

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Nebraska Retirement Systems Committee January 22, 2019

**KOLTERMAN:** Welcome to the Nebraska Retirement Systems Committee hearing. My name is Senator Mark Kolterman. I'm from Seward and I represent District 24. It's my understanding that Senator Groene will be here. In the meantime, would you please introduce yourselves?

**LINDSTROM:** Brett Lindstrom, District 18: northwest Omaha.

**BOLZ:** Senator Kate Bolz, District 29: south-central Lincoln.

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

**STINNER:** John Stinner, District 48: all of Scotts Bluff County.

**KOLTERMAN:** And we have with us today committee counsel Kate Allen, as well as committee clerk Katie Quintero. Today we're going to be having a hearing on LB33. We'll take up that bill. This is an opportunity for, for you to express your position on the proposed legislation today, pro or con or neutral. We'd ask that you silence your cell phones. We ask that you sign in, that you give us copies-- if you have copies of information, you provide us with plenty of copies. The ones that are here all understand how we do this. You come forward and you sit and you talk. We're not going to use a timer, but keep your statements brief if you would. And with that, please state your name, spell your name before you testify. And I would like to ask Senator Lindstrom, since I'll be introducing, to chair from here on out.

**LINDSTROM:** Good afternoon, Senator Kolterman.

**KOLTERMAN:** Good afternoon. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I'm introducing LB33. This bill includes a number of plan administration or governance changes that were brought to me during the interim by various entities. It makes several changes to provisions for the Public Employees Retirement Board, the Nebraska Public Employees Retirement System, the Nebraska Investment Council, and the Class V School Employees' Retirement Plan [SIC]. LB33 includes the following changes: It allows the Public Employees Retirement Board to grant two three-year extensions of actuarial contracts instead of just one three-year extension. It also exempts legal compliance audit contracts from bidding requirements. This exemption from the bidding requirement for legal service contracts was placed in statute in 73-507 in 2003 for all other state agencies. However the language in 84-1503 was not updated at that time. It changes the date from March 31 to April 10, beginning in 2020, for the presentation of NPERS' and

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NIC's annual reports to the Retirement Committee. The additional time ensures that Nebraska Investment Council will have adequate time to receive the calendar year investment return data so this information will be included in the annual reports. It also inserts into the Nebraska Investment Counsel statute the over, oversight of the Achieving a Better Life Experience program that had inadvertently been left out of the list of programs for which the Nebraska Investment Council members are fiduciaries. Ten years ago, in 2009, the PERB was granted protection, under the Public Records Act, for all member information plans administered by the PERB with adjust, with just a few exceptions. The only personal member information that can be released is the member's name, the date the member began participating in the plan, and the date the member's participated, participation ended. All their information is protected. LB33 would grant OSERS in OPS the same exclusion from the public records law that was placed into statute for all the plans administered by the PERB. And finally I'm proposing to increase the per diem for Public Employee Retirement Board members from \$50 to \$75, which would be equal to the per diem received by Nebraska Investment Council. The original \$50 per diem for the PERB members was put in statute in 2005. Per diems for the members of the NIC and the PERB are cash funded. There's also an amendment. I have an amendment to the bill: AM4. This amendment strikes obsolete capping language from the School Employees Retirement Act and adds the emergency clause to the entire bill; we inadvertently left that off. In addition, after consulting with the Policy Research Office, the Department of Administrative Services, it was determined that the proposed new language in Section 4 is unnecessary because the legal compliance audit, as a professional legal service, is already covered by current language in 73-507. Therefore all of Section 4 of the bill is being stricken by AM4. I would be glad to try and answer any questions you might have. And there'd be people behind me that will support their requests.

**LINDSTROM:** Thank you, Senator Kolterman. Any questions from the committee? Senator Bolz.

**BOLZ:** I just have one quick question regarding the three-year extensions. Those extensions would still have to be approved by the PERB board, correct? It wouldn't be a staff decision; it would be a board decision.

**KOLTERMAN:** Correct.

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**BOLZ:** Thank you.

**LINDSTROM:** Any other questions from the committee? Seeing none, thank you, Senator Kolterman. We'll now move to proponents of LB33.

**MICHAEL WALDEN-NEWMAN:** Good afternoon, Mr. Chairman, members of the committee. My name is Michael Walden-Newman. That's M-i-c-h-a-e-l, last name W-a-l-d-e-n-N-e-w-m-a-n. I am the state investment officer with the Nebraska Investment Council. Thank you very much for inserting into this bill a couple of cleanup items for the Investment Council. If you have the bill in front of you, our changes-- I'm going first because our changes are listed first in the bill. On page 2 of the bill is the change in the due date for the annual reports for the Investment Council and the Retirement System to be submitted to this committee. I brought this up last year. Committee members were just having a little trouble meeting the March 31 deadline. Since I've been at the Council the last four years, we've put some internal audit procedures in place that have, that extend the amount of time, frankly, we need, once we get final statements from the bank, to get the numbers in good shape to put in any kind of report; and this will buy us a couple of weeks to get that done. It could be we'd have it done ahead, but the last two years we've really been bumping up against that deadline. The second changes are on pages 3 and 4 and, as Chairman Kolterman said, this inserts into the list of portfolios, under the Investment Council's purview, the Enable program that was passed a couple of years ago and is run through the State Treasurer's office. And we want to just keep that list up to date and should've brought it to you back when that bill was first put in. But it's-- we missed it and we're back to get it in there. Thank you all very much. Happy to answer any questions.

**LINDSTROM:** Thank you. Any questions from the committee? Seeing none, thank you.

**MICHAEL WALDEN-NEWMAN:** Thanks so much; appreciate it.

**LINDSTROM:** Next proponent.

**RANDY GERKE:** Good afternoon. Good afternoon Chairman Kolterman, Vice Chairman Lindstrom, and members of the Legislative Retirement Committee. My name is Randy. Gerke; that's spelled R-a-n-d-y G-e-r-k-e, and I'm the director of the Nebraska Public Employees Retirement Systems, NPERS. I'm here at the direction of the Nebraska Public Employees Retirement Board, the PERB, particularly the

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legislative committee, to testify in support of Sections 7 and 8 and the amended Section 4 of LB33. The PERB and NPERS are not taking a position on the remainder of the bill because these sections do not directly affect our, our duties or operations. We appreciate Senator Kolterman proposing an increase to the PERB's per diem rate to match the Nebraska Investment Council's per diem rate found in Section 7 of the bill. The per diem rate was established in 2005 and has not been adjusted since. Prior to 2005 there was not a per diem for the PERB. The PERB and NPERS asked for the changes to the contracting protocols for the actuary and legal compliance audit, found in Section 8 of the bill, to facilitate the plan's administration. Requests for proposals can be quite time consuming for the PERB, NPERS, and DAS. This bill would extend the number and length of the options under the actuarial contract. NPERS would be able to continue using an actuary that is meeting or exceeding our expectations for up to nine years rather than them being limited to contract and option periods that total only six. I would mention that NPERS is in the middle of an actuarial RFP process with proposals due this Thursday, January 24. This bill will not affect its actuarial contracts. It will be several years before NPERS is affected by this change if it were to become law. Last fall NPERS' legal counsel, Orron Hill, met with the then DAS general counsel and materiel director to discuss the upcoming RFP for the statutorily-required legal compliance audit that will need to be completed by the end of 2020. The materiel director and DAS general counsel indicated that, in their opinion, an RFP should not be required for a legal compliance audit because it qualifies as legal services within the exception found in Section 73-507(2)(c), which exempts legal services from the RFP process. NPERS statutes, however, specifically required a competitive, formal, sealed bidding process for a compliance audit. The materiel director and general counsel suggested that it might be wise to amend our statute to bring it in line with the more recently updated DAS provisions, so NPERS has followed their recommendation and proposed the updated language. NPERS consulted with Senator Kolterman and Retirement Committee legal counsel, Kate Allen, on other amendments to the bill. The first amendment would eliminate obsolete capping language in the school plan and, also, the second amendment would add the emergency clause. NPERS is in support of both of those changes. In conclusion, I'd like to thank Senator Kolterman for introducing the bill. I would also like to thank Kate Allen and Orron Hill for working so closely on the bill's preparation during the off season, and I'd be happy to answer any questions.

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**LINDSTROM:** Thank you. Any questions from the committee? Seeing none, thank you.

**RANDY GERKE:** Thank you.

**LINDSTROM:** Next proponent. I do have some letters from proponents: Cecelia Carter, executive director of Omaha School Employees' System; Cheryl Richardson, Richardson from Omaha Education Association; and Jason Hayes from NSEA. We will now move to opponents. See--.

**KOLTERMAN:** Oh, sorry.

**GROENE:** You're going to oppose your own bill?

**LINDSTROM:** Neutral testimony. Seeing none, Senator Kolterman, you're welcome to close.

**KOLTERMAN:** I'm ahead of myself. Well, as you can see, these are, these are all technical in nature and we, we did spend some time this summer working all off-- tried to bring them all into one bill so we could minimize our time here together. I would encourage you to support this bill and look forward to advancing it to the floor. Any questions?

**LINDSTROM:** Any final questions? Senator Kolowski.

**KOLOWSKI:** Thank you, Mr. Chairman-- Vice Chair. I just wanted to make sure, and get this on record, that everything that we're doing now is in line with and wants to fill in the, the areas that might be there that, with the OPS situation that's been written on in the World Herald. I'm getting calls on that. People are concerned over that, within the realm of what's going on, and what, how could this happen. And it's just the normal anxiety that comes with the article, and it's currently [INAUDIBLE].

**KOLTERMAN:** And I appreciate that, Senator Kolowski. As you know, we've been working very closely with OPS. And the request, really-- that some of the other bills that you'll be hearing have come from OPS to study the plan. At this time nothing's really been done on that. I can assure you, though, that we're open to that discussion, and I will keep-- I've tried to keep you all up to, abreast of what is in the paper, the discussions that we're having behind the scenes. This bill in no, by no means interferes with any of that.

**KOLOWSKI:** All right, good.

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**KOLTERMAN:** The right to privacy, all we're doing there is we're bringing this bill in line-- or OSERS in line-- with all of our other state plans. And so we're really not trying to hide anything there. It's just a matter of there is some right to privacy, and we're, we're just clarifying that.

**KOLOWSKI:** I trust what we're doing and the direction we're going. I just think it's good to get it in the record that we have touched on that the very first meeting we have this year.

**KOLTERMAN:** Absolutely; I appreciate that. Thank you.

**KOLOWSKI:** Thank you.

**LINDSTROM:** Are there any other questions from the committee? Seeing none, that concludes the hearing on LB33..Thank you, Senator Kolterman.

**KOLTERMAN:** While we're here I would like to hold an Executive Committee just briefly, if you would.