

Nebraska Retirement Systems Committee February 12, 2019

KOLTERMAN: Welcome to the Retirement System Committee hearing. My name is Senator Mark Kolterman, I'm from Seward, and represents the 24th Legislative District. I serve as chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members will come and go during the hearing. Since we meet over lunch hour, senators may have other commitments or meetings. It's not an indication that they're not interested in the bill being heard in the committee, it's just part of our process. To better facilitate today's proceedings, I ask you abide by the following procedure. The information is posted on the chart to your left. Please silence or turn off cell phones, move to the front row when you're ready to testify. Order of testimony will be introducer, proponents, opponents, neutral, and closing. Testifiers need to sign in, hand your blue sign-in sheet to the committee clerk when you can come up to testify. Spell your name for the record before you testify. And be concise. It is my request that you limit your testimony to five minutes. If you will not be testifying at the microphone but want to go on the record as having a position on a bill being heard here today,

there are white sheets at the entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Print materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need eight copies. If you have written testimony but do not have ten-- eight copies, please raise your hand now so the page can make copies for you. To my immediate left is my committee counsel, Kate Allen. To my left, at the end of the table, is committee clerk Katie Quintero. The members of this committee will introduce themselves beginning at my far right.

BOLZ: Senator Kate Bolz, District 29.

KOLOWSKI: Senator Rick Kolowski, District 31: southwest Omaha.

LINDSTROM: Brett Lindstrom, District 18: northwest Omaha.

GROENE: Mike Groene, District 42: Lincoln County.

KOLTERMAN: And Senator John Stinner had a previous engagement and has asked to be excused. Our pages today are Sam and Kelsey. Stand up. So we're gonna start right out on LB36. I will open on that and ask that Senator Lindstrom take over the chair.

LINDSTROM: We'll now open the hearing on LB36, introduced by Senator Kolterman. Whenever you're ready, Senator.

KOLTERMAN: Good afternoon. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent Legislative District 24, and I'm here today to introduce LB36 at the request of the Nebraska Public Employees Retirement System. The bill makes two changes. The first change clarifies and simplifies language on how credible service is calculated. And the second change grants school plan members employed on April 16, 2014, an additional year to pay for relinquished service credit. There's also an amendment, AM14, and it's a clarification that we worked out with the NPERS staff to change the original intent of the bill. The language makes it clear that, if a member waits until the year previous to the deadline to apply to pay for relinquished service credit, the members will no longer have the option of making payments in installments or by payroll deductions. The only repayment options available to the members at the, at that point are the cash rollover lump sum payments or trustee to trustee transfers. I will try to answer any questions you might have, but I would yield most of my time to the representatives that are here from NPERS, and they can, they can tell you why they're bringing this bill and what we're trying to accomplish. So with that, any questions?

LINDSTROM: All right, thank you, Senator Kolterman. Any questions from the committee? Seeing none, we will now move to proponents of LB36. Good afternoon.

ORRON HILL: Good afternoon. Good afternoon, Chairman Kolterman, Vice Chairman Lindstrom, and Retirement Systems Committee members. My name is Orron Hill, spelled O-r-r-o-n H-i-l-l, I'm the legal counsel for the Nebraska Public Employees Retirement Board and Nebraska Public Employees Retirement Systems. I'm here at the direction of the PERB and NPERS to testify in support of LB36. So we categorize LB36 as doing three changes. The first is modernizing language and codifying practices on how NPERS awards service credit. The second is responding to concerns raised by school-authorized reporting agents, or ARAs, during the school legislative working group meetings held over the interim by unifying the creditable service definition across all plans and tiers. And three, giving NPERS additional time to process refund buy-back payments for members who were employed on April 17 of 2014 and who timely submit their refund buy-back applications to NPERS. I will address each in turn. First, the school plan service credit provision has not been updated for 17 years. The current language refers to the federal Fair Labor Standards Act of 1938, as it existed on January 1 of 2002. We feel that modernizing the language and removing the reference to a federal

law as it existed 17 years ago will add clarity and better codify the current practice for awarding service credit into the future. Second, during the interim, several school and ESU ARAs expressed concern over implementing the unique Tier 4 creditable service definition. Specifically, their payroll software cannot easily apply the law. The software manufacturers were reluctant to reprogram the software, and thus the ARAs are forced to manually adjust their compensation contribution and service credit reports to NPERS. NPERS consulted our actuary about the ARA's concerns to determine if there was a fiscal impact to unifying the credible service-- excuse me, definitions across all four tiers. Our actuary indicated that there were no such costs and that the plan should move forward without a funding impact. In an effort to work with our ARAs, and based on our actuary's response, we recommend this change for ease of the plan administration. Third, in 2014, the Legislature adopted the new refund buy-back protocols. These changes require plan members employed on April 16, of 2014, to submit a refund buy-back application and complete payment within six years, by April 15, of 2020. It takes approximately three years to calculate the cost estimate tied to the refund buy-back application if all necessary data was previously reported to NPERS by the employer. This makes it almost impossible for NPERS to respond to the

applications received on the last day of the six-year period mandated in statute. Moreover, the processing time may increase if NPERS must obtain additional information from the employers. To better serve our members, for whom we owe fiduciary duty, we requested additional time to calculate the cost estimate and make payment be allowed. After the bill's introduction, we worked with Senator Kolterman and Kate Allen to propose an amendment to the bill to simplify and clarify the language. I would like to thank Kate Allen for working closely with us on this bill and the amendment. I would also like to thank Senator Kolterman for his willingness to work with us on this bill and introduce it on our behalf. Thank you for allowing me to testify today. If you have any questions, I'll do my best to answer them.

ORRON HILL: Thank you, Mr. Hill. Any questions? Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. Do you know how many, approximately how many teachers this would impact, please?

ORRON HILL: I checked the query this morning. We currently have 1,256 employees that were active as of April 17 of 2014 and are subject to the limitations of that bill and that six-year window or the seven-year, if the bill is passed.

KOLOWSKI: Thank you.

LINDSTROM: Thank you. Any other questions from the committee?

Seeing none, thank you. Next proponent.

KOLOWSKI: Good afternoon.

PAM ROTH: Good afternoon. Members of the committee, my name is Pam Roth, P-a-m R-o-t-h, and I'm the chief financial officer for Elkhorn Public School District. Today I testify in support of LB36, specifically the revisions in Section 1 that amend State Statute Section 79-902. My testimony pertains to the proposed changes to subsection (6) (b) and (6) (c) of 79-902, which reverse a change that was implemented July 1, 2018, related to paid leave and how the payments interact with retirement contributions. Alcorn has hired approximately 160 staff members since July 1 2018 that participate in the retirement plan based on our review. We believe approximately 60 of those individuals were active in the Nebraska retirement plan prior to July 1, and approximately 100 are new to the retirement plan as of July 1 or later. The reason I say "believe" is that our current process includes asking staff if they've worked in a Nebraska school district prior to July 1, and, if so, which school district and which job they held. These steps are necessary as it's not a matter of if a person is, is a new

employee with Elkhorn Public Schools on or after July 1, 2018; it's a matter of if the person is a new participant in the retirement plan, including individuals that may have taken refunds of prior contributions. In late September, we submitted a list of staff hired since July 1, requesting that Retirement Office confirm which individuals were new to the plan and which participated in the plan prior to July 1. In late November, Retirement sent school districts listings of staff that had had their first retirement contributions submitted in mid-2018, which helped answer some of our questions about those individuals. They also requested additional hire date information to assist with their work regarding staff that had joined the plan on or after July 1, 2018. We have not determined the best process for confirming our treatment of individuals we hire going forward, in relation to that July 1 date. Elkhorn has a few paid leave categories that aren't listed in the current wording in 79-902 subsection (6)(c). As a result, we are not to deduct retirement anytime we provide paid leave from these categories for staff new to the plan as of July 1, 2018. So far, we've had about 10 situations in which paid leave has been used from a category not specifically named in the statute by an individual new to the plan. All but one of these has been bereavement leave, and these situations tend to be a single day

of leave use. For hourly staff we've been able to set up a new leave code in our time and attendance system, and tie that to a pay code that does not take the retirement deduction. However, for salaried staff, the process is not as easy. Each month we review all staff that have entered leave under a category that may not be subject to retirement and review that individual's placement in the plan related to the July 1 date. For those that should not have retirement deductions from their paid leave, we chain the-- we changed the paid leave code to a new code that we've treated as an unpaid leave and dock it from their salary. To pay the individuals for the leave we then enter a manual payment that we have flagged to not have retirement deducted. We've asked our software company about modifying the software, but their response has not been encouraging. As a greater number of staff are new to the plan as of July 1, 2018, the manual interaction will become more involved with a greater chance for us to make an error. Within our district, I have voiced the need to reconsider and potentially renegotiate our paid leave provisions to eliminate any that are not specifically stated in statute. From the standpoint of the plan, the leave adjustments that reflect a minimal amount of time, like the ones that we've done so far, won't likely impact the amount of service credit someone receives. Additionally, unless the year in which they

took that leave is one of the highest paid periods used in the benefit calculation, our minimal leave adjustments won't impact the ultimate benefit the individual receives. However, the plan is no longer receiving contributions on these types of leave adjustments, which historically it has received and has been able to invest and fund future benefits. I appreciate the committee's willingness to consider simplifying the language in 79-902 and help us eliminate this additional steps we've been taking. Thank you for your time, and I would be happy to answer any questions.

KOLOWSKI: Any questions, please? Ms. Roth, on the, the issue that came up as far as the software, how much of a problem is that at the current time? Or what are you doing about it in your district at the current time?

PAM ROTH: Right now we're using that manual process, where we go in and we've identified people that are new to the plan since July 1. And if they request bereavement leave, we're changing that to a code that will dock their salary. And then we do a manual entry to pay them for something such as bereavement leave. The software company, when we asked, they basically said: sounds like it's a reporting issue between you and the state, as opposed to a software issue.

KOLOWSKI: Has, have things like that come up a number of times in, in your software usage across the board for your district?

PAM ROTH: Historically, no, we've not had a lot of issues. But we have had these 10 or so situations so far, which I would imagine will continue to grow as more and more people new to the plan are hired and come on board. So that's why we appreciate your consideration to revise that language.

KOLOWSKI: As a growing district with more and more teachers every year, it's going to be one of those things you'd like to be on top of, of course.

PAM ROTH: Yes.

KOLOWSKI: Thank you so much. Any other questions? All right, thank you very much. Next testimony. Good afternoon.

JASON HAYES: Good afternoon. Senator Kolowski, members of the Retirement Committee, my name is Jason Hayes, J-a-s-o-n H-a-y-e-s, and I represent the Nebraska State Education Association. The association supports LB36. NSEA believes the bill provides a reasonable approach in simplifying the payment of relinquished service credit. It will lessen the administrative burden upon NPERS and enable them to perform other customer service functions. The bill also gives members an additional year to

take advantage of purchasing credible service, and this will be helpful. We urge the committee to support LB36 and advance it to General File for debate.

KOLOWSKI: Thank you. Any questions, please? Mr. Chairman, back to you.

JASON HAYES: Thank you very much.

KOLTERMAN: You take care.

KOLOWSKI: Additional testimony, please? Opponents to the plans that we've heard? Any neutral? Back to the-- and you waive. Thank you very much.

KOLTERMAN: Thank you. We will move into the next hearing, which would be LB565, Senator Bolz.

BOLZ: Good afternoon. I am Senator Kate Bolz, that's K-a-t-e B-o-l-z. And I do have a handout. So LB565 is a result of a conversation I had a cons-- with a constituent this fall regarding her experience with her deceased husband's retirement benefits. She has asked me to submit the letter you'll be receiving on her behalf. Her experience illustrated a small gap in our retirement policy. If a beneficiary is not designated intentionally, unintentionally, or simply due to

misunderstanding, there can be consequences for surviving family members. In the case of my constituent, it resulted in a long, expensive battle with the IRS. In her case, the lack of clarity regarding the intended beneficiary would have, without her advocacy, meant that the benefits would go to the estate, with significant tax consequences. LB565 clarifies that when a beneficiary is not designated the benefits go to the spouse. This will help other spouses in the future be assured retirement benefits. In other words, keeping benefits with Nebraskans. The judges and State Patrol plans already have designated beneficiaries that are specific to their plans and goals. The bill clarifies the spouse as the default beneficiary for the school, state, and county plans. The white copy clarifies that this is a policy change, not just the intent of the Legislature, and directs the PERB to make the policy change for the deferred compensation plan as well. One additional issue that was brought to my attention after the white copy amendment was drafted was that language needs to be added to clarify what happens if a member selects a spousal or non-spousal joint and survivor benefit and the joint and survivor beneficiary dies after the member has retired. In that instance, the benefit for the designated joint and survivor beneficiary ends when that designated joint and survivor beneficiary dies. This is true

even if the retiree remarries and is married at the time of the retiree's death. I'm happy to answer any questions. I know there are other folks here in support as well, but I hope that we'll be able to clarify this issue for my constituent and others like her.

KOLTERMAN: Thank you, Senator Bolz. Are there any questions? Are you gonna stay to close? If you don't, we're not gonna have any people here. Proponents, please.

JASON HAYES: Chairman Kolterman and members of the Retirement Committee, again, my name is Jason Hayes, J-a-s-o-n H-a-y-e-s, and I represent the Nebraska State Education Association. The association supports LB565 and thanks Senator Bolz for introducing the bill. Also, the Nebraska Council of School Administrator, Administrators asked me to inform you that they are supporting the bill as well. Failing to select a beneficiary on a pension form can cause significant problems for the widow or widower of a deceased plan member. This can result in delayed benefit payments or higher levels of taxation for the deceased member's family. I can recall a few instances when I was the legal counsel for NPERs and this occurred. There was nothing in state law that indicated a default selection for school, county, and state plan members. LB565 would address this issue. We urge

the committee to support LB565 and advance it to General File for debate.

KOLTERMAN: Thank you, Mr. Hayes. Any questions? Appreciate your support. Next proponent. Welcome.

JOHN ANTONICH: Thank you, Senator. Good afternoon, Senator Kolterman and members of the committee. My name is John, J-o-h-n, Antonich, A-n-t-o-n-i-c-h. I am the Executive Director of the Nebraska Association of Public Employees, and I am here today on behalf of my employees, and we are all in support of LB565. LB565 provides a clear distinction to whom the beneficiary will be for a deceased worker of the State Employees Retirement System in the state of Nebraska. LB565 will also remove any difficulties that may occur due to a lack of a designated beneficiary of the deceased employee. LB565 will not only make things more clear but also will help the stability of the surviving spouse. These important changes are all changes that my entire membership supports. Therefore, I am expressing our support here for the bill. I again want to thank Senator Bolz for introducing this important legislation. LB565 is a simple clarification and all, already sound piece of legislation that I believe all of you should support. I thank you for your consideration, and ask again that you support LB565 and vote to

advance it to the General File. Thank you, and if I can answer any questions, I'd be glad to.

KOLTERMAN: Thank you, John. Are there any questions? Appreciate your testimony. Additional proponents? Welcome.

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Kolterman, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l, I'm with the Nebraska Association of County Officials, and I'm appearing in support of LB565. I'd like to thank Senator Bolz for introducing this bill and for involving us in some stakeholder meetings as we looked at this issue. I would just echo the comments of the previous testifiers. We think this is a good piece of clarification and should help as we determine beneficiaries in the future. Be happy to answer questions.

KOLTERMAN: Thank you. Any questions? Thank you for being here. Any additional proponents? Any opponents? Any in the neutral capacity?

RANDY GERKE: Good afternoon, Chairman Kolterman and members of the legislative Retirement Systems Committee. My name is Randy Gerke, that's spelled R-a-n-d-y G-e-r-k-e. Excuse me. I am the director of the Nebraska Public Employees Retirement Systems,

and I'm here at the direction of the Nebraska Public Employees Retirement Board to testify in a neutral capacity on LB565. As originally drafted, LB565 states the legislative intent for the state, county, and school plans, the deferred compensation plan, and the Class V school plan, such that if there is no designated beneficiary on file with the board the member's spouse on the date of death is the member's beneficiary. And if there is no designated beneficiary on file with the board and the member is not married on the member's date of death, then the benefit would be paid to the member's estate. The PERB and NPERS support the concept of having a clear, easy to under-- easy to administer beneficiary designation priority system, which this bill does. However, the PERB had several questions about the bill and asked us to meet with Senator Bolz to discuss these points. Senator Bolz most graciously took the time with Orrin Hill and I to listen to our concerns. The concerns included amending the bill from a statement of intent to a plan provision; the need to amend other sections of the state, county, and school plans to bring them in line with the intended beneficiary designation priority system; and our request for the bill to allow the DCP plan document to be the method for implementing the intended beneficiary designation priority system, rather than having the PERB adopt a rule and regulation.

Following the meeting, Kate Allen and Orrin Hill worked together to draft the necessary revisions to the state, county, school, and deferred compensation plans. I'd like to thank them for working closely on this bill. I would also like to thank Senator Bolz for her willingness to work with us on the bill and potential amendments. Thank you for allowing me to testify today, and that includes my testimony. I'd be happy to answer any questions.

KOLTERMAN: Thank you very much for testifying. Any questions? Appreciate that. Next Neutral. Welcome.

CECELIA M. CARTER: Good afternoon, Senator Kolterman and members of the legislative Retirement Committee. For the record, I'm Cecilia M. Carter, and that's C-e-c-e-l-i-a M. Carter, C-a-r-t-e-r, and I'm the director of the Omaha School Employees Retirement System, generally referred to as OSERS. And as the director of the OSERS plan, I'm here today to testify in a neutral position on LB565. Understanding the intent of the bill and the need for clarifying a beneficiary when a beneficiary is not named. There is only one concern that we want to keep an eye on and be mindful of, and it is not-- and that is to ensure that any undue liability is not added to the actuarial accrued liability by inadvertently creating a deemed beneficiary of the

surviving spouse at the time of death. Now, under the Class V retirement plan, there is a provision for death of an active member and a lifetime annuity to a primary beneficiary or surviving spouse. So we want to continue to monitor this and look through it. But otherwise, we thank Senator Bolz for bringing this to, to our plan as well, and for reviewing the amendments on the survivor annuity options and possibility of remarriages. So with that, thank you. And if there are any questions.

KOLTERMAN: Thank you, Ms. Carter. Thank you. No questions. Anybody else in a neutral position? Senator Bolz, you're welcome to close. She waives closing, and that concludes our hearing on LB565. Thank you all for coming. Sorry we didn't have a full crowd here today, but that's the nature of this beast. I would like to ask you two just to stay for a moment.