTSON:** OK. Thank you.

**McDONNELL:** Welcome.

**TARA VASICEK:** Thank you. Good afternoon, Chairman McDonnell and members of the Retirement Committee. My name is Tara Vasicek. I'm the city-- T-a-r-a V-a-s-i-c-e-k. I'm the city administrator in Columbus. I'm here to speak in opposition to AM2285. The city of Columbus is opposed to AM2285 for a number of reasons, the primary being that the fire department employees, as you've heard previously, already contribute 6.25% less than all other city employees. And they have for decades by their own choice. In 1951, when the fire department employees elected to remove themselves from Social Security, cities continued to contribute what would have been contributed to their Social Security directly to fire departments personal retirement accounts. The portion of Social Security that fire department employees no longer had to pay did not continue to be contributed to retirement by their choice. So for the past 70 years, fire department employees have been personally contributing over 6.6% less to their retirement. The table on page 1 shows actual 2023 contributions of several city employees. To require the city to increase contributions for fire employees will cause further disparity between our employee groups. You can see there's fire captain, police sergeant, and streets/utilities supervisors. We presently do a 2 to 1 match for all fire and 1 to 1 for police and utilities. Page 2 highlights the second reason, and that's primarily just the significant fiscal impact to city's increasing retirement contributions and providing health insurance post employment is fiscally unsustainable for the city of Columbus. With the passage of LB243, the city of Columbus' maximum allowable growth between last fiscal year in this fiscal year meant we-- our property tax revenue only grow-- grew by about \$300,000 or 5.2%. We prioritized giving all city general fund employees a 3% cost

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of living wage to try to stay competitive with our other employees in our community and that ate up \$292,000 of that \$330,000 in growth, that new revenue that we had. That meant we only had \$43,000 left to take-- to take care of any other general fund increases in cost. So if the city was forced to make the changes proposed, we would not be able to without exceeding that maximum allowable growth. You can see that in the table below. Columbus respectfully requests that the amendments in this bill be reconsidered because we simply will not be able to maintain our current level of staffing within our fire department if we're forced to comply with AM2285. Thank you.

**McDONNELL:** Any questions? Questions?

**CONRAD:** Thank you.

**McDONNELL:** Thank you for being here.

**PATRICK BROWN:** Thank you so--

**McDONNELL:** Welcome.

**PATRICK BROWN:** Thank you. Thank you so much, Senators, for letting us speak today. My name is Patrick Brown, P-a-t-r-i-c-k B-r-o-w-n. I am the assistant city administrator and chief financial officer for the city of Grand Island. And I'm here to speak on opposition of the proposed legislation and amendments contained in LB686. Let me start off with if we take the totality of, of this legislation and amendments, city of Grand Island would have to ask for a 44% increase in a property tax ask, 44%. Let that sink in. So I want to go through how I got there. So healthcare costs. So, you know, qualified retirement 20 years of service or age 55. We have a total of fire-- full-time employees of 76, 26, which are firefighters/EMT and 28 are, are firefighter paramedics. The city pays \$21,805 for employee traditional healthcare plan annually. This is 90%. The employee pays 10%. Through the calculations with a 3% inflation rate, which is very conservative, the total cost of LB646 healthcare would be \$19.5 million by the year 2044. If you use a 5% inflation factor, that amount goes to \$25.5 million by 2044. LB646 and amendments would then also make cities and municipalities fall under GASB 75. Another process that it would be funding of postretirement benefits, which would be healthcare and so the city would have to fund that at the beginning. So-- and then have an actuary report every year and probably add to that fund every year. This would also cause elimination of the city's post-employment healthcare contributions.

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Also known as a VEBA account and that's approximately \$1,000 a year, which they currently get. Onto Social Security costs, so if the firefighters vote to pay into Social Security at 6.2%, their actual take home decreases by \$335 a month. So it's a hit on them as well. Now, if, if that is elected and the portion of 13% goes to 19.2%, it is more than likely that the firefighter wages will be froze. Reason being, it's based on the HRV, which is the hourly rate value that CIR established, and it's benefits, it's retirement, healthcare, and wages. And if you're upping 2 of the 3, the 3 is going to be froze more than likely. Indirect costs of, of LB646 is going to be a reduction of ambulance service to citizens, a reduction in workforce, canceling the rebuild of fire stations that are old and nonfunctional, prolonged use of equipment that is nonreliable. And the big one for us is other bargaining units wanting the same compensation as, as the firefighters. And so that would cost an additional \$4.5 million to the city starting year one. It would also increase utility rates because we have a utility union. It would be a reduction in services provided by parks and recreation and library and streets. In closing, I just want to reiterate a 44% increase in property tax ask is a lot for our citizens. And I, I hope you reconsider on this. Thank you.

**McDONNELL:** Any questions? Senator Conrad.

**CONRAD:** Thank you. Thank you so much for--

**PATRICK BROWN:** Sure.

**CONRAD:** --bringing this information forward and sharing your perspective and I didn't know exactly the best way to engage because we have such a, a short period of time to cover so much ground here. So I'll ask you, but if there are other representatives from the governmental entities that want to respond as well. I mean, I, I think that you heard some of this in the opening and it's been a frustration for me and some other members of the committee is that we've asked the parties to come together and try and work this out for a really long time--

**PATRICK BROWN:** Absolutely.

**CONRAD:** --and that has not been able to be accomplished for a variety of different reasons. And like many issues that are at a standstill in our public policy that come before the Legislature, eventually there will be a policy decision if the parties can't come to an agreement on

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their own. So I, I think that's-- that-- what-- that's what-- how we find ourselves where we are today.

**PATRICK BROWN:** Yeah.

**CONRAD:** I, I guess-- you know, the, the overall-- I'd like to learn more about some of the numbers that you're putting out there. It, it seems a little bit high to me at first blush and I'd like to, to learn more and kind of dig in there in terms of, of the impact. But I also, you know, want to make sure to be clear that if we aren't able to recruit and retain first responders and firefighters, you know, that has a cost, too,--

**PATRICK BROWN:** Sure.

**CONRAD:** --for the citizens. And I haven't dug through your budget or, or the other local budgets but, you know, I also want to make sure we're all being really thoughtful about wants versus needs in our local budgets. And if we're not taking care of first responders, you know, that seems to be pretty high in terms of a, a need versus a want. So those are local decisions you all have to make but--

**PATRICK BROWN:** Right.

**CONRAD:** --I'd, I'd like to learn more about those numbers and, and just wanted to interject that into the record kind of on both sides there. The reason we find ourselves at this place is because the parties have been given a significant amount of time to negotiate an agreement and have not been able to do so. So thank you.

**PATRICK BROWN:** OK. Thank you.

**McDONNELL:** Any other questions? Thank you for your testimony.

**PATRICK BROWN:** Thank you.

**McDONNELL:** Welcome.

**CARLA HEATHERSHAW RISKO:** Thank you. Good afternoon, Chairman McDonnell and members of the retirement committee. My name is Carla, C-a-r-l-a, Heathershaw Risko, H-e-a-t-h-e-r-s-h-a-w R-i-s-k-o. I am an assistant city attorney for the city of Papillion and I'm here to testify in opposition to AM2285, specifically the unintended disparity that the proposed legislation perpetuates. In 1951, the state of Nebraska entered into a Section 218 Agreement with the Social Security

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Administration to extend Social Security coverage to employees of political subdivisions. One of the exceptions in this agreement was to exclude employees who were already covered by a mandatory retirement system. As such, historically, firefighters in first class cities have not contributed to Social Security. In fact, the city's contribution to firefighter retirement was increased to 13% in order to equalize retirement savings for firefighters because while cities were contributing to Social Security for all of their employees, including police officers, they did not contribute to Social Security for firefighters. However, recently, the Social Security Administration made a formal interpretation of the Section 218 Agreement that although the statutorily mandated retirement system does apply equally to all firefighters in cities of the first class, the exclusion from Social Security coverage only applies to the firefighters in cities which were first class cities at the time that the Section 218 Agreement was executed. The effect of this determination is that the Social Security contributions for firefighters are now going to be treated differently depending on how large or how small the city was 70 years ago. The Legislature has a responsibility to create-- to correct this inequity, not to perpetuate it. Because of the Social Security Administration's determination, the cities of Papillion and La Vista started contributing an additional 6.2% for Social Security on behalf of our firefighters in January of this year. That means that we are now required to make both the Social Security contribution of 6.2%, as well as the mandatory retirement system contribution of 13%. Many other Nebraska cities, just as an example, including Gretna, Gering, Blair, Plattsmouth, and Seward will have to do the same if they convert to paid fire departments. That is a 50% higher burden on these cities than it is on the noncoverage group cities, even though the services and the values of their fire departments are exactly the same. Even if the retirement contribution for the noncoverage cities is increased to 15% as is proposed in this legislation, that is still almost a 30% greater burden on the cities that are subject to Social Security. The intent of the Section 218 Agreement cannot have been to create this kind of a disparity in the retirement for Nebraska's firefighters and for the cities that are paying into their retirement funds. Whether the state's clear intent was that the firefighters were subject to the mandatory retirement system, they were not supposed to be subject to the Social Security withholdings. Now, the state cannot go back and change the Social Security Administration's interpretation of the Section 218 Agreement and how it applies. However, what the Legislature has the opportunity to do now is to correct this discrepancy by amending the firefighter retirement system to provide



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for an equalization of contributions depending on whether or not the city and its firefighters are contributing to Social Security. Thank you.

**McDONNELL:** Any questions? Questions? Thank you for your testimony.

**CARLA HEATHERSHAW RISKO:** Thank you.

**DAVID BLACK:** Chairman McDonnell, members of the committee. My name is David, D-a-v-i-d, Black, B-l-a-c-k, mayor of the city of Papillion, but I'm testifying on behalf of the United Cities of Sarpy County, which is Bellevue, Papillion, La Vista, Gretna, and Springfield in opposition to AM2285. United Cities is comprised of 2 of the largest first class full-time fire departments in Nebraska, Bellevue and the Papillion Fire Mutual Finance Organization, or MFO, which represents Papillion La Vista and the Papillion Rural Fire District. Gretna also has full-time firefighters through a suburban fire district. This is a question of local control and unfunded state mandates in an era where the Legislature is rightly attempting to reduce citizen tax burdens. Affected cities will be detrimentally impacted by the unfunded mandate, and drastic measures may be necessary to absorb the increased cost if it's not offset by an increase in property tax. There's 3 unfunded mandates that have been talked about, the health insurance costs, the redefinition of salary, and the additional retirement benefits. A little bit more on the impacts. First, the most recent fire union negotiations in Sarpy County was the MFO, the Papillion MFO, and very good negotiations. Great people. We already bargained for postretirement healthcare in that agreement, and we also offer a post-employment health retirement account to aid retirees in paying premiums. Considering just the MFO's 55 sworn officers, we calculate the increased health insurance cost will, will exceed \$600,000 within 6 years. The second was the change in the definition of salary for purposes of the retirement calculations, just the MFO over \$180,000 in year one increasing each year. And then third was the added costs that all absolute coverage cities must pay towards retirement. The additive cost of all 3 unfunded mandates to just the MFO approaches \$1.2 million in year six, of which \$845,000 is retirement and health insurance. Those are real local dollars directly caused by AM2285, based just on current staffing. Governor Pillen has recently said we're taxing ourselves too much. I don't think our taxpayers would favor increasing property taxes to pay for state-mandated expansion of employee benefits beyond what were negotiated in good faith locally. Just in Papillion, we would have to take these steps that we believe if we were not going to increase the property tax levy. It would begin

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with a reduction in hourly wages and benefits that were talked about before to offset the cost. We would identify savings, potentially, through a reduction in force option in the agreement, reevaluate our existing contractual obligation to hire 3 additional firefighters, eliminate our voluntary 2% contribution to the 457(b) program, look to freeze the firefighters' contracted pay scale, which was previously talked about, or we could see an outright termination of newer plans for 2 additional fire stations that we're actively talking about. In addition, we could see a reduction in minimum staffing requirements, a greater reliance on neighboring fire departments, which would also be stretched thin by the amendment, and mutual aid response to area volunteer departments could be negatively impacted, affecting the broader rural region. Much of this will require supplemental bargaining to bring our overall wage and benefits package in line with our array, while still ensuring adequate fire protection services. So, in conclusion, the taxpayers of the United Cities of Sarpy County, including the rural farmers who are represented within the MFO, will suffer because of the Legislature's 3 underfunded mandates through higher property tax or reduction in fire services. We encourage you to leave employment benefits to the local bargaining parties who know best how to serve our local communities. Thank you for your time. And in the handout that I forgot to give the clerk, which I will, there's also a letter from the United Cities for the record. Thank you.

**McDONNELL:** Any questions? Senator Conrad.

**CONRAD:** Thank you so much. Thank you so much--

**DAVID BLACK:** Thank you.

**CONRAD:** --for being here and, and sharing this information. Maybe it would be helpful for me to understand kind of the bigger picture or the context for some of the, the numbers that you brought forward. And if you know off the top of your head, great. If you don't, we can follow up after committee. But could-- so let, let me know what you had estimated for the local impact for this legislation if it moves forward for your community.

**DAVID BLACK:** For the-- because it's a cumulative additive, I'm kind of using your 6--

**CONRAD:** That's OK.

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**DAVID BLACK:** --as the point of reference and we-- from the calculation I've got, that'd be \$1,187,257.

**CONRAD:** OK. And then--

**DAVID BLACK:** And then as I was talking through the calculations, because we're a shared entity, Papillion La Vista and the Rural Fire District, Papillion pays 38.5% of that, which then is \$457,093. 1 cent on our levy is \$380,000. So that's 1.12 times on the levy. Our current levy is 40% so it's a 3% increase in the levy.

**CONRAD:** OK. And then what's your overall budget now?

**DAVID BLACK:** And we can get you the whole-- we can get you the whole thing. So our, our general-- so for the government operations operating expense, it's about \$40,000,697. And if the state-- if, if we don't-- if we would not impact fire services and we would not increase property tax and we put it on other departments, that'd would be about a 5% increase on excluding public safety.

**CONRAD:** OK.

**DAVID BLACK:** Now, I've got a little bit of an ethical issue doing that because we did negotiate in good faith with fire then we negotiated with the other unions in good faith based on that agreement. And if the state then comes and put a mandate on one specific group, I have a hard time putting that on other groups. To put it in perspective, to cut that out, if I shut down our general fund contribution to our recreation department, shut down the legal department, shut down our general fund to our aquatic center, and shut down our senior center, we may fund it.

**CONRAD:** OK, I, I don't know exactly what the numbers behind those, those examples might be but--

**DAVID BLACK:** But we can get you the exact.

**CONRAD:** OK. So just dialing it back there for a minute though, you roughly indicated that your share, 38% of this \$1.87 million would be roughly \$457,000--

**DAVID BLACK:** Call it half a million.

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**CONRAD:** --half a million, OK, that's a generous round up, but OK, on a \$40 million budget, which I think is a pretty small percentage increase for your overall budget.

**DAVID BLACK:** As was previously testified, it would probably chew up all of our allowable growth that the Legislature's given.

**CONRAD:** OK. Well, that remains to be seen. But--

**DAVID BLACK:** Yeah.

**CONRAD:** --I do just want to, you know, kind of-- kind of put things in, in perspective there. So if you had-- if you could follow up with the committee and just let us know, like, exactly what percentage your share of the increase might be on your overall budget,--

**DAVID BLACK:** Sure.

**CONRAD:** --I think that would be illustrative.

**DAVID BLACK:** We'll do that.

**CONRAD:** And I guess if-- you know, it's-- OK, I'll leave it there. Thanks so much.

**DAVID BLACK:** Thank you.

**McDONNELL:** Any other questions? Thanks for your testimony.

**CONRAD:** Hello.

**McDONNELL:** Welcome.

**SUE CRAWFORD:** Thank you. Good afternoon. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d. I serve as the city administrator for York, Nebraska. My opposition testimony today speaks from my personal experience as a city administrator in a first class city that would be harmed by AM2285. Retirement Committee Chair and Retirement Committee members, I fought for labor in these Capitol rooms for 8 years. In my role now, I still advocate for labor. I know that the people who work for the city of York are our greatest asset. Where it is possible within fiscally responsible budgets, I work with our elected officials to invest in benefits for our workers. We have increased benefits like cancer screenings and paid parental leave in York. So I am not here as a manager who would fight against any change that would add to labor

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costs. I speak today in opposition of AM2285 on behalf-- on behalf of city labor in all of our other departments. As you can see from the examples in my handout, and has been stressed throughout, other city workers match what the city invests in their retirement. Firefighters do not. Cities pay a social security equivalent into firefighters' retirement. Firefighters do not. The most obvious and fair place to start investments in healthcare security and retirement security for firefighters is in the yellow cell on the table. In York, our fire union has taken small steps in this opportunity space to invest in their future healthcare needs and retirement security. And the city partners with them by administrating VEBA and 457 structures. In negotiations, cities offered to work together on solutions such as these for all cities. And I would respectfully submit that we have offered many difficult, challenging components in the legislation-- in, in negotiation. And as of-- even as late as February 7, we were willing to talk more about what would be in this amendment and we were told that there was no more conversation and the amendment was as written. So you've heard-- I think-- I can understand why the cost sounds unbelievable. And that's because it is, it is very hard to absorb it. It adds up very quickly. Small first class cities, like all other cities, must pay our bills, and we must pay these bills while staying within existing spending cap restrictions. So that's the real key, not the overall size of the budget, but the spending cap restriction-- restrictions that we have. Let me show you how serious those are. Last year, the allowable dollar increase in restricted fund spending for all departments in York was less than a quarter of \$1 million. Now, the limit on our property tax allowable growth to avoid getting on the postcard naughty list was only \$61,000. So each cent in York is \$68,000. So-- I mean, costs add up to cents very quickly, and we are blessed to have a higher valuation than most others. The full retirement contribution increases in AM2285 plus just 2 firefighters with family coverage would add over \$100,000 to the York city budget for a single year. And that takes 40% of the allowable growth for all city departments. So you've heard how impossible it would be for municipalities to pay for all retirement and firefighter health insurance. However, it is not impossible for investments of 3 to 5% of a firefighter salary over several years to yield returns comparable to Cobra premiums for a firefighter in the window between retirement and Medicare. The municipality compromise offered during negotiations provides solutions that are difficult but doable for the city, and difficult but doable for firefighters. If we are all going to step up and tackle this tough problem, the municipality compromise that we've

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offered in negotiation offers a way forward. If I have a moment, I will talk about the difference in terms of retiring at 55.

**McDONNELL:** You do.

**SUE CRAWFORD:** Thank you. So there have been conversations about firefighters needing to retire at age 55. I have seen firsthand in the city of York how our utility workers and public works workers are out in all kinds of weather, all kinds of time, day and night, very dangerous conditions, very physically taxing conditions. So if there is a justification for firefighters to retire at 55, there's equal justification for our public works workers who I would say are the forgotten frontline workers to retire at 55. In a world with unlimited resources, we would-- we would work hard to help make sure that our public works workers, our police, and our fire were able to transition into a less physically taxing career in their 50s. Unfortunately, that's not where we are right now. We need to all work together to help our-- all of our employees and municipalities retire well and have health security. Thank you.

**McDONNELL:** Questions? Senator Conrad.

**CONRAD:** Thank you so much. So good to see you, Senator.

**SUE CRAWFORD:** It's good to see you.

**CONRAD:** Always appreciate hearing from you and your passion and your expertise remains exuberant, which I'm-- I have no doubt about. Quick question, though, Sue, because I think it might be helpful. The, the common theme from our partners in local government thus far has really been focused around fiscal impacts, which I appreciate and understand and are good to bring forward. But if you know and if others want to address it too, I think there have been other no-cost or low-cost alternatives put forward that you've also opposed, whether it's the cash balance plan or the original bill. Do you want to respond to that?

**SUE CRAWFORD:** I will yes. So I would respectfully, strongly disagree that a cash balance plan would be neutral in terms of cost. A cash balance plan puts an unlimited possible liability on cities because they have to make up that difference. So I, I would respectfully say that is not an example of a no-cost option that we have rejected. I will also say that when there was conversation about the cash balance plan and the guarantee of 5% return, I talked to our retirement

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counselor, and I would respectfully disagree with the argument that firefighters should not put more money in a plan that, quote, doesn't work. Our defined contribution plan has a return rate much better than 5% for our firefighters. So 9 out of 10 of the equity funds had a return rate of 9% or better in the last 10 years, and that's including some serious drops in 2022. So the existing defined contribution plan is, is a better-- is, is, is valuable for our firefighters. A cash balance plan puts all of the taxpayers on the hook for an unknown cost.

**CONRAD:** OK. I, I appreciate you sharing that perspective because that's one thing that I-- I'm definitely trying to sort out here as well. Yeah, that's helpful. Thank you so much.

**SUE CRAWFORD:** Thank you.

**McDONNELL:** Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Ms. Crawford. It's good to see you.

**SUE CRAWFORD:** Thank you.

**CLEMENTS:** The committee legal counsel mentioned Section 19 possibly allowing a referendum to allow Social Security by police and fire employees. In discussions with the firefighters, has that been raised as a possible solution?

**SUE CRAWFORD:** So the firefighters in the city of York have, have not talked to me about a desire for being a part of the Social Security system. As we have indicated before, that wasn't-- you know, that was a decision made back in the 1950s by firefighters. However, it has been the case that the, the choice of not making up that difference has been a choice that they have continued to make in all of these years. So that has not been a part of our conversation about wanting to go into that direction in York.

**CLEMENTS:** And would you go over the-- what hours-- overtime hours would be included and what that would affect your city?

**SUE CRAWFORD:** Sure. So as other proponent testimony indicated, including overtime hours is an important step on both sides. It cost both of us quite a bit to include overtime hours, because firefighter overtime hours are very different than any other city worker. Every other city worker has a 40-hour scheduled work week, and if there is

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overtime it is above and beyond scheduled. Somebody-- you know, some crisis occurs and they have to step up. There's a huge snow and they have to go plow. So that is different than firefighters because firefighters work 24-hour days. So firefighters work 2 days in a week, 2 times 24, boom, you're already over 40, right? So firefighters tend to work two 2-day weeks and 3-day weeks. And so every pay period has a substantial amount of overtime hours that are time and a half. So the contributions on that, that is sizable and it's at a time and a half. So, you know, it's an important to sacrifice on both parts if we were to include that. But we have offered to do that to, again, help increase the contributions when there's a match on the other side and that they also are willing to step up and increase those contributions.

**CLEMENTS:** You have offered to pay on the overtime portion--

**SUE CRAWFORD:** Correct.

**CLEMENTS:** --if there is a--

**SUE CRAWFORD:** If the--

**CLEMENTS:** --corresponding--

**SUE CRAWFORD:** Correct.

**CLEMENTS:** --match. Thank you.

**McDONNELL:** Any other questions? Thank you for your testimony.

**SUE CRAWFORD:** Thank you.

**CONRAD:** Thank you, Sue. Good to see you.

**McDONNELL:** Any other opponents? Any other opponents? Anyone in the neutral? In the neutral? Any letters? We have 1 proponent, no opponents, and no, no one in the neutral. I'd like to thank everyone for their testimony. I'd also like to thank everyone for their work they've done over the last year of working through this. There was much agreed upon. Of course, we've heard today the things that weren't agreed upon. But I do appreciate your time and, and your effort to take this legislation and improve on it. Thank you. The hearing is now over.