

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Nebraska Retirement Systems Committee February 21, 2025  
Rough Draft

**BALLARD:** Welcome to the Nebraska Retirement Systems Committee. My name is Senator Beau Ballard. I represent District 21, in northwest Lincoln in northern Lancaster County. And I serve as chair of this committee. This afternoon, we are-- be hearing LB76, LB433, and LB420. And we'll taking them in order listed outside the room on the table near the entrance. You will find green testifier sheets. If you're planning to testify today, please fill out one and hand it to Connie when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do not wish to testify but would like the record of your-- would like your record and position on the bill, please fill out the yellow sheet near the, near the front door of the room. Also, I would note the Legislature's policy that all record for the record-- all letters for the record must be received via online comment portal by-- the committee by 8 a.m. the day of the hearing. Any handouts must be su-- submitted by testifiers will also include as part of the record as exhibits. We'd ask that if you have any handouts that you please bring 12 copies and give them to the page. If you need additional copies, the page can help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we'll hear from supporters of the bill, then those in opposition, followed by those speaking in neutral capacity. The introducer of the bill will be-- then give, give an opportunity for a closing statement if they wish to do so. We ask that you begin your testimony by giving us your first and last name, and please also spell it for the record. Because this committee meets over the noon hour, members, members have other hearings beginning at 1:30. We'll be using the three-minute light system. When you begin your testimony, the light on the table will turn green. And the yellow light will mark your one-minute warning. When the red light comes on, we ask that you finish up your final thoughts. I'll remind everyone, including the senators, to please silence or turn off your cell phones And I will ask the committee to introduce themselves, starting on my left with Senator Sorrentino.

**SORRENTINO:** Hi. I'm Tony Sorrentino, Legislative District 39: Elkhorn and Waterloo.

**TREVOR FITZGERALD:** Trevor Fitzgerald, committee legal counsel.

**CONRAD:** Danielle Conrad, north Lincoln.

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

**BALLARD:** And our pages today are Jacob Janssen of Holdrege and Sam Johnson of California. And we will begin with LB76, with Senator Bostar. And as soon as Senator Bostar gets here, we will begin. We did our job by starting at noon. So yeah. We have-- Judiciary meets in here at 1:30, so we're trying to, trying to make sure we keep this at a, at a good pace.

**SORRENTINO:** Senator Ballard, do you want to flip? I'll do it.

**BALLARD:** You just want to flip?

**SORRENTINO:** It's OK with me.

**BALLARD:** Are OK with that? Hey, Lee. You have all your-- if we flip, everyone's here. Do you want to flip?

**TREVOR FITZGERALD:** OK.

**BALLARD:** OK.

**SORRENTINO:** That's fine with me.

**BALLARD:** OK. We'll go ahead and do that.

**SORRENTINO:** OK.

**CONRAD:** He's here today, isn't he?

**BALLARD:** I saw him.

**SORRENTINO:** [INAUDIBLE] Senator Bostar.

**BALLARD:** He's here. We're efficient in Retirement.

**BOSTAR:** Evidently.

**BALLARD:** 12:01. We're ready to roll.

**BOSTAR:** Thank you. Good afternoon, Chairman Ballard and members of the Retirement Committee. For the record, my name is Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r. Representing Legislative District 29. Here today to introduce LB76, legislation that makes two changes to the retirement benefits of members of the Nebraska State Patrol. The Retirement Committee and I have been working for a number of years to

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find solutions that would accommodate the needs of both our state and the members of the Nebraska State Patrol. These changes are simple adjustments that will make certain that our Nebraska State Patrol members and their families are fairly compensated for a career keeping us all safe. Portions of this legislation have been brought in recognition of the fact that negative and even life-threatening consequences to personal health can result from a career in law enforcement. Lifelong employment with the Nebraska State Patrol is physically and psychologically taxing, and we know that the stress they endure has measurable health impacts. According to a five-year study conducted by Buffalo University Professor John Violanti-- a professor of social and preventive medicine at UB School of Public Health and Health Professions-- the daily psychological stressors law enforcement officers are, are subjected to places them at considerably higher risk for various long-term physical and mental health challenges compared to the general population. The Buffalo Cardio-Metabolic Occupational Police Stress study found that almost half, 46.9%, of the officers examined were at an increased risk of suffering from metabolic syndrome, which is a combination of symptoms including abdominal obesity, hypertension, insulin resistance, stroke, and type 2 diabetes. In addition, officers who had served for more than 30 years had a higher risk of developing Hodgkin's lymphoma and brain cancer. In a 55-year mortality study conducted at the University of Iowa, researchers looked at the deaths of police officers verse the general population. A significantly higher percentage of officers died from every cause of death than the percentage of the United States' general population in the same age groups. Officer deaths from all malignant neoplasms or cancer combined were significantly higher than the deaths in general population. Likewise, deaths from all diseases of the circulatory system were also significantly higher than deaths in the general population. 46% of officers died of cardiovascular disease, with 35% dying of said disease by age 60. LB76 seeks to recognize the health and safety risks that the members of the Nebraska State Patrol face by increasing the surviving spouse benefit-- a payment made to a wife or husband of a state trooper who has predeceased their spouse-- from 75% to 100% of their retirement benefits. State patrol officers accept very real health and safety risks in order to keep our communities safe. It's imperative that our troopers know their families will be taken care of should the worst happen. Reaching sufficient staffing levels has become increasingly difficult in recent years for our police departments. While increases in pay are appealing, many departments are not yet seeing a corresponding increase in recruitment numbers. According to the

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International Association of Chiefs of Police, nationally, 78% of police agencies reported having difficulty recruiting qualified candidates. 75% of police agencies reported that recruiting is more difficult now than six years ago. 65% of police agencies reported having too few applicants for open positions. 50% of police agencies reported having to change policies and qualifications for candidates. And 25% of police agencies reported having to reduce services. In recent years, the State Patrol vacancy rate has continued to climb. In 2024, there were 72 vacancies out of an authorized strength of 482. That's up from 69 in 2023 and 54 in 2022. Nebraska is losing members of the Ne-- of the State Patrol at an alarming rate. And in order to maintain our State Patrol workforce, we must look for new ways to recruit and, more importantly, retain the troopers already serving the state of Nebraska. Fair and robust retirement benefits represent a clear step toward veteran trooper retention. The second portion of LB76 sets the annual cost-of-living adjustment, COLA, for retired state patrol officers at the lesser of the Change in Consumer Price Index, or 4%. Currently, for members hired before July 1, 2016, the COLA is set at the lesser of the change in CPI, or 2.5%. For members who were hired after July 1, 2016, the COLA is set at the lesser of the change in CPI, or 1%. LB76 would provide for the maximum COLA adjustment to be 4% regardless of the officer's date of hire. As a state, we overcorrected in 2016 when trying to shore up the fiscal health of this retirement plan. LB76 acknowledges that the buying power of the retirement benefits has been eroded by the current cap rates on the COLA. Since 2016, there has not been a single year where the CPI increase did not exceed 1%, meaning that for over nearly a decade, state trooper retirements for anyone who joined after July 1, 2026 are failing to keep up with rising costs. In recent years, we have seen 7.5% and 6.4% increases in CPI, meaning that for the multiple years in a row, state patrol retirements is falling behind the cost of living by more than 5% a year. For troopers who joined prior to July 1, 2016, across the last 20 years, nine years have seen inflation adjustments above 2.5%. 45% of the last two decades, the retirement of veteran Nebraska State Patrol members has failed to keep up with increasing costs of living. It's clear that current trends are unsustainable. LB76 is a simple and effective measure to ensure that our State Patrol members and their families are fairly compensated for their time serving our communities. With that, I thank you for your time and attention. I would encourage you to support LB76. And I'll be happy to answer any initial questions.

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**BALLARD:** Thank you, Senator Bostar. Are there any questions? Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Senator Bostar. Regarding the 75% or 100% annuity, I'm looking-- it looks like if the surviving spouse has a dependent under age 19, the benefit is 100%. Is that for the lifetime of that surviving spouse or does it stop at age 19?

**BOSTAR:** You know, that's actually a really good question. In order to be certain, let me check and, and get back to you. But I-- if I'm being honest, Senator Clements, to me, it doesn't, it doesn't really impact how I feel about the bill. The reality is folks who are in this profession die much earlier than if they weren't in this profession. And so in most cases, they will be leaving benefits to their spouse because they will die sooner. And so it only makes sense that because the job that we are asking them to do is, frankly, killing them that we are creating the same level of support for their family that would have happened if they, if they had lived longer.

**CLEMENTS:** All right. Thank you.

**BALLARD:** Thank you, Senator Clements. Any questions? Senator Sorrentino.

**SORRENTINO:** Thank you, Chairman. Senator Bostar, thank you for bringing this. And if there's somebody else you'd rather I ask [INAUDIBLE]. I've got some questions on the actuarial vacu-- evaluation results on page 3 of that handout. Would you like me to run them by you or is there somebody else you'd like to--

**BOSTAR:** Well, we might as well talk about it at least, see where we go.

**SORRENTINO:** They're [INAUDIBLE]. The results-- there's a chart there. And my first overall question--

**BOSTAR:** And I'm sorry. Which page did you say--

**SORRENTINO:** On page 3. It looks like that one.

**BOSTAR:** I-- thank you. Yes.

**SORRENTINO:** Is this chart trying to project that the cost of LB76, both parts for both with the 75% to 100% and also changing the COLA

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[INAUDIBLE], are both of those reflected in this chart or is just, just one of the two?

**BOSTAR:** Both.

**SORRENTINO:** OK. So we have a baseline of \$16 million. LB would make it \$21 million. So about a \$4.243 million impact, correct? I think.

**BOSTAR:** That-- I-- that is how I read the chart.

**SORRENTINO:** OK. And is it-- I, I looked at the bill. It's, it's a good bill, two parts of it. And I don't really have much of a problem at all with changing the benefits from 75% to 100%. That benefit kind of makes sense. It's in line with a lot of other plans I'm familiar with. My bigger question is on increasing the cost-of-living adjustment. If I read the chart right, currently, the plan is about an 85% funding methodology or funding level. With LB76, it would drop to 79.92%, a drop of about 5%. We've had this discussion, I think in this committee, on-- are they-- teachers pay, where I want to say that plan is funded, like. 99.5-- something really, really high. And so we're getting closer. So my question just for you to opine on is, does it make sense to increase the cost of a plan that still has about a 15% funding ratio? Just a philosophical plan.

**BOSTAR:** Yes.

**SORRENTINO:** That was quick. OK. Even with the \$4 or \$5 million price tag.

**BOSTAR:** Look, I mean, it-- for the COLA, I-- look, I appreciate-- I, I truly do-- I appreciate your support for the surviving spouse benefit. I think that that's absolutely critical. And the current system is, is deeply unfair, especially considering the profession that we've tied the, the current regime to.

**SORRENTINO:** No concern at all.

**BOSTAR:** The COLA for one-- you know-- and I know it's not uncommon, right? But, but having split COLA rates depending on your hire date is, is certainly problematic. And considering that anyone after the-- I think it was July 1, 2016-- is at 1% or CPI, whichever is lower, is-- it's embarrassing. I-- you know, I, I believe we need to maintain the fiscal health of the plan. But at the same time, it's-- I don't know how to justify saying that you get 1% or CPI, whichever is less-- particular--

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**SORRENTINO:** it's almost always going to be 1%.

**BOSTAR:** --particularly coming out of an inflationary period where, you know, recently we were seeing double digits. I mean, that's just-- it's, it's wreaking havoc on folks who have given an entire career to this profession for all of us, and, in many cases, can't do anything else and-- because of the career that they've, they've given to the state of Nebraska. And, and this is, this is the fixed income they're on. And we're just-- we're leaving them behind.

**SORRENTINO:** I don't necessarily have a problem with the, the 4% level. It's-- and not much we can do about it right now. It's just the funding level. I wish we were closer to 95 and this would be like that, but.

**BOSTAR:** So do I. And if it was up to me, truly, I-- it would just be they get CPI, right? I mean, that's-- philosophically, right, that's the right thing to do for the retirees of the Nebraska State Patrol.

**SORRENTINO:** Thank you.

**BOSTAR:** Thank you.

**BALLARD:** Thank you. Any additional questions? Senator Conrad.

**CONRAD:** It is really a comment, but I wanted to thank you for bringing this measure. I know that you brought similar measures in the past and we've made progress in recent years in regards to equity and dignity for our first responders and their families, but we did leave some important parts behind. So I'm really glad that you reintroduced that for this biennium. And then just want to note the importance of the timing of this hearing, when everybody's heart is with the NSP family after such a tragic week, and it's a good reminder about how those who serve and-- their families serve with them and are impacted when they put their lives on the line for us every, every day, sometimes even, you know, in what you think would be a less dangerous situation. It-- there's always a lot of danger when you're, when you're out on patrol, so. I, I really appreciate you bringing this forward. And just want to note the, the timing for the record.

**BOSTAR:** Couldn't agree more with your statement.

**BALLARD:** Thank you, Senator Conrad. Any additional questions? Seeing none. Thank you, Senator Bostar. Before we get to the first proponent, just a show of hands: how many do we have testifying in support of

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LB76? OK. Wonderful. I'll take the first proponent for LB76. Good afternoon. Go ahead.

**LUCAS BOLTON:** Good afternoon, Chairman Ballard and members of the Retirement Committee. My name is Lucas Bolton, L-u-c-a-s B-o-l-t-o-n. And I serve as the legislative representative of the State Troopers Association of Nebraska. I'm a criminal investigator. I've been with the Nebraska State Patrol for nearly nine years. And I am here today to testify in support of LB76. This bill introduces two key changes that address concerns raised by our retirees while also improving recruitment and retention by strengthening our benefits package. The first proposed change increases the cost-of-living adjustment cap from 2.5% or 1% to 4% for all members. It's not a secret that inflation has hit everyone hard recently, but our current retirees are capped on a COLA at 2.5%, and our tier two members will be capped at 1% when they retire. This is just not enough to keep up with inflation and ultimately devalues the benefit of the members' pensions. Some numbers for you. In the past 30 years, the CPI was greater than 1% 83% of the time. It was greater than 2.5% 47% of the time, while only being greater than 4% 10% of the time. It would be my preference to ask that there be no cap at all on the COLA and we'd just be allowed to match the CPI each year. But the 4% cap proposed is a reasonable compromise and provides a safeguard for the state against the years of extreme inflation. The second change increases the surviving spouse benefit from 75% to 100% of the trooper's annuity. This change is not just about supporting the troopers. It's about supporting the spouses who make their careers possible. Being a Nebraska state trooper is demanding. We work nights, weekends, and respond to calls at all hours. I can't remember how many times I've been called at 1 or 3 in the morning to respond to fatal crashes, sexual assaults, or other crises. And each time my wife understood I had to go to work. And she will continue to understand that this will happen as long as I serve. She takes on the full responsibility of managing our home while I serve the public. I know that this is common among all my coworkers and their spouses. Without this-- without the dedication and sacrifice of our spouses, troopers could not do this job at the level required: the level that is asked of us by the public. Earlier this week, I received the heartbreaking news of Trooper Kyle McAcy's and-- line of duty death. Kyle's pride in being a trooper and his dedications to the citizens of Nebraska can never just be explained. I, I don't think the words exist. I had the privilege of working with Kyle, and I can say with certainty that he embodied the meaning of public service. In the middle of a snowstorm while assisting in a multivehicle crash, Kyle

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made the ultimate sacrifice in helping citizens in need. When a trooper is lost, their family's left not only with ima-- unimaginable grief, but also financial uncertainty. For the families that rely on the trooper's income, losing the trooper is devastating. Losing part of the income causes significant financial strain at an already impossibly difficult time. By increasing the survivor benefits to 100%, you would be promising our families the support that they deserve. This is about doing what's right for the families who sacrifice just as much as we do. These proposed changes will not only address concerns from our retirees, but it'll also improve the recruitment and retention of the State Patrol. Much like Senator Bostar spoke earlier, I-- we have many vacancies, and it does not seem to be correcting at this current time. By strength-- by strengthening our benefits package, we ensure that we not only support current troopers and retirees but also make the Nebraska State Patrol a more competitive and attractive career for new recruits. I sincerely thank Senator Eliot Bostar for recognizing these critical issues and introducing LB76. I strongly urge this committee to support this bill, as it will benefit all past, present, and future troopers. Thank you for your time and consideration. And I would be happy to answer any questions you might have.

**BALLARD:** Thank you so much for your testimony. Are there any questions? See no-- I, I have one. Is, is-- when you talk to young troopers, is retirement-- is that a recruitment tool? Are they thinking about retirement when they're young?

**LUCAS BOLTON:** It, it becomes one when you actually talk on-- like, on the surface, it's, it's probably not the most immediate thing. But when you actually sit there and have a conversation with somebody and you can explain to them our benefits package that you put in your time and you will be able to retire and live, well, comfortably after you do that, it, it-- I do-- I can-- I was-- about ten years ago when I got hired on, and I know what-- how I felt after I-- you know, I was excited to get the job as a trooper. And I'm like, this is cool. This is an awesome job. And then once I was a little bit deeper into that recruitment process and understood the full weight of what the actual benefits were, I-- like I said, I have a lot of family in law enforcement, and there was other agencies I thought about going to. But the benefits the State Patrol offered really is what drew me towards that agency.

**BALLARD:** OK. Thank you so much. Thank you for your testimony and your service. Any fi-- I appreciate it. Thank you.

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**LUCAS BOLTON:** Can I make one more comment?

**BALLARD:** Yeah, please.

**LUCAS BOLTON:** Just to answer Senator Clements' question. When a child does reach the age of 19, that spousal benefit is dropped down to that 75%.

**CLEMENTS:** OK. Thank you.

**LUCAS BOLTON:** Yep. Thank you, senators.

**BALLARD:** Yes. Thank you. Next proponent for LB76. Good afternoon.

**LINDA SPIEGEL:** Good afternoon, Chairman, members of the Retirement Committee. My name is Linda Spiegel, spelled L-i-n-d-a S-p-i-e-g-e-l. My husband, Dave, and I were married 37 years and have three daughters, two of which are here in support today. During that time, Dave served-- sorry-- served as a decorated trooper and criminal investigator with the Nebraska State Patrol. He served the citizens of Nebraska for 26 years. He retired in 2007. Following his retirement from the Patrol, he was elected and continued to serve our community as the Boone County Sheriff in Albion. In 2010, he was diagnosed with glioblastoma brain cancer. Dave succumbed to this cancer. In 2014, as we were getting our affairs in order, we were totally caught off guard to find out about the reduction in the surviving spousal benefits. It was hard enough losing him, but then to find out I would only be receiving 75% of his retirement check was truly disturbing. Wondering how I was going to make ends meet with such a reduction in monthly income was frightening to consider. We also had to identify new health insurance coverage for me, as the state insurance terminated when Dave retired and the county insurance terminated upon his death. Having to choose and implement a new health plan to maintain coverage and determining whether or not I would be able to afford it was not an easy task, especially in a time of mourning and starting a life without my husband. I am speaking not only on my behalf but also for the others who experienced the same difficulties before me and for those who have yet to endure them. It is an extremely stressful road to negotiate after losing that support, especially while trying to raise a family on your own, and then to have those roadblocks thrown in place makes it even more difficult. As the spouse of a Nebraska state trooper, we understand the risks that come with the life we signed up for. We dedicate our lives to support them, especially when bad things happen. We always have their back. The same support is all

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that we are asking from you-- from this state once our loved ones are gone. I strongly encourage you to honor those who have served and for your support of LB76 so families can transition with more security. Thank you for allowing me to testify today. And I'll be appy-- happy to answer any other questions.

**BALLARD:** Thank you so much for being here and your testimony. Are there any questions? Seeing none. Thank you so much.

**LINDA SPIEGEL:** Yes.

**BALLARD:** Next proponent for LB76. Colonel, how are you?

**TOM NESBITT:** I'm doing great. Back here another year. So. Thank you for the opportunity to speak today. My name's Tom Nesbitt, N-e-s-b-i-t-t. I'm a retired member of the Nebraska State Patrol. And I stand before you in strong support of LB76, a bill that ensures fairness, dignity, and financial security for the families of Nebraska state troopers. We ask our troopers to stand in harm's way every single day, and this reality hits much closer to home after losing Trooper Kyle McAcy this week in the line of duty. He gave that ultimate sacrifice in service to this state. And now his family bears the unimaginable weight of that loss. This is not an abstract policy decision-- discussion by any means. It's about real families, real sacrifices, and real consequences. The burden of service doesn't fall on the trooper alone. It falls on their spouse, their children, and their loved ones who carry the weight of uncertainty every time they walk out the door. I know this firsthand, not just from my own career, but from standing besides family who lives-- live this unthinkable. I remember the moment that I heard trooper Mark Wagner had been killed. I remember standing in his family's home, looking into the eyes of his dear wife, Denise, as she struggled to make sense of what had happened. I saw the heartbreak, the unanswered questions, and the reality that her life and the lives of their children had been forever changed. But what struck me most were the challenges she faced that I hadn't even considered-- not just grief, but the financial uncertainty, the administrative hurdles, the worries about providing for her family after losing the person they depended on. Years later, I experienced just how deep that loss runs. Mark's daughter came to me and asked if I would walk her down the aisle at her wedding, because that was supposed to be her father's role. That was her dream, to have Mark standing beside her on her wedding day, to have him be part of that moment. But because the sacrifice he made because of the dangers that come with wearing a uniform, he wasn't there. I had the honor of

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stepping in that day, but the reality is that nothing can ever replace a father, a husband, or protector. The surviving spouse and children suffer far more than anyone can imagine. I have seen it firsthand, not just with the Wagner family, but with many others. It is gut-wrenching. It's hard to understand, but what I do understand is that these survivors need our support. LB76 helps with that. Under the con-- current system, it's 75%. There's just no reason-- just makes perfect common sense to increase that to 100% for the spouses. And besides that, the-- LB76 ensures a fair cost-of-living increase of retired troopers. And there's no reason that we don't fix that issue now. And, and-- because they're putting their lives on, on-- obviously on the line every day that they work. And that would do a great thing by increasing that by-- up to 4%. This just isn't about money. It's about honoring the commitment that we made to those who protect us. We cannot afford to let troopers' families struggle after they have already given so much. I stand here today on-- not just on besi-- myself but also of every trooper who's served, every spouse that have stood with and beside them, and ask you to support LB76. Thank you for your time.

**BALLARD:** Thank you so much for being here. It's good to see you. Are there any questions? Seeing none. Thank you so much.

**TOM NESBITT:** Thank you.

**BALLARD:** Next proponent for LB76. Good afternoon.

**FREDERIC STORM:** Good afternoon. Thank you for letting me address this committee today. I'm Frederic Storm, F-r-e-d-e-r-i-c S-t-o-r-m. I retired from the State Patrol last month after 30 years of serving as a state trooper. It has been an honor to serve the citizens of Nebraska. I'm here to ask for your support on LB76. During my service as a state trooper, there was someone by my side and in the shadows that supported me and was always there for me. This person received no medals, was not celebrated by the public, but always made sure I was fed before I left for work. She packed my lunch knowing I may not have time during my shift to eat. When the phone rang in the middle of the night, it would wake her. If I had to respond to a scene in the middle of the night, she was there to make sure that I had what I needed and a warning to be careful. When I returned home, always after 2:00 and later, she would be waiting and offer me anything that I needed. When I was deployed or had gone to training or assignment, she took care of our daughter and worked a job of her own. As hard as that was, she allowed me to focus on the job I was doing. So in November 20 last

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year, I returned home without a uniform, no patrol car in the driveway. On January 6, I retired. The concern of every retiree is, will I have enough to live a quality life in retirement? As long as I can still work, I should be comfortable. If we should go through another couple of years of high inflation, things could get tight. If I should die, she will take a reduction in survivor benefits. I am asking you to give the same consideration to my wife I have given the citizens of Nebraska. When someone needed help, they received 100% of my help. I didn't reduce my efforts because it was late or inconvenient. In 2009, I was, I was debt free after returning home from a deployment. In 2017, I was on the verge of bankruptcy and heavily in debt. Between part-time jobs and being very conservative in spending, we were able to get out of debt. Looking forward, if something happens to me, I'd like to know my wife isn't going to have to worry about losing me and having to survive on less. During my career, we lost troopers in the line of duty to tragedies like cancer, heart attacks, and suicides. Spouses and children of these troopers had to forge on with life due to no fault of their own and had to make do with less. This bill should help the people to take care of the troopers that work for you. People tell us we do a great job and thank us for our service, and that is nice. It would mean the world to us to know that the people that take care of us will be cared for when something happens to us. Thank you for this opportunity to tell you how important this was to me.

**BALLARD:** Thank you so much for your testimony. Are there any questions? Seeing none. Thank you so much for being here. Next proponent for LB76. Seeing none.

**VERONICA JONES:** Do you have to have prepared something or no?  
[INAUDIBLE].

**BALLARD:** You don't have to. Come on. But we will have you do a green sheet, but we can do that later. Just make sure you get that green sheet to Connie. So. Good afternoon.

**VERONICA JONES:** Thank you for hearing me today. My-- I am retired trooper 165. My name is Veronica Jones, V-e-r-o-n-i-c-a J-o-n-e-s. I listened here today, and I thought that my testimony could provide a unique and different experience because, as you may notice, I'm probably the youngest person in the room. And I'm also a female. So as everyone talks about their, their wives that supported them, I too have a spouse who was very supportive. But I'm 39 years old. I'm unable to do any form of employment after serving 20 years in the

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Nebraska Army Guard and 10-plus years in the Nebraska State Patrol. I have five medical conditions that the army deemed completely unfit for service. Not the VA. Anyone who knows, they're different. But I have five conditions that the army said are no longer suitable and the same conditions that the State Patrol said are not [INAUDIBLE]. I'm also 39 years old and I'm uneligible for life insurance. So I do worry about my family after I go. And both of these impact me because at 39 years old, if my retirement is beneath the inflation-- if I live a long life, one half of this bill will reduce my retirement by 25% anyway. Just for my own sake, while I'm alive-- I have enough years of life. I'm going to see that reduction of 25% before I die. Or I die young and then there's 25% lost overnight for my, for my spouse. So that's-- that is my perspective. And I'm not insurable because of my medical conditions, and I will say that they are due to my service. I could get into the details, but they're also kind of personal. But all of them are from re-- the body armor that's worn on a daily basis. Maybe I will get a little personal. My pelvic floor collapsed entirely. All my pelvic organs. That affects me daily. And this is very personal, but I cannot go to the restroom like a normal human being. That alone prevents me from employment, and that's specific to the job. But I also have ortho, bad necks, torn labrums, ten hand surgeries. These jobs are demanding, both of them-- the military and the State Patrol. They are different than other jobs. And all I have for my family, for my future, is what you guys sustain or pass. So I ask for your help and your support. And on a second note, as far as whether it's a recruitment, I would agree that most people do not consider it at employment. I will say I'm different. I was in the final five-- top five for Lancaster County. They were selecting three individuals. And when I looked at retirement, that is when I turned them down. And I realized that the Nebraska State Patrol was at the time the top two for retirement. And I said right then and there I'll be-- between OPS-- or, or, you know, Omaha or the State Patrol. And I'm the last camp that graduated with tier one benefits. And I absolutely picked the State Patrol for retirement benefits. And if it's not recruitment, it's retention. Because once they get in and figure out the difference, you lose people to Omaha all the time. So thank you for hearing me today.

**BALLARD:** Yes. Thank you so much for being here and your service. Are there any questions? Seeing none. Thank you so much. Any other proponents? Seeing none. Anyone in opposition? Seeing none. Anyone in the neutral capacity? Seeing none. Senator Bostar.

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**BOSTAR:** Thank you, Mr. Chairman and members of the Retirement Committee. You know, as you heard, we, we have a significant staffing shortage in the Patrol. And, you know, there's, there's basically two directions to go to try to solve that: you work to get more folks into the job and you work to keep folks from leaving the job. And while-- as was stated, you know, maybe retirement benefits aren't the number one thing a young person is evaluating. For some it is. But, you know, it, it wouldn't surprise me if for most it isn't. It still impacts staffing because it is that question that, that was just brought up by the last testifier of, how do we get people to stay? You know, Nebraska, sort of-- no matter where national unemployment rates are, Nebraska's always at or around the bottom. We need, we need workforce across the board. There are, there are a lot of opportunities out there. So it's really, really easy to lose folks, especially lose folks from a job that's as critically demanding as this one. So I absolutely believe this helps with our staffing numbers. And it's also just the right thing to do. And-- so I would ask the committee to help do the right thing on both of these fronts. I understand that the plan-- that they-- that may require the plan to be further supported. We want the plan to be healthy. But I don't think that the individuals that we would be benefiting should be punished because of fiscal situations that are completely outside of their control. And so that's what we would be talking about. With that, I thank you for your time. And I'd be happy to answer any questions.

**BALLARD:** Thank you, Senator Bostar. Are there any final questions? And-- see none. Before we close the hearing, we did have 12 written support comments and 1 opponent and no in the neutral. So.

**BOSTAR:** Thank you.

**BALLARD:** Thank you, Senator Bostar. That will close our hearing on LB76, and we will open up our hearing on LB433. Senator Sorrentino. All right. Whenever you're ready, Senator Sorrentino.

**SORRENTINO:** Thank you, Mr. Chairman Ballard and members of the Nebraska Retirement Systems Committee. My name is Tony Sorrentino, T-o-n-y S-o-r-r-e-n-t-i-n-o. And I represent Legislative District 39, in Elkhorn and Waterloo in Douglas County. I bring to you today LB433. This bill was brought at the request of the Department of Administrative Services. This is only an 8-page bill, but I will give you as thorough an understanding as I can in the least amount of time possible. The intent of this bill is to, one, exclude deputy directors and attorneys in the State Personnel System, thus making them

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discretionary employees and, two, allows previous permanent employees to be rehired as a temporary employee without having to wait for the 120-day break in service required by the State Employee Retirement System. First, exempting deputy directors from the State Personnel System will allow directors of agencies to recruit, hire, and manage the agency's leadership's potential successors more competitively and consistent with the goals of the agency without restrictions of the State Personnel System. Deputy directors are key in operations, fulfilling agency objectives, supervision of employees, satisfying policy objectives, all of which were subjective to the agency director, who is appointed by the governor and approved by this body, the Legislature. Deputy directors may act as the agency director in certain circumstances, thus they have a great responsibility, which would have more direct accountability to the agency director. This also gives agency leaders more discretion on compensation to bring in their number two or their successor to a trusted leadership position. Secondly, excluding attorneys at state agencies from the State Personnel System will allow attorneys to be paid more and allows for increased accountability of agency legal counsel. This will bring attorney employment into compliance with the ABA Model Rules of Professional Conduct and the Nebraska Rules of Professional Conduct. Attorneys must maintain the highest standards of ethical contact--conduct. Their conduct is guided by the Nebraska Rules of Professional Conduct, which is abbreviated NRPC. Section 3-501-1-- 16 comment states, and I quote, a client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute among-- about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances. It is a fundamental tenant in the practice of law mandated by the NRCP-- NRPC that certain powers must remain with the client. One of these rights is the right to discharge your attorney at any time, with or without cause. Attorneys covered by the State Personnel System are inconsistent with this rule. The state agency, as the client, is not able to discharge their lawyer at any time, with or without cause, when the attorney is under the State Personnel System. Agencies should have the discretion in their legal representation just as any of us would. Attorneys are highly educated-- except for myself-- adhere to rules of professional conduct, may have specialized positions within agencies, and often have subjective performance reviews. The exemption of deputy directors and attorneys makes the state more competitive for top executive leadership of agencies and legal professionals. LB433 would only apply to newly hired deputy directors and attorneys after the bill goes into

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effect unless those employees opt to become discretionary upon enactment. The Nebraska Bar Association's 9,300 members and this bill-- and this bill only applies to 1% of the Nebraska State Bar Association. Some objections that I might come up-- that I will anticipate bringing up here might be from opponents of this bill might include the following. If attorneys become discretionary employees, attorneys may have to alter or color their legal opinions-- maybe even for political reasons-- to protect their employment. That is incorrect. The Ne-- the NRPC tells Nebraska lawyers exactly what to do when they are employed by an organization and representatives are acting unethically or illegally. That is Section 3-501.13. Attorneys also deal every day with clients who wish the law was different in a way that would benefit them or their organizations. This is a fundamental reality in every attorney's practice of law. Secondly, it is extremely complicated to figure out who the client is when employed by the state, that attorney should stay within the State Personnel System. This is incorrect. As an attorney, it is not difficult to determine who your client is. Every practicing lawyer can tell you who-- what their client is at all times. Distinguishing the client in order to render appropriately framed advice is a basic competency of every attorney. An attorney who cannot determine who or what their client is could not render appropriately framed legal advice. Giving such an attorney protection from dismissal does not help to solve this problem. NRPC Section 3-501.13 addresses what an attorney must do when an employee-- when employed by an organization where representatives are acting unethically or illegally. NRPC Section 3-501.2(f) provides guidance for attorneys when a client does not take your advice. The current system vests rights in lawyers. Nebraska Rules of Professional Conduct vests the rights in the client. It would be no defense to an ethics complaint that an attorney could not figure out who their client is or what they did not know what to do and when a client representative acts inappropriately. These issues are explicitly determined by the NRPC. Secondly, this bill will allow previous permanent employees to be rehired as a temporary employee without having to wait for a 120-day break in service, as required by the State Employee Retirement System. Current law requires that a permanent employee contributing to retirement who leaves employment within the state of Nebraska must wait for 120 days before being hired-- rehired. This change will allow for a rehiring in a temporary capacity without waiting for 120 days and allows the employee to resume retirement contributions. This is helpful to state agencies, in particular the Nebraska Department of Veterans Affairs, for nurses who may be furthering their education. They would have to leave permanent

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employment to go back to school, but the NDVA wants to hire that same nurse as a temporary employee. The 120-day wait is a constraint to meeting the agency's staffing needs. This also may benefit agencies during times of transition to meet short-term staffing demands. The Department of Administrative Services has worked with the Nebraska Public Employees Retirement System to identify mutually favored language, which is encompassed in LB433. Again, this bill's intent is to do two things: one, exclude deputy directors and attorneys from the State Personnel System, thus making them discretionary employees; and, two, allows previous permanent employees to be rehi-- rehired as a temporary employee without having to wait for 120-day break in service, as required by the State Employees Retirement System. Representatives from the Department of Administrative Services will follow to answer any specific questions that I'm unable to. Thank you.

**BALLARD:** Thank you, Senator Sorrentino. Are there any questions?  
Senator Conrad.

**CONRAD:** In the interest of time [INAUDIBLE].

**BALLARD:** OK.

**CONRAD:** I have a lot of questions.

**SORRENTINO:** I love restrictions on time. Thank you.

**BALLARD:** Thank you, Senator. Seeing no questions. First proponent.  
Director. Good afternoon.

**LEE WILL:** Good afternoon. Good afternoon, Chairman Ballard and members of the Nebraska Retirement Systems Committee. My name is Lee Will, L-e-e W-i-l-l. And I'm pleased to support LB433. And thank Senator Sorrentino for sponsoring this proposal on behalf of the Department of Administrative Services and multiple state agencies. LB433 impacts the state's employment practices as it relates to two provisions. One, it exempts deputy directors and attorneys from being subject to the State Personnel System. And two, eliminates the wait time for rehiring a permanent employee on a temporary basis as it relates to retirement contributions. As I briefly mentioned, the interest in the proposal extends beyond DAS to affect all other state-- all state agencies and the public servants who conduct the state's business within the executive branch. With DAS state personnel overseeing all aspects of state employment, we have no-- we have an obligation to help simplify and improve employment opportunities at the state while remaining

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competitive in recruiting talented government leaders. This is our intent in bringing LB433. Deputy directors and attorneys of specialized author-- authority roles within the agency operations, and it is reasonable to expect that these deputy positions are selected with discretion by the agency directors and that a salary is established in accordance with these obligations. It stands to reasons that direct-- stands to reason that directors appointed by the governor and approved by the Legislature should select their deputy as one who will provide leadership consistent with, with their own and that of the administration, especially if or when the deputy may serve as director from time to time. Attorneys provide fundamental support to agencies and have significant influence based on their legal adeptness and guidance to agencies and their operations. Attorneys understand that, given such an influential-- influential position, their legal practice must be steered by a code of ethics, specifically the rules of professional conduct. First and foremost, we believe that the inclusion of attorneys in the State Personnel System is directly in conflict with the Nebraska Rules of Professional Conduct and the client's right to discharge the lawyer at any time. Further, exempting attorneys from the State Personnel System will then make discretionary salaries also possible so agencies are able to increase wages and more competitively pay attorneys whose skill sets may be vied, vied for in other sectors outside of state government. This may allow the state to keep these respective experts within our organizations. Giving current employees the option to become discretionary upon enactment of the bill will afford those currently serving as deputy directors or attorneys the ability to decide what works for them and gradually make the shift across the enterprise. Agencies that currently have state employees exempt from the State Personnel System-- which includes attorneys-- are the Governor's Office, Policy Research Office, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Auditor's Office, Legislature, courts, Board of Ed Lands and Funds, Public Service Commission, Commerc-- Commission on Industrial Relations, Department of Education, state colleges, university, Coordinating Commission of Postsecondary Education, Commission on Public Advocacy, Tax Equalization and Review Commission, as well as a number of specialized medical profession-- professionals in agencies such as DHHS, Veterans Affairs, and banking and finance. Finally, in Section 2, we propose to revise the State Employees Retirement Act to remove a hurdle for agencies to rehire employees on a temporary basis. Currently, if a permanent employee steps down from public service, they cannot be rehired until they wait 120 days. And I thought Senator Sorrentino had a great example of NDVA and their ability to hire

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nurses and other things for continuity of care. So with that, I'd be happy to take any questions.

**BALLARD:** Thank you, Mr. Will. Are there any questions? Seeing none. Thank you so much.

**LEE WILL:** Thank you very much.

**BALLARD:** Next proponent. Good afternoon.

**BO BOTELHO:** Good afternoon, Chairman Ballard and members of Nebraska Retirement System Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o. I'm the Chief Legal Officer for the Department of Health and Human Services. I'm here to testify in support of LB433. This bill would enable the Department of Health and Human Services and the state to offer competitive salaries aligned with the job market, especially for attorneys, and attract high-caliber legal professionals. The department has faced challenges due to the loss of experienced attorneys and has struggled to attract new talent due to salary limitations. A comparative analysis of the state wages for attorneys and those of other public sector employers show the state significant disparity. We're far lower than our competitors, which would be the counties and, and cities with the state current pay scale for attorneys. We can't even compete with Lancaster or Sarpy County or Douglas County, much less the private sector. That's non-- that's a different world. Hi-- high turnover among attorneys is costly and diminishes the ability to effectively provide consistent and timely legal services, which increase the risk to the state and taxpayers. This bill would create flexibility to adjust attorney salaries based on their experience and skill level. Current system does not allow that. The Legislature has already made other licensed professionals discretionary per statute: MDs, pharmacists, psychologists. Attorneys are licensed professionals. Attorneys are hired for their professional expertise and serve the state in their professionally licensed capacity. They are not running programs. They are not driving policy. They are acting in their professional capacity in the same way they would in the private sector. This legislation would not impact currently employed attorneys in a classified position unless they so choose to take advantage of the discretionary position. They would not be impacted at all. We respectfully request the committee to advance this bill to General File. Thank you for your time. And I'm happy to answer any questions.

**BALLARD:** Thank you, Mr. Botelho. Are there any questions?

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**CONRAD:** I have one.

**BALLARD:** Yes, Senator Conrad.

**CONRAD:** Quickly for the record, because I don't want to miss the opportunity. I appreciate Mr. Botelho being in the chair and providing this information, but I just wanted to ask this. Maybe you can follow up with us after the hearing or others that are engaged in this issue and-- without conceding some of the ethical and policy arguments that others have made thus far. I, I'm wondering does-- is it avail-- do we have it some place available to know how much the state or state agencies or the AG is spending on outside legal contracts? If we could maybe round that up, I would just-- I think that would just be kind of helpful from a related fiscal cost component, to, to grab that if, if we can continue--

**BO BOTELHO:** We can, Senator.

**CONRAD:** --the conversation. OK. Thanks.

**BALLARD:** Thank you, Senator Conrad. Any additional questions? Seeing none. Thank you for your time.

**BO BOTELHO:** Thank you.

**BALLARD:** Next proponent. Seeing none. Any in opposition? Good afternoon.

**TIM HRUZA:** Good afternoon, Chair Ballard, members of the Retirement Systems Committee. My name is Tim Hruza. Last name's spelled H-r-u-z-a. Appearing today on behalf of the Nebraska State Bar Association in opposition to the bill, LB433. I do want to start by thanking Senator Sorrentino for the conversations that we've had. I also want to start by explicitly thanking DAS. We started our conversations over this back in December and where the Bar Association might land, and they've been patient with me, and we've had a good back-and-forth to this point. But I appear today in opposition. Maybe some history. This bill has been introduced, I think, three times now in two-year intervals-- the last time by Senator Flood-- in a, in a form by which the Bar Association did not oppose that bill. And I-- and I'm speaking specifically to the legal counsel's issue, not the, not the other piece of the bill that deals with the retirement systems. But the Government Committee has had this the last couple of times that we have engaged. We opposed the bill as it was initially introduced, I believe, in 2019 in, in substantially the same form. I

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think the one major difference on the legal counsel's side and the deputy director's side is the governor making decisions on those salaries. I'm not really here to make-- take a position on that, but it was discussed with our group about whether that was appropriate, particularly with the balance between a-- code agencies and noncode agencies. I think the, the crux of my opposition today comes at concerns that have been raised from lawyers over potential retribution for giving via-- as we've mentioned the rules of professional conduct-- giving a client advice that is both ethically required when it comes to what they can and can't do under the auspices of the law. And I know we've had a little bit of back-and-forth over the ethics rules today. I would tell you that this structure is pretty long-standing in terms of how lawyers for the state are handled in the Personnel System. I also would tell you that we've had discussions with DAS too about maybe it's appropriate to request an ethics advisory opinion if they feel strongly that, that the structure we currently have-- again, in state statute, as a-- as agreed to by the, by the government with those employees-- whether it may or may not violate the rules of professional conduct. I think that's well within the purview of what those advisory opinions are for. Suffice it to say, though, there is a version of this bill that we would be in support of. We think it's totally appropriate to say that deputy directors should be serving at will. Those people make decisions and make policy decisions and help advise. I think the last version of the bill that we have-- we did not take a position in opposition to-- would have allowed agency legal counsels, head legal counsels to be terminated at will. Again, those people act as de facto deputy directors at times. It, it makes sense for us. We also understand the need for larger agencies, to a certain extent, to have that authority. And so our last-- I think the compromise we came to in 2019 with the administration then was a version of the bill that structured that out differently. This bill goes back to the original version of the bill, and, and we stand here with the same objections that we had before. I don't think you have to look far in the news to see where this can become a real issue for an attorney, especially at the smaller agencies, who's giving advice that may be contrary to what their superior would like to see done, whether or not they understand that it's legal or not. So with that, I'm open to any questions. I appreciate the conversation and would love to continue it off the record if we need to do that too.

**BALLARD:** Thank you, Mr. Hruza. Are there any questions? Seeing none. Thank you. Any additional opposition? Anyone in the-- seeing none.

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Anyone in the neutral capacity? Seeing none. Senator Sorrentino. While Senator Sorrentino comes up, there was no proponents, no opponents, or no neutral in the written po-- in the written comments.

**SORRENTINO:** Thank you, Chairman Ballard. In the interest of time and brevity, I, I would just ask that you give our bill strong consideration. As was evidenced by the last witness, there could-- or-- may be some room for negotiations and amendments on this. And I appreciate your time.

**BALLARD:** Thank you, Senator Sorrentino.

**SORRENTINO:** Thank you.

**BALLARD:** Are there any final questions? Seeing none. Thank you. That will close our hearing on LB433 and open up our hearing on LB420. Good afternoon.

**TREVOR FITZGERALD:** Good afternoon, Chairman Ballard, members of the Nebraska Retirement Systems Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d. And I'm introducing LB420 on behalf of the committee. LB420 was originally introduced as a placeholder bill in the event that any changes to any retirement plan administered by the Public Employees Retirement Board, or PERB, were necessary during 109th Legislature. I would note that, last week, Senator Ballard filed an amendment, AM198, which would strike the provisions of LB420 and replace them with provisions regarding state contributions to the Nebraska Retirement Fund for Judges. AM198 is designed to address an issue that was originally raised by the Auditor of Public Accounts as a regular audit of the Nebraska Public Employees Retirement System, commonly referred to as NPERS. Last fall, as part of the biennial budget process, NPERS submitted an appropriations request for the state's statutorily required contribution to the judges retirement plan, which has been the traditional practice when state contributions to retirement funds are required. When the Auditor's Office conducted the audit, they noted that technically the statutory language governing the sta-- state contribution to the judges retirement plan provided for that contribution to occur by way of an administrative transfer by the State Treasurer. So the appropriations request was a duplicate request. A management letter from the Auditor's Office detailing this find-it-- finding was made public earlier this month, and a copy of the letter was included in your materials. After the issue was brought to the attention of the Legislative Fiscal Office and the Governor's

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Budget Office, a meeting was convened with representatives from both offices, as well as the auditors and NPERS, to discuss the best solution from both a budgetary standpoint and a statutory standpoint. AM198 would address the statutory issue by striking the language referring to the administrative transfer by the State Treasurer and replacing it with a language stating that the state shall contribute the required amount to the plan. I would note that upon a brief review of similar language in the statutes governing various other retirement plans managed by NPERS, it may be necessary in the future to amend other language referring to state contributions as transfers. Given that this issue came up late in the, in the session, this other transfer language will likely have to be addressed next year as part of a technical bill. A representative from NPERS is here to testify behind me regarding the issue in AM198, but I would be happy to try and answer any questions at this time.

**BALLARD:** All right. Thank you. Are there any questions? Seeing none. Thank you. Good afternoon.

**TAG HERBEK:** Chairperson Ballard, Nebraska Retirement Systems-- Nebraska Retirement Systems Committee members. I am Tag Herbek, T-a-g H-e-r-b-e-k. I am the legal counsel for the Nebraska Public Employees Retirement Systems and the Public Employees Retirement Board. I'm here today as a proponent of LB420 as amended. LB420 with AM198 fixes what a technical funding path anomaly in the Nebraska Judges Retirement Act. For an unknown reason, LB17 in 2021 changed the funding provision in the judges plan with language specifically stating that the State Treasurer would transfer funds to this plan when that was out of line with how the state's retirement plans are transf-- plans are transferred their funds. Because the transfer is typically done by someone other than the State Treasurer with an appropriate journal entry, the current situation caused a double entry to recently be made. Changing the language as proposed in LB420 as amended by AM198 will help prevent this from happening in the future.

**BALLARD:** OK. Thank you so much for your testimony. Are there any questions? Seeing none. Thank you so much. Next proponent. Seeing none. Are there anyone in opposition? Seeing none. Are there any in the neutral capacity? Welcome.

**ERIC ASBOE:** Good afternoon--

**BALLARD:** Good afternoon.

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**ERIC ASBOE:** --Chairman Ballard and committee members. My name is Eric Asboe, spelled E-r-i-c. Last name is spelled A-s-b-o-e. I'm the administrative fiscal analyst for the judicial branch. I'm here to request a small change to AM198. The purpose of the change would be to clarify that any contributions that would be made would be made through the General Fund, and that change can be made very simply. You've got a copy of the proposed language. It reinstates 11 words that were-- that are stricken in AM198 as introduced so that the sentence would now read, the state shall contribute from the General Fund to the Nebraska Retirement Fund for Judges. I have spoken to Mr. Herbek and NPERS. I have spoken to Mr. Fitzgerald. And I have spoken to the Fiscal Office. And even though I cannot speak for them, I encountered no opposition to this change. So the request is to amend AM198. The purpose is to clarify, make it absolutely clear that any contributions will come from the General Fund. And I am happy to answer any questions.

**BALLARD:** OK. Thank you so much. Are there any questions? Seeing none. Thank you so much for your testimony. Any, any additional neutral testimony? Seeing none. That will close our hearing on LB420 and our hearings for the day. Thank you, committee.

**CONRAD:** Plenty of time.

**BALLARD:** Plenty of time.