[LR160]

The Committee on Nebraska Retirement Systems met at 1:30 p.m. on Friday, December 14, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR160. Senators present: John Synowiecki, Chairperson; Tom White, Vice Chairperson; Lavon Heidemann. Senators absent: Philip Erdman, LeRoy Louden, and Russ Karpisek. []

SENATOR SYNOWIECKI: Good afternoon. Welcome to the Nebraska Retirement Systems Committee. We will have a couple members of the committee arriving today. Matter of fact, they'll be joining us very shortly. Senator Tom White from Omaha and Senator Lavon Heidemann will be joining us as well from Elk Creek, and I'll announce their presence when they join us. We have one issue today, that's Legislative Resolution 160. It's a little different than a bill...than a normal hearing where we have proponents and opponents. We'll simply accept testimony relative to the legislative resolution and then the committee will have some information to deliberate with relative to the issue at hand with LR160. If you are going to testify, I would ask that you fill out one of these testimony sheets. They are on the tables here as you came in. As well, I need to introduce Jeremy Nordquist to my immediate right. He is the research analyst of the Retirement Committee of the Legislature. And Laurie Vollertsen is the committee clerk to my immediate left. With that, Senator...both Senator Erdman, the sponsor of the legislative resolution, as well as Senator Karpisek, who are members of this committee, are preoccupied right now with another issue in another committee and, as such, we'll ask Cheryl Wolff if she would please provide the opening for Legislative Resolution 160. Thank you, Cheryl. []

CHERYL WOLFF: Thank you, Senator Synowiecki. We are here today, of course, to examine the results of the law enforcement officers retirement survey enacted earlier this year in LB328. I'm here to provide a little background on this issue and will be followed by Pat Beckham from Milliman, who will present the actuarial report, using the data gathered under that survey by NPERS. Again, I think you have everything, but I need to identify my name is Cheryl Wolff. I am Senator Erdman's legislative aide, Cheryl, spelled C-h-e-r-y-l, Wolff, W-o-l-f-f. I know that's for the transcriptionist. I don't want to forget that too long into this or I'll hear it. All right. Nebraska lacks a comprehensive statewide retirement plan for law enforcement personnel. Current state statutes create different retirement systems from defined benefit, defined contribution, and cash balance retirement plans in operation. Unfortunately, second-class cities and villages are not included in any of these existing programs. This range of retirement benefits provide an incentive for trained law enforcement officers to accept employment with another political subdivision that has a comparably better retirement program under state law. In 2004, Senator Erdman introduced LR391 to conduct an analysis and a comparison of law enforcement retirement plans in political subdivisions and other states. In 2005, he introduced LB711 to create a statewide law enforcement retirement plan for all political subdivisions to ensure a uniformity of benefits for law enforcement personnel. The bill lacked an actuarial study of the costs and was never advanced from the committee. In 2007, he introduced both LB371 and LB372. Now we have an actuarial study completed, at the request of the Nebraska Sheriffs Association, the state Fraternal Order of Police, and the Police Officers' Association of Nebraska. I believe we have distinguished representatives from those organizations ready to testify later today. So with that bit of background, I will turn it over to Pat and thank you again. [LR160]

SENATOR SYNOWIECKI: Thanks, Cheryl. Appreciate that. Pat, welcome. [LR160]

PATRICE BECKHAM: (Exhibits 1 and 2) Thank you, Senator. My name is Patrice Beckham, P-a-t-r-i-c-e B-e-c-k-h-a-m, and I am an actuary with Milliman, Incorporated, located in Omaha, Nebraska. I did bring with me a PowerPoint, which hopefully you have. For the ladies and gentlemen in the audience, there are some extra copies on the end here if anyone would like to follow along there. I do not have a projection to go along with it. Just in a little bit of background on the firm and on me in particular, Milliman is an actuarial consulting firm. That's all we do. we've been around for over 60 years and do a lot of work in the public sector. I personally have been with the firm over 20 years and do a lot work in the public sector, specifically working with the Iowa Public Employees Retirement System, Kansas Public Employees Retirement System, Oklahoma Public Retirement System, and some other smaller municipal systems. So we will pleased to have the opportunity to work on this study and consider this a very important topic for our state. If you would flip to slide 2 and I will kind of walk along with you on these, it's important for us up front to recognize, as Cheryl said, that Milliman was officially hired by the state FOP, by the Nebraska Sheriffs Association and the Police Officers' Association of Nebraska. They were our client. This information was really prepared for them. We're sharing it with the Retirement Committee at their request. The purpose of the study was obviously to look at the cost of several bills that were introduced, and also to look at some alternative plan designs. Today I'm really presenting a summary, kind of a high overview. You also have a copy of the full report. It's fairly lengthy, but I would urge you to read the entire report to really understand the numbers and the issues at stake here. In establishing a new retirement system there are some unique challenges that we faced in the study, and I'll visit with you later about those. I think those need to be recognized up front. And certainly, if the committee sees fit, I think it would probably be prudent for you to retain your own actuary to provide specific input to you. We'd be happy to answer any questions that you might have about our study, but you may want to seek your own professional advice. And last but not least, our attorneys require that I say this: Any replication of the report or the presentation by anyone, it must be in its entirety. This is a very technical, highly specialized document and it needs to be...to stay together so that everyone that receives it can really have a chance to understand it. So our topics for discussion today of slide 3, I'm going to try to keep it at a high level but, again, particularly because of some of the unique features of the study, I feel like we have to touch on all of these: the data, the plan designs, the assumptions, the issue of voluntary participation by current officers, and past service credit. And then we'll, of course, look at numbers, which everybody is interested in. Slide 4: Cheryl mentioned that NPERS collected membership information pursuant to LB328. That information was then provided to

Milliman without any identifying information, individual member information. There were 223 of 236 agencies that reported. I think we were all pleased with that response. There were just a little over 1,900 records. There were 6 that actually didn't have any useful data, so we discarded those, so our report was actually based on 1,897 records. Occasionally, there was missing data or information. For example, we might have gotten a date of hire, not the years of service. We would have calculated years of service and used that. If we were missing a salary, we would have used the average salary for the group. So where appropriate, we filled those in. Recognize, however, this is a little bit unique, again looking at the creation of a new system, because most often when actuaries are doing cost studies we're getting data from an established retirement system, like NPERS, where that data is managed and on an ongoing basis and there's sort of a higher comfort level with the quality of the data. So we know it's not perfect, but we believe that it's reasonable for this purpose. If you look at slide 5, this is a summary of the data that we used, broken down by the categories that LB328 broke down: first-class cities, second-class cities, villages, counties, and state. You can see the 1,897 records: 745 of those were in first-class cities; and 833 were county employees. Those are the two biggest groups and those are the two groups that are going to heavily drive the costs when we start looking at aggregate cost numbers. And you can see the demographics as far as the average age, years of service. I don't need to read that to you. There's some additional information I pulled right before I came that I thought might be interesting and that was really just what number of records had no account balance, so there was nothing reported. Whether that means they aren't covered by a retirement plan we don't know for sure. Again, the quality of the data is a little bit questionable. There were just a handful of people in the county and the first-class cities, and I suspect that's a timing issue. But if we looked at second-class cities, 49 percent of those, or 113 of the 229, did not show any kind of an account balance or a plan; and in villages, 18 of the 34, 53 percent. Again, probably not a surprise, but just trying to share relevant information with you. So let's talk about the plan designs on slide 6. There were two bills introduced in the 2007 Session and those were where we started with our cost study. LB371 is a traditional final pay defined benefit plan. We started with that and, again, I'll share with you later some of the modifications of that basic benefit structure that we studied, and we did look at that both with and without granting prior service credit. LB372 is a cash balance plan. We used the basic plan and design in that bill; we didn't look at alternative designs. In that particular bill we did not find the actuarial basis for the conversion of the lump sump account balance into monthly income, so we just made an assumption that all benefits are paid as a lump sum. Slide 7: LB371 contained the following basic plan provisions--the benefit, retirement benefit, is essentially 2.5 percent times final average compensation, which is a high 3, times years of service, not to exceed 80 percent. The form of payment, the benefit is paid for the member's lifetime and with 75 percent of that continuing to the spouse. Certain situations, there are other dependent benefits. Then normal retirement age, and what we mean by that is the age at which unreduced benefits are paid, is age 50 with 20 years of service; age 55 with 10 years of service; or age 62. There is a cost-of-living adjustment which is CPI related that starts 5 years after retirement if the member had 20 years of service, and I believe that's also applicable for preretirement death or disability retirees. There's also a deferred retirement option plan, a DROP, that's available if the member has 25 years of service. Slide 8 shows the basic provisions for LB372. Again, this is a cash balance plan so the contribution credit is 6 percent for the employee, 9 percent for the employer. The interest credit that's credited to that account balance is the greater of 5 percent for the federal midterm rate, plus 1.5 percent, which I believe is the same as the state and county cash balance plans. The form of payment, there are annuity options available. Those annuity options are based on an actuarial equivalent of the account balance, and a lump sum is also available. Normal retirement is age 55. It looked like the disability and preretirement death benefits in this plan were simply the payment of the employee and the employer account balance. Slide 9, wanted to include this slide just because the cash balance plan is technically a defined benefit plan but it looks and operates very differently from a traditional defined benefit plan, and I'm probably preaching to the choir here because you've all dealt with all the plans that Nebraska sponsors. But basically, the blue line is the accrual pattern over a career from age 25 to age 55. The blue line is the benefit at each point in time that this hypothetical member has earned and you can see the highest increase comes in the tail of it, the last ten years. That's very typical for a traditional, final pay, defined benefit plan. The red line is LB372, the cash balance plan that accrues at a different slope. Now you can see for these two that LB371 provides a much higher benefit and that's not to be...not a surprise once I share the cost numbers with you. It is a more expensive benefit structure than the cash balance plan, but I would note that even if the cost of the two plans were the same the traditional defined benefit plan will provide a higher benefit because it's not giving away the benefits in the earlier years. In other words, less is going to people to who leave the system. The money stays and you can provide more to the folks that stay and retire. Hopefully, that's helpful. Slide 10 is just again comparing the monthly benefit payable under LB371 and LB372. The first set of charts on the left looks at a person that retires at 55 with 30 years of service. LB371 provides a little over 70 percent of pay. LB372 is more like 36 percent of pay, 35-36. And added the graphs on the right-hand side just to show a shorter duration, a 20-year employee. The difference is even larger. Right with that, slide 11, probably one of the most difficult parts of this project was developing the actuarial assumptions to use in the study. Typically there's either data available that can be analyzed, or if the system already exists you start with those assumptions and modify them. We didn't have that luxury and, in fact, you know, very few of the members, if any, are covered by a defined benefit plan that would have an annual actuarial evaluation. So we knew that the intent, at least reading the bills, the intent was for this plan to be administered by NPERS and so it made sense to keep the economic assumptions, in particular, consistent with the other Nebraska plans, and that was, indeed, what we used for this study. You know, actuaries are individuals and we have different preferences. If we were doing this independently, we might have a different set of assumptions, but I think in the context where this is part of the overall systems administered by NPERS, it makes more sense to use the economic assumptions that have selected. We also use the mortality assumption that NPERS is using and that in the last experience study the same mortality assumption was used for all plans so, again, we figured that would carry over to this plan if NPERS was administering it. The other demographic assumptions, which included retirement assumptions and salary increases and termination of employment and disability, those we went and looked at other systems. We looked at about 10 or 11 different systems right here in the Midwest with similar benefit structures to get a sense of what might be realistic, and that was the basis of the development of those assumptions. [LR160]

SENATOR WHITE: Miss,... [LR160]

PATRICE BECKHAM: Certainly. [LR160]

SENATOR WHITE: ...on that, the demographic assumptions, where those police plans or were they just generalized plans? [LR160]

PATRICE BECKHAM: That's a very good question. In general, they are either police, or police and fire plans. [LR160]

SENATOR WHITE: All right. Because you know the mortality rate among police officers tends to be they tend to die younger because the stress of the job. [LR160]

PATRICE BECKHAM: Right. [LR160]

SENATOR WHITE: And so these would...you're comparing apples to apples. [LR160]

PATRICE BECKHAM: Right. And actually, for the mortality assumption, we use the same assumption that the state's actuary is using in the State Patrol plan. [LR160]

SENATOR WHITE: Okay. Thank you. [LR160]

PATRICE BECKHAM: You're welcome. Certainly there's no correct set of assumptions. Nobody knows the future and that's really what the assumptions are used for, to anticipate or model what could happen in the future and the related benefit payments.

So there's no correct set of assumptions and there certainly could be other sets of assumptions that would be reasonable and appropriate that could create different costs; just want to recognize that. And with any actuarial evaluation, any actuarial cost study, the actual experience is what's going to dictate the cost of the benefit structure. The assumptions are used as a tool to try and to help finance that benefit structure, but it's a self-correcting process and the actual experience will flow through and those numbers will change, either positive or negative, experience. Slide 12: I'm not going to spend a lot of time and go into actuarial methodology, so everyone can take a big sigh of relief. Just for disclosure again, the bills actually define the use of entry age normal as the actuarial cost method and to amortize any unfunded actuarial accrued liability over 30 years as a level dollar amount. In the report you'll notice that we also show the amortization as a level percent of pay. That's another option. It's actually more common in public sector plans than level dollar amortization, and thought that might be of interest. The level percent of pay generally produces a lower UAAL contribution, but a more level one. If you have a level dollar payment, as payroll increases the percent is going to go down over the 30-year period. So that's the difference. If you would look at slide 13, please, this is the results aggregated for all groups, assuming that all current officers elect into the plan and if that happens, the way the...LB371 is written, they transfer their account balance in and they receive credit for those years of service. The couple of pieces of information here before we dig into the numbers, the UAAL that you see in the second to the right column is the unfunded actuarial accrued liability, and what that number represents is the difference between, theoretically, where the asset value should be if this plan had always been in place. If these folks had been covered from the time they started working and the appropriate actuarial contributions had gone in, you would have assets equal to your actuarial liability. The assets coming over, of course, are the account balances, and the difference between those two is the unfunded actuarial accrued liability, UAAL. So you can see for LB371, the UAAL was $175 million. If you sort of did the assets divided by the liabilities, instead of the difference of the two, that's a funded ratio of around 45 percent, okay, and the total cost is around 43 percent of pay, including that payment on the UAAL. And just as sort of a reasonableness check, the normal cost for LB371, which is the ongoing value of the benefit structure, independent of the funded ratio, it's around 26-27 percent of pay, and most of the members are probably getting contributions around 12 percent. I think the first-class cities have a 6 and 6. So for it to be about 50 percent funded, or a little less, seemed reasonable, kind of a reasonable check. We also looked at some alternative plan designs. I mentioned that earlier. One was option 2 there, which is the provisions of LB371 but with a 60 percent maximum benefit as opposed to the 80 percent. You might look at that and say, well, that doesn't make a lot of sense, you're going to cap it at 60 instead of 80, but you still have to pay the same amount of money, and that would be a very good question if you asked that. The reason is remember that LB371 has a DROP provision if you have 25 years of service, so if you put a 60 percent maximum benefit in, people are going to hit that 60 percent at 24 years, so when they have 25 years it is likely that they will either retire or, more likely, go into DROP. What that does is, even though the benefit is lower, it's accelerating the payment and more people are going out at an earlier age and that's more expensive. And so that's why there is not really cost savings there. If the DROP program didn't exist or wasn't part of the bill, you would see the costs come down. Okay. Option 3, we kept the basic provisions of LB371 but eliminated the cost-of-living adjustment, recognizing that's an expensive feature, and you can see there that it dropped the costs from 43 percent to 30. Again, when we implemented the 60 percent maximum benefit with no COLA, it didn't really save any money because the same phenomenon is going on there. People are retiring at an earlier age. We looked at option 5, which was lowering the multiplier from 2.5 to 2.25, putting a maximum benefit of 72 percent in and still no COLA, and that dropped it slightly to 28 percent of pay. If we looked at the cash balance plan, it's about, again, the total contributions going in are 50 and the actuarial contribution rate would be about 12 in this situation. The ultimate cost, of course, will depend on which members elect in and which don't. We tried to stress test that a little bit by looking, you know, what if the best funded people don't come in. The costs were a little bit higher. Wasn't shocked by that. We also looked at what would happen if only older people came in, but in this situation most of the older people are those that have higher account balances. So again, it might...it changed maybe 3-4 percent, but not dramatically. Any questions on these results, which again were assuming the transfer of account balances and the service...prior service was going to be credited for benefit purposes as well as vesting and eligibility. Nope? Okay. Slide 14, very similar format as the last slide. The difference here is that we did not assume any transfer of assets and no granting of past service automatically. There may be other ways to deal with it, but that wouldn't happen with the basic bill. So you can see the same six options and the costs are lowered, which they should be: 31 percent for LB371, down to 22 percent for option 5; cash balance plan about the same. There's really not a big impact with the cash balance plan with transferring existing assets in. And you can see the unfunded actuarial accrued liability is, of course, lower as well. Any questions? Okay. I thought I should share with you the breakdown LB328 required, so again here are the same six benefit plan designs. These are with the past service so the numbers on the right, the same numbers you just saw two slides ago, it's just broken down by each group, and the demographics of each group are what are going to drive the individual costs on those. And that's why you'll see some variation from group to group, and I won't walk through those, but if you want to give them a quick look, if you have any specific questions I'd be happy to address those. Again, the total numbers are going to be heavily driven by the numbers for first-class cities and counties, because that's where the membership is. Slide 16, same information, no past service credit, so again the totals on the right are the same numbers I showed you earlier, again just broken down among the groups. In general, there's more similarity here because there's no past service, so the unfunded actuarial accrued liability is not having a big impact on the numbers on the contribution rates. Any questions? Either I'm doing a really good job, or it's Friday afternoon. Slide 17, I want to just talk a little bit about this. The fact that the current members have the option to elect in or out creates a situation that we refer to as anti-selection. It's actually an insurance term but it basically means that an individual is going to make an election that is in their best financial interests and oftentimes that translates to it's not in the system's best financial interest. In other words, there's a higher cost to that, and I think we...again, we don't know who will elect in. It's even hard to come up with, you know, the best estimate, but there is a potential to have higher costs in the short term. Again, those higher costs only apply to the payroll of the electing members, so your lower contribution rate, if that's what they elect, would apply to the other payroll. And then over time, as you hire new employees and they come into this system, that's going to...the new people replacing the older people are going...the costs are going to decline and stabilize. And we think that there's probably more potential for this anti-selection and the impact on the contribution rate for the designs that have no past service. So just to wrap up, slide 18, know we really tried to look at a variety of plan designs, certainly a range of costs there. There is no doubt, when you look at the options that have the past service credit that comes along with the account balance, the cost is significant, and that's a result of you haven't been funding those benefits but you're going to grant the service, so you have to catch up for that, make additional payments to pay that liability off. And, as I mentioned earlier, that was what sort of led us to look at the options that did not include past service credit and that could be dealt with in another way. I'm sure the retirement system has a methodology in place now where people buy service. That's one option where people can buy service on an actuarial basis so it doesn't have to impact the contribution rate for the group. And just to wrap up, there's going to be a lot of factors that are going to impact the ultimate cost; I mean, when the plan is actually put in place, who elects in, the plan design, how you're going to handle past service credit, and then of course the experience going forward. Recognizing that we don't really have viable experience to base the assumptions on, those are our best estimates, but they could vary. That concludes my formal remarks. Be happy to answer any questions if anyone has any. [LR160]

SENATOR SYNOWIECKI: Pat, appreciate your work, appreciate the study. I want to announce Senator Lavon Heidemann has joined, as well as Senator Tom White. And now any questions from the committee? Thank you. [LR160]

PATRICE BECKHAM: Okay. Thank you, Senator. [LR160]

SENATOR SYNOWIECKI: Thank you for the report. I have all my...I have a list here of some testifiers. Mark Overman, I believe, will be the next testifier. (See also Exhibit 3.) [LR160]

MARK OVERMAN: (Exhibits 4 and 5) Good afternoon, Chairman Synowiecki and members of the Retirement Committee. My name is Mark Overman, it's M-a-r-k O-v-e-r-m-a-n. I'm a Scottsbluff Police detective and I began my career more than 28 years ago. I'm also the vice president of the Nebraska Fraternal Order of Police representing over 2,400 law enforcement officers in this state. Thank you to the committee for giving us this opportunity, and to Senator Erdman for his assistance on this issue. I have a letter that you've received a copy of. This is a letter from Chuck Canterbury. He is the national president of Fraternal Order of Police. Dear Chairperson Senator Synowiecki: It has come to my attention that the Nebraska state legislative Retirement Systems Committee will be meeting December 14 to discuss the results of a recent study regarding retirement for law enforcement in your state. As the national president of the Fraternal Order of Police, I urge you to improve the current pension system for public employees and provide a consistent statewide defined benefit pension system in Nebraska. It is important to treat all Nebraska law enforcement equitably and offer a strong defined benefit pension plan uniformly throughout the state. A statewide defined benefit pension system would help ensure that all departments attract the best candidates, and the security that such a plan would offer is vital to retaining the best officers. The defined benefit plan provides a more stable source of retirement income for law enforcement officers, guaranteed to grow over time without the probability of being negatively impacted by a fickle market. Defined benefit plans are the only way to ensure that these officers, who risk their lives every day for the safety of our citizens, have a secure retirement that they can be certain will last the rest of their lives. Under a defined contribution plan, officers run the risk of our living their retirement income. Defined benefit plans allow law enforcement officers to retire with the dignity that is due to them for the vital service they provide to our communities. On behalf of the more than 324,000 law enforcement officers that the Fraternal Order of Police represents nationwide and the fine officers of the state of Nebraska, I thank you for looking into this matter and I hope that you will take the action that is best for those who risk their lives every day and the citizens of Nebraska that they protect. If I can be of any further assistance on this matter, please do not hesitate to contact me. Sincerely, Chuck Canterbury, president. The next part of my testimony is on a...I believe you have a handout of a PowerPoint, and the first slide is just the purpose of LR160 and I believe that everybody in this room is familiar with that. Nebraska's law enforcement organizations are united on this issue. I think you can see that in this room. The Police Officers' Association of Nebraska, the Nebraska Sheriffs Association, Police Chiefs Association of Nebraska, the FBI National Academy Associates, and Nebraska Fraternal Order of Police have all testified in favor of a statewide defined benefit retirement system. And as you heard from Ms. Beckham, the POAN, Sheriffs Association, and the FOP shared the cost of the study, which was considerable. This comes from the National Association of State Retirement Administrators: Defined contribution plans are seen as an unreliable vehicle for ensuring financial security in retirement to the extent that investment risk is borne solely by individual participants. This is exacerbated when plan participants are poor investors. And what this means to the work force, from the same group, the defined contribution plan provides no assurance that an employee will be financially prepared for retirement at any specific age or level of experience. Unfortunately, this uncertainty, or in some cases certainty, of the inadequacy of one's benefits causes employees to remain on the job even when their ability to perform job duties is in decline. The types of retirements that are in Nebraska right now, I'm sure it's familiar to the committee, but defined benefit exists in Omaha, the Nebraska teachers, the State Patrol, the Lincoln Police Department, Nebraska's judges, and the Douglas County Sheriff's Office, and there is a...for officers that are in first-class cities, hired prior to January 1 of 1984, there is a defined benefit plan for them too. But these are the benefits that are payable right now: In Omaha, 75 percent of pay, and you can get that at age 45; in Lincoln, 64 percent of pay, you can get that at age 50; State Patrol, 75 percent at age 50; Douglas County, 60 percent is the max at age 50; and in first-class cities it's 40 percent at age 55 and 50 percent at age

60. I won't go through all this, but you can see that the contributions are different for some of these entities, and the only ones that contribute to Social Security right now is Douglas County and the first-class cities. The State Patrol, Lincoln Police, and Omaha Police do not contribute to Social Security. And these are the other Nebraska law enforcement retirements. In first-class cities--we talked about that--those officers hired after 1-1-84, they have a defined contribution system. It's a 6 percent contribution for the officer and 6 percent for the city, and whatever is in your account when you decide to leave, that's what you get. The county and the conservation officers is basically the same thing. They have a...there's some sort of a defined...or a cash balance plan, but it's still...in some definitions that's a defined benefit, but you heard something about that from Ms. Beckham. The second-class cities and the villages are the ones that are really in trouble, and you heard that today, that fully half of them have absolutely nothing and the other half have maybe a little something but it's not much, and there's nothing mandated and that's why we're here. These police officers, deputies and conservation officers are only entitled to the funds that they've accumulated in their accounts. When that money is gone, there are no future payments. Now we have surveyed the surrounding states because, well, we wanted to see what was going on there. We knew we were losing officers to them and we soon found out why. The fact is that they have defined benefit in all of the states: Iowa, Kansas, Colorado, South Dakota, and Wyoming. The percentage in Iowa, 82 percent is the max; Kansas, 80 percent; Colorado, 60 percent; Wyoming, 75 percent; and South Dakota, 69 percent. Now Wyoming contributes to Social Security, and South Dakota contributes to Social Security as well; the others do not. But all of those numbers, this is just a comparison, generally, to show you that this is what's going on in all of the surrounding states. The reasons for change is there is a huge disparity here and the numbers show that. The age, you're just forcing career law enforcement officers to continue working, continue working into their sixties. That is very common across Nebraska. Working into their sixties, their health deteriorates and, frankly, we think that affects public safety. Almost every state has defined benefit plans for police and fire employees. There was an actuarial study that this committee did in the early 2000s, and a statement from that

survey said, from all the information gathered, there are no other statewide retirement systems in the United States for law enforcement personnel that provide retirement benefits through a defined contribution plan. Now, granted, I believe that study was done in 2000. I don't know if that's changed, but that was a study that was done for this Retirement Committee. And I think Senator White mentioned the mortality risk for police officers, and we found this in our research and it was actually shocking to me. Police officers are at increased risk for mortality as a result of their outcome. The average age of death for police officers in our 40-year study was 66 years of age, so I don't have that much time left. The reasons for change: the mortality, the stress. I've been asked this question, why: why do police officers need to retire earlier than other municipal employees? Well, we work 24 hours a day, 7 days a week, we respond to things such as active shooters. Every state has experience with those. To those who would say, oh, it doesn't happen here, a little research shows you that it has happened in Minnesota in a town with a population of 1,600; in Pennsylvania, a town of 3,000; and Kansas, a population of 2,000. It does happen everywhere, so officer anywhere could have to go to something like that any time. Our goal is to accomplish a defined benefit retirement for all of Nebraska's law enforcement officers who are not now covered by one. So that includes first-class cities, county officers, conservation officers, second-class cities, and villages. If our opponents testify, they're going to tell you horror stories. We have all seen this, we've seen it, too--the front page of theWorld-Herald, the gold standard of Omaha pensions. I think if you've studied that issue, you know what the problem is there. Omaha is going to have to do something to address that. We...this is not what we're asking for. More on Omaha, the pension shortfall, this was on March 30 of '07 and it showed a $279 million shortfall in Omaha. I think that number is higher now, but I know they're doing something to address that. In 1984 this Legislature passed a law that changed from a defined benefit to defined contribution for first-class cities. I've heard testimony from some of our opponents saying, well, we had a deal back then and law enforcement agreed to it. Well, I disagree with that. I was here in the early eighties. I was a young officer. I had a lot more hair and it wasn't gray. And I testified against this deal, and a number of other officers did too. But what I heard the day that I sat in this room was a procession of city managers from across this state who came and said, Legislature, you have to save us because we have this huge unfunded liability. Well, why do they have it? Because they hadn't been funding police retirement. There was no mandate in city that said they had to fund it, and then someone did an actuarial study and said, oh, all of these cities, which was the vast majority of first-class cities, hadn't been contributing. A handful of them had and they were just fine. So there was a deal struck and the deal was, well, you're going to have to continue to cover everybody hired prior to 1-1-84 under this defined benefit system of 40 and 50 percent, and from here on out we'll just do a defined contribution of 6 and 6 and let the officers direct their own money and we'll just...and then whenever they get done, they get done and that's all there is. The Nebraska state retirement systems, you just saw this actuary study. These things can work. The school system right now is 90 percent funded, the State Patrol system is 96 percent funded, the judges' system is 107 percent funded, and you just got this study on November 20 of 2007. You don't see any $300 million shortfalls in some of these state systems, and that's just making a point that we're not asking for...to inflict the problems that Omaha has right now on the state or the political subdivisions. There are some ways...we understand that there are some ways to pay for this and the first way that we are going to suggest is that we help pay for it, we as officers. We want to share. We know that it costs more than what we're paying now. We understand that and so we want there to be a cost sharing between the employee and government. Certainly you senators see a lot of suggestions for how to raise money. There's fees. There's one thing that in our research that we've found that Pennsylvania does. They assign fees to any insurance policy issued by an out-of-state carrier, and particularly for car insurance, and I don't know if they do it for all insurance. But their theory is that for car insurance the police are investigating any...they're enforcing traffic laws, they're investigating any traffic accidents, and so they use that money to help fund law enforcement retirement. Oklahoma did exactly what we're asking you to do. They did that in the mid-eighties and there was some sort of a limited duration tax hike. I think they did it with some percentage on their sales tax to fund it. And then, of course, Wyoming, if we had a billion dollar budget surplus like Wyoming did, it would be a little bit easier. And finally, senators, it has taken us many years to get to this point. We had to pass legislation just to do the actuarial study. Law enforcement is allied on this issue. We are not asking for something unreasonable. Nebraska competes with surrounding states for a limited pool of qualified law enforcement officers and those other states all have defined benefit systems. We have exposed the problem with police retirement in Nebraska and we are willing to be part of the solution. So thank you and I would be happy to answer any questions. [LR160]

SENATOR SYNOWIECKI: Thank you, Detective. Appreciate your testimony and your presentation. Ms. Beckham was probably a little bit mystified that we had no questions for her, but what I need to hear from both part...from both sides of this issue, and I'm going to ask you but I'm also going to ask those individuals that are here to testify on behalf of cities and municipalities, is are you willing to sit down and work on this issue in good faith and come up with a compromise plan to bring to the Legislature next session. Are you willing to sit down and negotiate this? [LR160]

MARK OVERMAN: Yes, sir, we are. [LR160]

SENATOR SYNOWIECKI: Thank you. Any other questions from the committee? Thank you again, Lieutenant. Appreciate it. Sheriff, how you doing? (See also Exhibit 6.) [LR160]

TERRY WAGNER: (Exhibit 7) Good afternoon, Senator. How are you? [LR160]

SENATOR SYNOWIECKI: Good. [LR160]

TERRY WAGNER: Let me get my cheaters out here so that I can read what I'm going to tell you. If you need more copies, I've got them. Good afternoon, Senator Synowiecki and members of the Retirement Committee. My name is Terry Wagner, T-e-r-r-y W-a-g-n-e-r. I am the sheriff of Lancaster County and the immediate past-president of the Nebraska Sheriffs Association. I'm here today to provide information to you on a statewide law enforcement retirement system and to let you know the Nebraska Sheriffs office supports the establishment of that system, and to answer any questions that this committee might have. As Mark said, and I won't reiterate that, that four agencies that have a defined benefit plan, the plans for the counties are different but they're the same. I think Sarpy County's plan is a little bit different than Lancaster County's, and the rest of the counties in the state are a little bit different than the other two. But, in essence, as Mark so ably brought to your attention, is that no one really knows how long they'll live. We don't know how much money we're going to need in those accounts to be able to live until we pass away. And as he mentioned, the average age of a law enforcement officer in America at the age of death...or at death is age 66. I don't want to disparage other county employees, but sitting in a road grader or in an office in one of the county offices is much different than working as a law enforcement officer in counties, and I think that being able to retire before age 65 is crucial to Nebraska's...so many deputy sheriffs and all law enforcement officers. I believe that law enforcement officers in Nebraska need the ability to retire long before age 60 and, really, here's why. I mentioned the younger age at death of 66 for law enforcement officers in the nation. The Society of Actuaries provide a life expectancy after age 65 for most Americans at 17 years for men and 20 years for women. That would be quite different than a law enforcement officer who can only really expect to live one year after reaching age 65. A couple of things that I did in preparation for this testimony was examine our workmen's compensation claims. Older workers have higher workmen's compensation claims. In Lancaster County, I researched ten years of workers' compensation claims: 56 of those, or 77 percent, were from deputies under age 50 years of...under 50; 16 claims were under...were from deputies over age 50. The average claim for the majority, for those deputies under age 50, was approximately $1,400; the average claim for the remainder, the 22 percent, averaged $6,950--nearly five times as high. Likewise, officers with 25 years of service have higher workmen's compensation claims. Examining those 72 claims over a ten-year period, 69 of those claims, or 96 percent, were from employees with less than 25 years of service. Those claims averaged $2,200. Three of those claims, or 4 percent of the total, were from claims...were claims from employees with over 25 years of service and those claims averaged $14,166--clearly, well over ten times the cost per claim. Law enforcement is physically demanding work. We all know that as we age we break easier and heal slower. Having a 60-year-old law enforcement officer get into a foot chase or physical confrontation with a 20-something-year-old law violator is simply a recipe for serious injury or death. We're cops, not investment counselors. There are a few officers who have made wise investments and have done very well with those returns. There are many more who don't understand the volatility of the market and have lost large portions of their retirement portfolios. Many are overly conservative and aren't getting the average return on their investments. Likewise, some were overly aggressive in their investments and have done...have lost a great deal of their retirement funds when the market has dipped. We had a couple of deputies earlier in this decade who were planning on retiring in about 2002; however, the losses immediately after 9-11 prevented them from doing so. They simply didn't have the money in their retirement accounts and they didn't reach those pre-9-11 fund levels until about year 2006. It's time we have a retirement plan that allows employees to retire so there's an opportunity to reverse the physical damage law enforcement has, caused through compounded stress, shift work, and sleep deprivation. Mark has mentioned the statistics by John Violante. I have included in the document that I gave you a photocopy of his article, "Dying on the Job: The Mortality Risk for Police Officers," and I do urge you to look at that. It explains in much greater detail why law enforcement officers die at a younger rate. At the same time, we owe to our dedicated law enforcement officers in this state a degree of financial security during those golden years. There's a reason why every state in the nation, except for Nebraska, has a statewide law enforcement officers' retirement plan. The FBI has a mandatory retirement age of 57 years. It's simply foolhardy to think a 55- to 65-year-old law enforcement officer can provide the same level of service as an officer under 50. I think one other issue that needs to be touched upon in your strong consideration is the effect the current retirement system has on our attracting young people into our profession and our ability as agencies to recruit, hire and retain new deputies and officers. Every administrator will tell you that the overall number of applicants has been decreasing for a number of years. The migration of serving officers to agencies that have better retirement systems is a very real issue. Law enforcement agencies need a retirement plan to attract young people into the profession and then to keep them once the agency has spent that money to hire and train them. There is a critical need for a statewide law enforcement system in Nebraska. Thank you, and I would answer any questions the committee might have. [LR160]

SENATOR SYNOWIECKI: Thank you, Sheriff. Any questions from the committee? Thank you for your testimony. [LR160]

TERRY WAGNER: Thank you. [LR160]

SENATOR SYNOWIECKI: Additional testimony for the legislative resolution? Good afternoon, Chief. [LR160]

LARRY THOREN: Good afternoon. Larry Thoren, L-a-r-r-y T-h-o-r-e-n. I'm the chief of police in the city of Hastings, and testifying on behalf of the Police Chiefs Association of Nebraska. In last February, I testified in front of this committee about the study and a few days later the stock market took a substantial hit. They lost, like, 6 percent in a day or two. And thinking that if that would have happened before the hearing, it would have been prime information that shows the volatility of our retirement systems. In my ten years as...or in completing my tenth year as police chief in Hastings--I came from the state of Illinois, which has a defined benefit program--during those ten years I've lost police officers to Iowa, Kansas, Colorado, and then the rest to State Patrol. I also understand I have a couple officers that may be looking at Lincoln or Omaha, all because of the retirement system. I describe Nebraska as the land of comparability--wages and benefits are compared with our array of cities. But we do have a disparity in retirement systems within our state. And not only do I lose police officers to departments with better retirement systems, we're also hiring police officers, experienced police officers, from villages and cities that do not have a retirement system. So there's some mobility within the organization, within law enforcement, that I'm training officers for larger organizations, cities and villages who have a lot less resources than us are training police officers for first-class cities. Some of the expenses that will be incurred by cities and villages and counties will be offset by allowing police officers to retire at an appropriate age. I have had police officers who could not afford to retire, because of medical problems, because of the insurance situation, and there are increased costs in workmen's comp claims and health benefits. Illinois' system is a defined...it's fairly similar to the defined benefit. It's not a statewide system. It's governed by state rules. I was a police chief for ten years in Illinois before I came here. Their retirement...and making about half the money that I'm making now. Their retirement is more valuable and worth more today than what my current defined contribution is. And in closing, I was always told that when you invest money into the stock market, which our retirement system is invested in, don't invest any money that you can't afford to lose. That's contrary to what the purpose of a retirement system is. What questions can I answer for you? [LR160]

SENATOR SYNOWIECKI: Questions from the committee? Thanks, Chief. Appreciate your testimony. [LR160]

LARRY THOREN: And again, absolutely we would be glad to work on this situation with anyone. [LR160]

SENATOR SYNOWIECKI: I appreciate that. [LR160]

LARRY THOREN: Thank you. [LR160]

SENATOR SYNOWIECKI: Thanks, Chief. Additional testifiers for the legislative resolution? [LR160]

KIM CHRISTENSEN: Chairman Synowiecki and members of the Retirement

Committee, good afternoon. My name is Kim Christensen. I'm a police sergeant with the York Police Department and where I've been employed for approximately 32 years now. I'm also a member of the board of directors for the Police Officers' Association, which represents approximately 1,000 law enforcement personnel statewide. I'm here today just to say that the Police Officers' Association supports this for all the various reasons that have already been testified to. I won't belabor it any longer. I want to thank the Retirement Committee for taking the time to let us testify, and if you have any questions I'm open. [LR160]

SENATOR SYNOWIECKI: Thanks for your testimony. Seeing no questions, thank you. [LR160]

KIM CHRISTENSEN: Thank you. [LR160]

SENATOR SYNOWIECKI: Additional testifiers on the legislative resolution? Any additional testifiers? [LR160]

LYNN REX: Chairman Synowiecki, members of the committee, Senator, Senator, nice to see you today. We appreciate the opportunity to appear here today to give you our perspective on this study and we look forward to also hiring our own actuary, as the committee should do, to review the information that was submitted to you. We do appreciate the fact that the law enforcement officers themselves have done so. We look forward to seeing that. I think initially the perception by some, including some of the police chiefs in the state, even as late as this week, was that this was actually a study of the Retirement Committee itself. But we do appreciate the fact that the law enforcement officers took the initiative to do this. I want to correct for the record some of the things that have been said today because I guess the good news and the bad news is that I was in fact here during those negotiations in 1981, '82, and '83 which occurred and resulted in the transfer from a defined benefit plan for first-class city police and fire to a defined contribution plan, and there were significant reasons for that. Let's start with one of the major issues and, I think, misconceptions, and that is, one, why was there...why were there unfunded liabilities in first-class cities, in most first-class cities? In some of them, the unfunded liabilities were huge; in some they were not as bad. But still, why is that the case? When the Legislature first imposed and mandated a retirement plan, a defined benefit plan on first-class cities for police and fire, the Legislature did not put in one dime, not one penny. It was a mandated system whereby they were automatic unfunded liabilities from day one and, quite frankly, there was almost no way some cities could work out of that hole, and a lot of that depended upon the number of officers they had and the age of those officers. And so, in any event, our efforts back at that time to try to get funding for those systems from the Legislature, we were told, you're on your own. And Hastings, as a matter of fact, even issued bonds to pay off their unfunded liabilities. Cities like Fremont, Nebraska, thought they were fully funded and they had an individual there at the time, still do but a different individual, who had a master's degree in finance. So we're not dealing here with somebody who didn't have some abilities to hire the right people to look at these to make sure the city was appropriately funding these plans. And Fremont, Nebraska, they thought they were fully funded. They changed actuaries and found out they had a multimillion dollar unfunded liability because of a change of assumption. It's all about what are the assumptions and what does it take to fund that. So, in terms of unfunded liabilities, there's no question those unfunded liabilities were there. There's no question cities struggled with that. There's no question I think some cities had a real misconception about how much money, because of the advice of their professional advisors and actuaries, how much money they needed to put in to make them fully funded. Other cities, to be blunt, did not have the money. And again, I want to underscore this again, the Legislature did not put in one dime when those systems were mandated. Secondly, the issue of second-class cities and villages, I must tell you that, yes, there are some that have defined contribution plans, but the equity, and trying to say that there will be some equity across the state relative to that, it's problematic because their problems are even more acute than what the first-class cities had in 1965. And as a review, because as state senators I know you were all doing other things in 1996 and in 1998, but in 1996 the Legislature passed LB1114 and they created a situation where there were mandated levies which are now called the levy limits. And this does play directly into the discussion we have here. And I know that as Chair of the Appropriations Committee here, you're most aware of this, not that the other two senators are not. But make no mistake; when the second-class cities and villages within two years they had to go from the bill passed in 1996 with an effective date of 1998 on the levy limits, they were mandated to go from $1.05 per $100 of valuation down to 45 cents plus 5 on interlocal agreements in two years. Almost all of them were at $1.05 and some of them more than that because of bond issues that had been approved. So any possibility from 1996 on, and even before then, I mean just because of their financial situation of trying to enhance and do certain things in this regard, it is highly problematic from a financial standpoint. Indeed, I talked to a couple of police officers recently and shared with them my concern, which is that if a mandated program would happen for second-class cities, and it's happening now to some extent anyway, but you will see more and more of them not have a law enforcement department. They will not have a police department. They will contract with the sheriff. Now, unfortunately, we have some villages that cannot even afford to contract with the sheriff. We have a serious issue, which we'll be talking to the Appropriations Committee about even more as we have done in the last few years. It is getting more and more problematic, especially for the smaller communities. Of the 531 cities and villages in the state of Nebraska, the last count was over 240 of them are already at their maximum levy limit. Of those, many of them can't even raise the money to spend what are the restricted funds at 2.5 percent. Our efforts to get flexibility for law enforcement by basically having some exceptions to the lid and the levy law, we have never gotten a bill out of committee. Efforts that have been joined with...and in any number we had, as Senator White knows, as being a member of the Revenue Committee, we've had bills that we worked with the School Board Association, NSEA and others to try to get some flexibility for the lid and the levy and the answer historically has been...not historically, historically and uniformly, has been no, no, and no. So financially these are issues. Now how does this translate for officers? There is no question the smaller cities will tell you when they send and pay for someone to go to the

Grand Island Training Center and it's not...it's salary. Unfortunately, I would submit to you that younger people, and I'm not one of them, but when we went out and talked to police departments, every police department in the state of Nebraska in 1982 and '83, the younger police officers incorrectly assumed that they didn't have to worry about retirement. They didn't care about the pension, many of them did not. Obviously, Mark Overman did and many of them did, but a lot of them didn't. They wanted salary. That's what concerned them. And I understand their concerns are with both issues. But there's no question the smaller cities provide the training ground for the first-class cities; the first-class cities provide it for Lincoln and Omaha and the State Patrol; and Lincoln and Omaha provide it for the State Patrol, no question about that. I wish it was different. I wish that it would be a situation where the state of Nebraska had a lot of money and was prepared to fund these types of programs. I don't see that happening. Perhaps you do. Perhaps I'm wrong about that. Perhaps you see that you're prepared to fund it. Because I'm telling you, on the local level, folks are strapped. And that doesn't mean we're not sympathetic to it. We have been prepared to negotiate on enhancements on defined contribution plans for the last four years and we're now entering year five. When it comes to a defined contribution plan, there were a number of reasons that we don't have time for this afternoon, but I'd be happy to have a two- or three-hour meeting with any one of you at your convenience to talk about it, about why we went from a defined benefit to a defined contribution plan and why the officers also...I'm not saying each and every one of them, but why the officers and the groups representing them wanted that as well. In terms of being a police officer and not an investment person, I can relate to that. I'm not an investment person either. But let me suggest to you that whereby at that time we thought, and right now I frankly don't think it's a good idea, but at the time, we thought that the league proposed that in fact there be a state pool that would be invested, that all these funds would come together for first-class city police and fire, in separate accounts, be invested by the Nebraska Investment Council or by the Retirement Board. The answer, uniformly, by the police departments across the state and fire was, no, they wanted their own local investment committees, they wanted to have a play in that, and they are required by law to have professional folks work with them. So, in summation, all I can suggest to you is there are many reasons and it's a lot more complicated than this hearing this afternoon allows us to talk about, but we look forward to also retaining our own actuary. We look forward and I really appreciate the actuary for the FOP and the other law enforcement agencies suggesting you need to do that as well in terms of looking at this, because it is all about the assumptions. And, by the way, I'm not assuming her assumptions are wrong. I'm just telling you it is all about the assumptions. So I'd be happy to answer any questions that you might have, and we are always ready to negotiate on enhancements on defined contribution plans. My board has made it abundantly clear with defined benefit plans is it, nationally, the effort is to move away from them, not toward them. I'd be happy to respond to your questions. [LR160]

SENATOR SYNOWIECKI: Yeah, Lynn, you beat me to my question. You knew it was coming. I talked to the Detective Overman. They're willing to sit down. Are you likewise willing to sit down, work with them in good faith? [LR160]

LYNN REX: We're willing to sit down and talk. Yeah, we're willing to sit down and talk about enhancements to a defined contribution plan. Are we willing to sit down and talk, Senator, about enhancements to a defined benefit plan or going back to a defined benefit plan? Let me share with you my concern about that. [LR160]

SENATOR SYNOWIECKI: Well, let's... [LR160]

LYNN REX: Because the Legislature will not...I mean I...unless you're prepared to say you're prepared to fund it. If you're prepared to fund it, we are more than happy to work with you. But we have a real...and please understand, and I know you all do, when the stock market takes a hit please do not think for a moment that defined benefit plans don't suffer just because it's a defined benefit plan. The question is, who picks it up? And I know that each and every one of you, and I've heard your presentations over the years and I've heard presentations by senators for the last 30 years, and people are concerned, you are, local officials are about tax rates, about keeping good people. And we want to keep good people, too, there's no question about it. So again, I wish we got more flexibility in the lid and levy law. I wish we had that, but we don't. Wish we had a lot of things, but we don't have it, and you're the only ones that can provide that as a Legislature. But are we prepared to have another mandate and create unfunded liabilities up the wazoo? No, sir, we're not, with all due respect. Are we prepared to negotiate any day at your convenience on enhancing defined contribution plans? Yes, and we have put that on the table four years ago. [LR160]

SENATOR SYNOWIECKI: So what you're telling me, you won't even negotiate with them, won't even have a dialogue with them relative to the defined benefit plan? [LR160]

LYNN REX: To sit down and talk about? We're happy to talk. [LR160]

SENATOR SYNOWIECKI: Okay, good. [LR160]

LYNN REX: But I will tell you my directive is we will not support a defined benefit plan. [LR160]

SENATOR SYNOWIECKI: On the...okay, if I understand your testimony correctly, you're going to now undertake to conduct your own actuarial study. [LR160]

LYNN REX: Yes. Yes. [LR160]

SENATOR SYNOWIECKI: Did you make any overtures to the other side relative to this actuarial study to... [LR160]

LYNN REX: Actually, they did. Mike Boyle had a conversation with me about if we had any questions. It's not a question of us having any questions, and I think that there is a real issue here. They're working for a client, a series of clients, and I respect that. But we also know that there are other issues that we have to look at and there are other complexities that we would have to look at in addition to what they've looked at, that they don't have to look at. They wouldn't have to look at, for example, what mix of services of what kinds of things do you not do, how many fewer law enforcement officers do you have so that you can provide a greater benefit to those that are remaining, that sort of thing. [LR160]

SENATOR SYNOWIECKI: Actuarial study is objective by nature, though, isn't it? I mean... [LR160]

LYNN REX: No, it is not. No, it's based on assumption. And I think she was very clear about that and did a great...I thought her presentation was excellent. [LR160]

SENATOR SYNOWIECKI: And the assumptions were laid out in the two bills that they followed. [LR160]

LYNN REX: Yes, I understand, but those aren't...that's just...that's just...those aren't all the assumptions that you need to take into consideration to do this and so we will be doing that and look forward to doing that and getting the same information that the committee provided to her. [LR160]

SENATOR SYNOWIECKI: Okay. Any additional questions from the committee? [LR160]

SENATOR WHITE: I have a series. [LR160]

SENATOR SYNOWIECKI: Senator White. [LR160]

SENATOR WHITE: Ms. Rex, when did this alleged deal between the police officers and the cities occur? [LR160]

LYNN REX: Well, first of all,... [LR160]

SENATOR WHITE: What year? [LR160]

LYNN REX: ...we were negotiating with them from 1981, '82, and '83. The bill took effect, I believe, January 1, 1984. [LR160]

SENATOR WHITE: You seriously submit that officers today are bound by whatever political compromise was or was not reached in 1984? [LR160]

LYNN REX: Oh no. No, of course not. [LR160]

SENATOR WHITE: Okay, so it's irrelevant then. You agree? [LR160]

LYNN REX: Indeed, indeed...Senator, it's not irrelevant. [LR160]

SENATOR WHITE: Why not? [LR160]

LYNN REX: What happened with...when the Legislature passes a law, it's not irrelevant. But I'm not submitting and nor would I ever submit to you that everything is always in concrete and always (inaudible), because if it was the Legislature, when they eliminated our tax base... [LR160]

SENATOR WHITE: We wouldn't have passed a new law because it's done. [LR160]

LYNN REX: Precisely. If... [LR160]

SENATOR WHITE: There you go then. So let's get passed that. [LR160]

LYNN REX: ...if we were all bound by what the Legislature had said and what we're doing today, local governments across the state of Nebraska and property tax payers would not be looking at the property tax rates they're looking at because we would have been reimbursed for the tax base we lost when livestock inventory and farm equipment, just to name a few, were taken off the tax rolls. So, Senator, I want to make this clear. It was Mark Overman who said that there was a deal cut. Now was there? [LR160]

SENATOR WHITE: No, he didn't. I think he said it wasn't the deal. [LR160]

LYNN REX: But...and I'm suggesting to you there's no question there were negotiations, and if you want to phrase it in the context that there was a negotiated agreement in 1982 and '83 which resulted in legislation that passed, absolutely. Has the league ever said that that happened in 1982-83 so, therefore, going (inaudible) we're not ever going to look at anything or ever do anything? We've never said that. [LR160]

SENATOR WHITE: Well, good, then we're past that. Let's go on. [LR160]

LYNN REX: Okay. [LR160]

SENATOR WHITE: Is it accurate that all the states surrounding us have defined benefit contribution plans? [LR160]

LYNN REX: I can't verify that. [LR160]

SENATOR WHITE: So you can't deny it either. [LR160]

LYNN REX: I'm not...no, sir, I can't. No. [LR160]

SENATOR WHITE: If that is an accurate... [LR160]

LYNN REX: But we'll look into all that too. [LR160]

SENATOR WHITE: If that is accurate, how is it those states manage under similar or more dire economic consequences than we're facing in Nebraska to provide those benefits? [LR160]

LYNN REX: Well, for example, Wyoming has got a severance tax. Their state budget, they're facing a situation that I don't know that the Nebraska Legislature has ever had, which is we have all this money; gosh, how many ways can we spend it. I've never known the Legislature to have that kind of money. They have it there. [LR160]

SENATOR WHITE: Well, so we have an opportunity on one level or another in the state tax to provide these benefits. Is that correct? [LR160]

LYNN REX: I'm sorry? [LR160]

SENATOR WHITE: Do you agree that the other states around us have found a way to provide these benefits? It's doable. [LR160]

LYNN REX: Well, Senator, if you have... [LR160]

SENATOR WHITE: The question is whether there's political will to do it. [LR160]

LYNN REX: ...if you have enough money in the state of Nebraska or in any state you can, in fact, probably do anything. My question is please tell us where the money would come from. And I also want to talk to you about stability. Some of you were not here at the time that various chambers of commerce and other business groups were coming, talking about let's take the pension funds and use those for economic development incentives, let's do these various things that, frankly, we resisted and many of the people sitting in this room where there, at least their representatives at that time, resisted as well. So I'm just suggesting to you that I am not here and I'm not prepared to talk to you today about what other states are doing and how they're funding. I don't know. But I think those are good questions. [LR160]

SENATOR WHITE: If I heard what you're saying is you've taken the position, however, that you won't play on defined benefit negotiations. That's what I heard. Is that accurate? [LR160]

LYNN REX: That's correct. That's my directive. [LR160]

SENATOR WHITE: Do you think maybe that's a mistake? Because, in the end, if you don't sit down at that table, we're going to hear one side of it. [LR160]

LYNN REX: We're always willing to talk. I just don't want to mislead anyone. Let me suggest to you, Senator, it is very problematic. If the answer...and I'm not saying at all that you're trying to mislead anyone, because you're not. That's not what I'm suggesting. What I'm saying is, if the answer is, are you prepared to sit down and talk about defined benefit plans, are we prepared to sit down and talk about it? Well, sure. But if then someone comes back to me and says, well, you said you were going to talk about it so that we assumed that that meant you're prepared to go to a defined benefit plan, my directive is we cannot go back to defined benefit plans. But are we prepared to sit down and talk about why they want them, the testimony today? We're always prepared to talk to anybody, of course. [LR160]

SENATOR WHITE: I appreciate your candor but basically you're telling this committee, if we're interested in that, that you don't care what we're interested in the cities doing; we should go fish because you're not going to be persuaded. You're going to sit down, but your mind is not open. And I appreciate the candor. [LR160]

LYNN REX: I'm just suggesting to you I work for a board of directors of elected officials,... [LR160]

SENATOR WHITE: I understand. [LR160]

LYNN REX: ...12 elected officials, which includes the mayor of Omaha, the mayor of Lincoln, and other elected officials in the state of Nebraska and 3 appointed officials. [LR160]

SENATOR WHITE: The city of Omaha has a defined benefit plan. Do not... [LR160]

LYNN REX: Yes, they do, and they have a huge unfunded liability. [LR160]

SENATOR WHITE: I was there and handled a lot of that and I can actually tell you how that arose. I represented a number of law officers through that whole process, Ms. Rex. There's little you could advise me about that. I watched it develop and I can explain it to you historically how it occurred. [LR160]

LYNN REX: I'm sorry about that. (Laugh) [LR160]

SENATOR WHITE: And it occurred for specific reasons. One of them is the desire to make the force much younger to save on workers' compensation benefits. That was literally one of the driving reasons. And while you were see a deficit in the retirement plan, there were cost savings at that time on the city's budget, which was under a crunch. So they consciously transferred that, and that's one of the things that is disingenuous to suggest that this is all a negative for the villages, because in reality there are a number of savings that may not show up on your pension plan but show up in other ways. One of them is that--by having younger officers. Another one is the cost of civil litigation because you have officers who are not really suited for the job but they're the best these towns can get and they cause liability, whether it's through violation of civil rights, failure to properly respond, they're costs by not providing proper benefits to get good people. And to hear the city say, we're not even going to sit down with a open mind and talk about it, is very distressing. [LR160]

LYNN REX: Well, again... [LR160]

SENATOR WHITE: I hope your board seriously reconsiders that position. [LR160]

LYNN REX: Again, we're prepared to sit down and talk with them, listen to them, but I don't...I also...I've been involved in negotiations over a period of the last 30 years on any number of issues and I will tell you, Senator, the one thing that's really irritating to folks at the back end is when they say, but we're sitting down talking; we thought you meant you're prepared to go there. So I have no authorization at all and I cannot, frankly, in good faith say to you today that I think our board would go with the defined benefit plan, with one exception, with one exception--if the Nebraska Legislature is prepared to pay for it. That would be the exception. Because we...it's a function of money and that doesn't mean it's always a function of stability of benefits. It's a function of making sure that there's portability of benefits. It's a function of any number of things, too, and reasons why officers themselves, back in 1981, '82 and '83 understood that it was in their interest to strike that negotiated deal. They understood it was in their interest to do so. [LR160]

SENATOR WHITE: Now you're just saying there was a deal. We went through that. [LR160]

LYNN REX: I'm not... [LR160]

SENATOR WHITE: I find your testimony really offensive. [LR160]

LYNN REX: I'm sorry. I don't mean to be. And again, I want to underscore that by saying that that negotiated agreement occurred, Senator White, I'm not in any way saying that that means that nothing should ever be done to improve the systems. We would look forward to sitting down with anyone and, frankly, I would hope, Senator Synowiecki, as Chair, you would also say to the other side, are you prepared to sit down and talk about enhancing defined contribution plans, and what about that? Are you prepared to look at that? But I don't mean to offend you in any way. I'm not trying to be adversarial about it, but I am trying to be realistic about it because there are many...well, every first-class city went through that and the officers went through that and they could see what was happening, too, and they wanted stability. They wanted to make sure that the funds would be there and they understood. They're bright people. They understood the upside and the downside, as did we. And make no mistake, Senator, we made every effort before beginning that, as they did, to try to get state funding to help out with this. Because to make a comparison here to the judges and the State Patrol and the teachers, the Legislature puts money in that. They're not just on their own. We were left on our own. [LR160]

SENATOR SYNOWIECKI: Ms. Rex, I...I'm a little troubled, too, on this actuarial study coming in. I mean we're...with December 14, and that your board, the League of Municipalities, now are going to go out and retain an actuarial study, in essence to rebut, I think, what we've got now with the law enforcement community. The whole array, chiefs included and FOP, stepped up to the plate and invested a heck of a lot into this actuarial study, and then with no collaboration from the league, to look at a...to take a comprehensive look at this. And then the feeling I get, and I might be misguided here, the feeling I get is now the league is going to go out, retain an actuarial (sic) to do a study to essentially knock what we have already. [LR160]

LYNN REX: Well, Senator, first of all, please put this in the same perspective of the actuary who testified this afternoon who recommended that the committee retain its own actuary to do a separate independent analysis. We're not saying we're, that for our purposes, to rebut anything. It's for informational purposes. We have additional information we need to gather for our members, again, separate and distinct from just what you've had presented to you today. But I don't think she was suggesting to you that there's anything inappropriate and, in fact, she recommended to you that the committee itself do that, and I would do that. I would recommend that to you too. You should. [LR160]

SENATOR SYNOWIECKI: But I think the committee's agenda and your agenda would be different in terms of retaining the resources to get an actuarial study. And I... [LR160]

LYNN REX: I would disagree. [LR160]

SENATOR SYNOWIECKI: And you're right, everything in an actuarial study is dependent upon the assumptions. [LR160]

LYNN REX: Yes. [LR160]

SENATOR SYNOWIECKI: And given the assumptions, I don't think there's anything...this is the first I have been exposed to the study. I haven't read it yet in detail. But to think that numbers went a certain direction based upon those assumptions I reject entirely. [LR160]

LYNN REX: Well, Senator, if I can get his...he's retired now but if I can get him I would be happy to get the city administrator from Fremont who can walk through with you his experience, and just by the change of an actuary, two excellent companies, change of actuary, different assumptions, Fremont ends up with an unfunded liability when they thought they were fully funded--not your best day at the ranch. [LR160]

SENATOR SYNOWIECKI: Do you think there's value in having a statewide system for our police officers? Is there an interest in the League of Municipalities, and we heard the chief from Hastings and the turnover problem and the costs associated with training these officers and so forth related to that high turnover, is there a value in having a statewide system of retirement that has relatively same benefits in all of our municipalities? [LR160]

LYNN REX: Depends what that system would be. But I also think it is misleading to...not by you but by anyone to suggest that Oshkosh, Nebraska, that a small village with the population of 500, is going to have comparable benefits of a police officer in Omaha or a State Patrol officer. Would it be great if everybody could afford that? Absolutely. Do I think it's realistic? No. I also want to underscore what Senator White said, and I hope I'm not offending anybody sitting in this room, especially those that are all packing guns today (laugh), but please understand I think that in the smallest of cities, and I'm going to take Gordon because the city manager and I have had this discussion many times, he would submit to you that his police officers need to be better trained than a police officer in some other...in some other cities here in Nebraska because of the issues and the complexities that he deals with in a second-class city. They're not allowed to...they don't have the kind of staff to specialize, so their folks have got to really...their police officers have got to really be fully trained in virtually everything because they don't have the SWAT team, the this team, the that. They don't have those. They have a limited number of officers. So...but would it be great if everybody could be paid like the Nebraska State Patrol, could have the same benefits as the Nebraska State Patrol and/or the Omaha or Lincoln Police Departments? Wow, wouldn't that be great. And I'll... [LR160]

SENATOR SYNOWIECKI: Doesn't a teacher in Ogallala have comparable retirement benefits to a teacher in Omaha? Now their pay may not be comparable, but their retirement benefits are comparable. [LR160]

LYNN REX: I don't know. I can't talk to that. [LR160]

SENATOR SYNOWIECKI: Okay. Thank you. [LR160]

LYNN REX: I don't know. [LR160]

SENATOR SYNOWIECKI: Any other questions from the committee? Thank you for your testimony. [LR160]

LYNN REX: Thank you. Thank you very much. We really appreciate it. [LR160]

MICHAEL NOLAN: (Exhibit 8) Senator Synowiecki, members of the committee, my name is Michael Nolan, spelled N-o-l-a-n. I'm the city administrator of Norfolk. I'm just handing out to you something that I think will provide some background in terms of what happened in the early 1980s, and then I'll answer any questions that you have. This is just an editorial that appeared while I was on vacation in the Norfolk Daily News here recently. The reason I guess that the Norfolk Daily News felt like they wanted to write that editorial was because in 1981, that was where this story was first printed on the unfunded fire pension liabilities and police pension liabilities primarily in cities of the first class, although Omaha and Lincoln are mentioned too--little piece of investigative journalism that won an AP award and started all of this discussion. I guess, if I can, I would tell you that...well, the third...maybe I should point out what the third set of conclusions that...or attachments were. An actuarial analysis indicated that these were what, in 1981, were the unfunded liabilities that had resulted from the old plans. The fire plan in fact had been a 21-year out plan and it was, I think, unfortunate that a whole lot of elected officials didn't really understand what was implied as far as their management under that plan. In reading a lot of articles on...from Governing magazine and Fortune, I came across a quote that I thought was pretty amusing in which the author defined as the retirement board under a defined benefit plan as an incompetent group of competent individuals. I'd point out to you that this assumption here for the city of Omaha, based on a net present value calculation, would indicate that had the set of assumptions that were occurring in 1981 be extrapolated forward to 2008 that that unfunded liability would be $169,500,000. Heard the other gentleman earlier indicate that Omaha estimates that its unfunded liability is somewhere around $270 million. Our interests in Norfolk are primarily on having a good plan, a good retirement plan, for our police officers that is actuarial sound and predictable and affordable. And, to me, I think that's what this process needs to be about. I really to appreciate, Senator Synowiecki, that you mentioned the possibility of us getting together. I'd have to tell you quite honestly, I mean I can't take responsibility for everything we ended up with. I was on the team, as I think Lynn Rex was too, of people who did negotiate with the police officers and firefighters. I think we negotiated with the police officers twice. Twenty years is a long time to remember all of that. But that would be what my interests would be on behalf of Norfolk. The other attachment to this is, I think, a fairly accurate analysis by our finance officer on what the current plans imply financially for us. Again, I think what we need to do is we need to have something that's a good retirement plan, that's actuarial sound and predictable, that's affordable, and those are the objectives we should all be trying to work at together. I don't happen to think that a defined contribution plan automatically implies that we're going to end up with something less for police officers than they might obtain with a defined benefit plan, but I do know that based on the historical experience of Norfolk that a defined benefit plan certainly did create a great deal of unaffordability and unpredictability when we had to deal with it in 1981. I'd answer any questions if you have any. [LR160]

SENATOR WHITE: I have a series, if that's acceptable. [LR160]

SENATOR SYNOWIECKI: Yeah. Of course. [LR160]

SENATOR WHITE: First one, I want to talk about Omaha, all right? Omaha was in a situation in which there were in a terrible general fund crunch. They made a deal with the police union and the fire union to forgo raises short term. They also needed to have younger people on the force to reduce work comp losses and...because people with less seniority made less money, and it made a profound amount of difference to them at that time if they could get an agreement with the unions which would basically move into the future some expenses. So one of the things they did was cut a deal on how they retired. Now the reason it exploded is they allowed spiking. Okay. Now I don't think spiking is a very good idea and I don't think anybody is saying that spiking needs to be or should be part of whatever defined benefit plan that ultimately may be achieved between parties who negotiate in good faith. The Omaha experience really is not relevant to whether or not a defined benefit plan can work. Second, with regard to... [LR160]

MICHAEL NOLAN: I would agree with that, Senator. [LR160]

SENATOR WHITE: ...the ability of people to control and estimate costs on defined benefit plans, we do a pretty darn good job in the state of reviewing and funding those plans. We had a hearing just recently and an out-of-state expert said all of our plans are in extraordinarily good shape. Now if one of the things you looked at is defined benefit plans that were in an state system, that were invested at the state expenses, that covered all the small cities, villages, and which they would make contributions into, we might take those problems away. Similarly, we might be able to help the cities and small villages attract and retain better quality law enforcement officers at less money. But all of those possibilities don't even exist if the municipalities will not sit down with an open mind and talk to people. You've shut the door without even looking at it. And the frustrating part, from my point of view, is I have repeatedly dealt with the problems and the exposures to liability of having officers, who aren't suited to the job, on the job, either because they're physically unable or mentally unsuited, and the liability and expenses it causes cities is substantial. And that is a direct result of not having adequate compensation systems in place to attract and retain the best available people. So when I hear people saying, we're not even going to talk about it, that is less than an acceptable response, in my view. [LR160]

MICHAEL NOLAN: Senator, the only thing you heard me say was that we needed to have a solution that was a good retirement plan, was actuarially sound and predictable, and affordable. Yeah, I'd... [LR160]

SENATOR WHITE: And nobody here has opposed that. [LR160]

MICHAEL NOLAN: ...if I caused you any offense as far as taking Omaha into account, what I was really trying to do with my point was to point out that, in fact, if you just look at the math and a trend line to that unfunded liability today would be $169 million but, in fact, it's substantially more than that. One of the elements you said caused that was the spiking, and I certainly agree with your comment on the spiking. [LR160]

SENATOR WHITE: And that, one can argue if spiking was taken out of that they'd be properly funded. [LR160]

MICHAEL NOLAN: I wouldn't quarrel with that. I have a difficult enough time making sure that our program is properly funded, and it all is after 20 years. [LR160]

SENATOR WHITE: The frustrating part, though, are we going to see from the municipalities, villages and cities the willingness to sit down with an open mind to talk about methods that do take into account the legitimate financial worries and fears of the cities and the villages? I don't deny that they exist and any reasonable plan has to look at that. [LR160]

MICHAEL NOLAN: Well, Senator, I can't speak for the league because I'm...I have a...the mayor is on the league exec board, but Lynn Rex answers to her board. All I can tell you is that every negotiation I've ever been involved in, in my life, whatever it is, including many that I was involved with, with Senator Landis, I negotiate my interests and my interests still are that it be actuarial sound, predictable, that it be a good plan that will take care of the legitimate interests of the employees, and that we can afford it. And those are the...it seems like, to me, that the easiest way for us to find out whether or not our interests are mostly shared and we get to "yes" is to get together and start having some dialogue. [LR160]

SENATOR WHITE: I think that's a wonderful response. Thank you. [LR160]

SENATOR SYNOWIECKI: I agree. Thank you for your testimony, Mr. Nolan. [LR160]

MICHAEL NOLAN: Yeah. [LR160]

SENATOR SYNOWIECKI: Any additional testifiers on the legislative resolution? Any additional testifiers? Seeing none, that will conclude today's hearing. I want to thank everyone for your participation and hopefully we can all get together and have some valuable discussions. Thank you. [LR160]