## Nebraska Retirement Systems Committee February 2, 2018

**Kolterman:** [00:00:01] Welcome to the Nebraska Retirement Committee hearing. My name is Senator Mark Kolterman. I'm from Seward and represent District 24. The committee members are, from my right, I'll let them self-introduce.

**Bolz:** [00:00:13] Senator Kate Bolz, District 29.

**Kolowski:** [00:00:16] Senator Rick Kolowski, District 31, southwest Omaha.

**Stinner:** [00:00:20] John Stinner, District 48, all of Scotts Bluff County.

**Kolterman:** [00:00:23] My left.

**Groene:** [00:00:27] Mike Groene, District 42, I believe, Lincoln County. It's late in the week.

**Lindstrom:** [00:00:33] Brett Lindstrom, District 18; northwest Omaha.

**Kolterman:** [00:00:36] We have Kate Allen, our legal counsel. And Katie Quintero is our committee clerk. And we have page Bailey again today. Thank you for coming. Today we're here to have a hearing on LB1005. It's the only bill that we'll have today. I don't know if anybody is going to come and go. If they do, that's just-- that's just because they've got other obligations. We'd ask that you turn off your cellphones. If you want to testify, come to the front of the room and be ready to go. We have a short period of time to work. Fill out the blue sign-in sheet so it's ready to hand to the clerk before you testify. When you come up to testify please spell your name and state your name. Keep your testimony concise. We try not to use the lights in here. And if you have something that you want to hand out, we need eight copies of that for the committee. So with that, I'm going to introduce the bill, so I'll turn it over to Vice Chair Lindstrom. We'll go from there.

**Lindstrom:** [00:01:43] Good afternoon, Chairman.

**Kolterman:** [00:02:03] Thank you, Senator Lindstrom. My name is Mark Kolterman. I represent Legislative District 24 and I'm here today to introduce LB1005, which was introduced at the request of the Public Employees Retirement Board. A representative of NPERS will follow me and will go into greater detail about the bill. LB1005 establishes a process and criteria for the PERB to determine financial liability and costs for an entity considering a business transaction that would result in withdrawal, in whole or in part, from the county or school employees retirement plan. If the county or school entity elects to withdraw, LB1005 ensures that the withdrawing entity bears the financial liability to provide retirement benefits for affected plan members who would be terminated from the plan, the cost of any actuarial study necessary to calculate such financial liability, and the administrative costs incurred by PERB and NPERS connected to the withdrawal. It grants the PERB authority to set the method-- methodology and assumptions used by the actuary to calculate the obligation of the retirement system to provide benefits for plan members affected by the entity's business transaction after receiving recommendations from the actuary. Affected employees who are terminated from the plan due to the employer's decision to withdraw would be considered fully vested. Within 90 days of the entity's withdrawal, the affected members would be considered inactive members of the plan. LB1005 also provides PERB the authority to determine whether an entity currently participating in the county or school plans qualifies under Internal Revenue Code 414(d) and establishes direction when the entity no longer qualifies under that Internal Revenue Code. The purpose-- the purpose of this bill is to ensure that the county or school retirement system is not financially liable for any of the cost of the entity's business transactions and to minimize the risk that the-- to the state. Other entities covered by the plan or plan members will bear the cost any one entity's business transaction. As you recall, I filed the motion to suspend Rule 5, 15(a) so this bill could be introduced in the short session. I believe it's important that this bill move forward so PERB is granted authority to calculate and assess costs on entities that withdraw so we can continue to protect the plans and ensure the costs are not borne by the retirement system or the state. Orron will testify on behalf of NPERS in a few minutes. I would just like to say that we've been working with the legal counsel. Our legal counsel. Kate Allen, and I and Orron have been working on this with the PERB since early summer, when this issue was really brought to us. It surfaced a year ago, but it didn't appear to be a problem. But now I'm starting to see school districts outsource some of their employees to leasing companies. For example, if a school district decides they want to move their employees to a busing company and not hire bus-- busing services or bus drivers any longer, or if we have somebody who wants to outsource their food service or their janitorial services and things of that nature, that could have an adverse effect on the plans. We saw this several years ago; one of our school districts in my district actually took all of their support staff out of the plan. So when you start to remove 24, 25 people all at once, it creates a liability that nobody even thinks about. We're not here really today to argue or talk about that decision. That should be left up to the local school boards and counties that are involved with this. But we are here to say that if you want to do that, you need to know what your liability might be. So with that, I would take any questions or I'd let Orron come up and answer any questions you might have.

**Lindstrom:** [00:06:23] Thank you, Chairman Kolterman. Any questions from the committee? Senator Stinner.

**Stinner:** [00:06:25] So if a plan is--

**Groene:** [00:06:29] Sorry.

**Stinner:** [00:06:30] If plan is 80 percent or 75 percent funded, if they withdraw from the plan they would have to pay that differential? Or would-- do you wait until there is an ARC down the road, or--

**Kolterman:** [00:06:43] I think that's a technical question, I'll let Orron-- but that's, that's why it's been brought to us because there's potential liabilities out there. There is another example that we have; a county that has a hospital. And we have several counties in the state that have hospitals that are covered under the plan. And as we start to see some of those hospitals changed their management structures, when you start pulling people away it can create that liability and we just don't think the state should bear that liability. And so that's what the bill is really about. I know that doesn't answer your question but there is-- there is potential liability there. Thank you.

**Lindstrom:** [00:07:25] Any other questions? Senator Groene.

**Groene:** [00:07:27] What liability? If somebody is only in the plan for ten years their payments are less.

**Kolterman:** [00:07:32] Well, there's no more money going into the plan on their behalf. And so as ARCs-- as ARCs materialize or as the--

**Groene:** [00:07:40] But if you're in there ten years and you were there in 1990, you make $25,000 and that was your top pay. Your retirement is based on your last three years.

**Kolterman:** [00:07:49] But the plan—well, we're assuming that all the investment returns are being met. We're assuming that we don't change any of the functions of the actuarial studies that are going on. And again, I'll let them talk to you about the technical aspect of that. But there's a potential liability in this. I think it was a pretty sizable amount that was brought to us originally, and that's why we decided to work with them on this bill. Orron can answer some of those questions for you.

**Groene:** [00:08:22] I don't get it.

**Lindstrom:** [00:08:23] Any other questions? Senator Bolz.

**Bolz:** [00:08:26] So this is in response to circumstances that we've been seeing related to privatizing certain divisions like food service and maintenance workers. Is the status quo such that they don't have the protections that are afforded in this bill and we're trying to protect their long-term retirement? Is that, is that part of the concern? In other words, is there an adverse impact of taking no action?

**Kolterman:** [00:08:54] Yeah, it could create-- it could create some sizable amounts of money that the state would be on the hook for. Right now the states put in an extra 2 percent for school districts, as an example, both Omaha and Lincoln. And if that doesn't work, I mean we're-- we're covering ARCs and things of that nature all through that 2 percent. If that-- if that's not going to do it long term it could create a problem. And so we're just trying to address-- and again we don't care whether or not they want to do this, but if they are going to make business decisions like this, they need to know what the consequences are going to be so they can budget for them or appropriate for them.

**Bolz:** [00:09:38] I'm not sure I answer-- I asked that question particularly well, but for the individual rather than the system.

**Kolterman:** [00:09:44] The individual is protected.

**Bolz:** [00:09:47] The individual is protected.

**Kolterman:** [00:09:49] It's not the individual's individual account we're worried about; it's the total amount of money going in that helps pay that individual.

**Bolz:** [00:09:58] And that amount is protected even with these business decisions that the-- that the--

**Kolterman:** [00:10:05] It is as long as the state wants to continue to put up extra money.

**Bolz:** [00:10:10] Okay, thank you.

**Kolterman:** [00:10:10] We-- what we're trying to avoid is coming to the-- come into your committee and asking for more money because we don't have enough money in that 2 percent or any other ARCs that are coming down the road, so.

**Lindstrom:** [00:10:26] Are there any more questions? Senator Kolowski.

**Kolowski:** [00:10:28] Thank you, Mr. Chairman. March us through, again, if any group in a school district-- the food service, custodial, maintenance, bus drivers, or whoever they might be-- if they are-- work through a plan like this they still are covered. Are they not? You said that.

**Kolterman:** [00:10:52] If they're vested, they're vested. Correct.

**Kolowski:** [00:10:53] Yeah, they're vested, but that doesn't change. But where's the problem come in, because they're not paying in anymore, I understand that, but they're not taking it out until they're retiring? It could-- some of those people could be 25 years old, and they're not going to retire until they're 60, 62, 65--

**Kolterman:** [00:11:14] Yeah.

**Kolowski:** [00:11:14] -- or whatever else. So it's going-- it's going-- that money is going to sit there and make money, hopefully.

**Kolterman:** [00:11:19] Well, we're hoping it will.

**Kolowski:** [00:11:22] Yeah.

**Kolterman:** [00:11:22] We've got-- I mean, we have to-- you have to remember when we do these actuarial studies, they're all based on assumptions.

**Kolowski:** [00:11:30] True.

**Kolterman:** [00:11:30] And we're assuming, the long-term they're going to be able to meet their obligations or the Investment Council is going to be hit that 7.5 percent return, long term, and that we're not going to have a significant change in the demographics of the plans. This would really deal with the demographics of the plans because we're taking a bunch of people out potentially. That's less money going into the plan. Create-- and again I think that once Orron starts to tell you the problems as they see it--

**Kolowski:** [00:12:06] Okay.

**Kolterman:** [00:12:07] All we're trying to do here really is protect the state long-term future of the plans.

**Kolowski:** [00:12:09] OK.

**Lindstrom:** [00:12:13] Very good. Any other questions from the committee? Seeing none, thank you, Chairman. We'll now move to proponents.

**Orron Hill:** [00:12:32] Good afternoon, Chairman Kolterman 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 of the Nebraska Public Employees Retirement Systems. And I'm here to testify and support the LB1005. I have prepared comments, which a copy of is being provided to you by the page. But I think I'd deviate from those just a little bit to kind of jump to some of the questions that the senators have asked to see if I can explain why this is an issue that we brought to your attention. So the first thing that these business transactions do is they're-- they're creating questions regarding eligibility and participation, but they're also creating unfunded liabilities for the plan. The major three issues that are created by these business transactions--first is that there are a significant departure from the assumptions that the actuaries use when calculating the plans’ funded status. For example, the actuaries make an assumption that employees who were working for the schools or the counties will continue participation for the duration of their career, with only a percentage of those individuals terminating due to end of employment, retirement, or death as time goes by. When we see a significant proportion of the population suddenly disappear, we lose funding sources to pay for both current benefits and future benefits. And so we look at those particular issues. Another big assumption that is changed by these business transactions is when the liabilities must be paid. Again, based upon the assumption that only a percentage of individuals leave plan participation at any one time in any one year, when you have a big percentage of individuals leave at one time all those individuals can start asking for their money, either through a refund, a rollover, or their retirement benefits on an ongoing basis, should they choose to do so. Now how big of an impact this is really depends on the number, the demographic makeup, the amount of compensation and contributions that they pay. If you have a large group of highly compensated employees that suddenly can start taking their money out of the plan, it can be a significant concern. If you have a small number of low service, low contributions, low compensation, it's less of an impact on the plan. And as we have seen, we've seen some areas where large percentages of the work force-- when they take out a food service group, a maintenance group, a bus driver group, and all of the paraprofessionals in a particular school district-- you can have somewhere between 25 to 50 percent of the population from that particular school district no longer participating in the plan and now asking to have their money come back. And so that can create a funding shortfall for the plan and so we need to account for those issues. The other big issue for the PERB in particular is our fiduciary duty that's been laid out in statute. We are required to administer the retirement system solely in the interests of the members for the exclusive purposes of providing benefits and defraying administrative expenses. If we start having to incur the costs of all these actuarial studies, there is a question as to whether or not we are doing the duty that this Legislature has put upon the PERB's shoulders when these transactions wouldn't occur but for the choice of an employer. Now we fully believe that employers should have this choice and part of how we drafted this bill was to give them a tool to do so. We've given them the opportunity to come to the PERB in advance of their decision and say to the PERB, hey, this is what we are contemplating doing, what is it going to cost if we do that? And we want that in this bill so that they can know the true cost of their business transaction, because sometimes the contracting of these procedures is a budget management tool that is very helpful to the employers. And we want to be able to help them manage their budgets. Without the authority of this legislation, it makes it hard for us to do that. This legislation creates that opportunity. So we're trying to help them manage their budgets in the long term and know what the true cost of their actions are. The final point I would raise is there is a past practice of stakeholders paying for actuarial studies when they are proposing a change that could impact eligibility, participation, and the overall funding status of the plan. We've seen it across both the school plan, the county and state plans, and those sorts of things. And so this is not something that would be, I guess, unexpected or without past precedent. And I did think of one more final point. For some of our employers they actually have statutory authority to jump in and out of the plan. That's a small group, a specialized class. However, when that legislation was passed we only had the defined contribution plan in the county plan. We did not have the cash balance plan. Since that time we've now created additional liabilities that can accrue to the state if we don't fund the guaranteed 5 percent interest rate. And so we need to make sure that if an employer is making a decision to cut 25, 30, 40 percent of their work force, the state shouldn't bear that burden nor, more importantly for the PERB, should the other plan members bear the cost of an employer's business decision. And we would not be doing our fiduciary duty if we did not raise that concern to the legislative body. So I hope that that's answered your questions. I'll leave my prepared comments for you to read, but I would be glad to answer any other questions you might have.

**Lindstrom:** [00:18:18] Thank you, Mr. Hill. Any questions from the committee? Senator Groene.

**Groene:** [00:18:21] So now, when you say withdraw, it isn't-- it isn't the entity withdrawing from the plan. You're worried about the individuals-- employee then cashing in his-- his cash balance.

**Orron Hill:** [00:18:39] Senator, those are both concerns that we have. The concern about the employer withdrawing isn't-- by taking, say, 25 percent of their work force out of the plan, the actuary has been operating under the assumption that those individuals would continue working and continue contributing. So once 25 percent of the potential income source is removed, that's going to have an actuarial impact on the plan. But we also are concerned about the employees themselves.

**Groene:** [00:19:04] When you say 25 percent--

**Orron Hill:** [00:19:05] Sure.

**Groene:** [00:19:06] They're-- all of this goes into one pot. It's not one school losing 25 percent.

**Orron Hill:** [00:19:11] It depends on whether we're talking about the county plan or the school plan, Senator. And you are right, with the school plan it is a combined pool of money. That is correct. With the cash balance plan, remember that each individual has their own contributions which we have to track. But then the employer also has to match.

**Groene:** [00:19:28] So which one are you more worried about, the cash balance plan or the defined benefit plan?

**Orron Hill:** [00:19:32] Both, to be quite honest, Senator. We are worried about both. Both have an impact. The cash balance is the bigger concern because it is the most new plan and it does have that 5 percent guaranteed interest rate. But the school plan, as we see more and more employers following the path of eliminating that income stream of food service workers, maintenance workers--

**Groene:** [00:19:55] How is it calculated for a defined benefit plan? If you quit after ten years, because you're on a schedule of 2 percent a year increases on your last salary, how is the payout calculated on a-- on a-- on a defined benefit plan? I can understand how it's calculated on the cash balance, but how is it done there?

**Orron Hill:** [00:20:17] So the general way you calculate a benefit under the traditional defined benefit plan is you take your final average monthly compensation times your years of service, times of formula factor as set in statute, and then times an annuity options, should they choose an annuity. And it's those issues that we have to look at: How do they calculate that retirement benefit in the long run but also how is that ability to pay the annuities affected by employees who then say, hey, we're going to take our money out so we don't have--

**Groene:** [00:20:48] You want the discretion to change the factors.

**Orron Hill:** [00:20:50] Excuse me?

**Groene:** [00:20:50] You want the discretion to change the factors--

**Orron Hill:** [00:20:53] On calculating the annuity? No, Senator, we're not asking to change the annuity. What we're asking for is a tool to be able to assess the liability to employers who make a decision that could create an unfunded liability for the plan. If an employer has, let's say, 5,000 employees and only terminate, say, 5 employees, the likelihood that there would be an actuarial cost to the plan is small. However if the-- if the same employer terminates 2,500 employees, that can create an actuarial cost because--

**Groene:** [00:21:28] Of the cash balance?

**Orron Hill:** [00:21:29] And on the-- and on the defined benefit plans, yes.

**Groene:** [00:21:33] As huge as that plan is, 2,500 would make a big dent in it?

**Orron Hill:** [00:21:35] It could potentially do so, yes. And that's what we want to be able to do is ensure that we are not causing other members of the plan to pay the actuarial cost that should be attributed to an individual employer due to their business decisions.

**Groene:** [00:21:50] So you want to assess the penalty to the employers.

**Orron Hill:** [00:21:54] I wouldn't call it a penalty, Senator. I would call it assigning liability where it is due to a business transaction.

**Groene:** [00:22:01] One last question.

**Orron Hill:** [00:22:01] Yes.

**Groene:** [00:22:02] If a small school district wanted to survive and they talk their teachers union into getting out of the plan, they could do that?

**Orron Hill:** [00:22:09] Currently teachers and school districts do not have the opportunity to elect to get out of the plan. And it's all about eligibility and enrollment. As I said, there are only limited groups that have the ability to opt in and out of the plan. For example, one of the county hospitals, I believe, will be here to testify today. And it's one of those entities we've been working with. They have specific statutory authority to decide whether or not to participate in or continue participation in the county plan. When that legislation was drafted there was only a defined contribution plan, and jumping in and out is very easy.

**Groene:** [00:22:45] So you're saying that for a public school, if the cook in the lunch room is a government employee of the school, they have to be in a defined benefit plan. But if they contract with another company, a private company to do it, then that-- then they can eliminate that. Is that correct?

**Orron Hill:** [00:23:00] Yes, only governmental employees are eligible to participate in our plan. So if they terminate the employer-pool relationship--

**Groene:** [00:23:07] But in the school, the government employee has to be. A county can opt to still keep them as employees at the hospital, but opt out.

**Orron Hill:** [00:23:14] Correct.

**Groene:** [00:23:15] There's two sets of rules here?

**Orron Hill:** [00:23:15] Correct, and there's different rules and we have drafted the rules differently according to each plan because we are-- we're comparing apples and pineapples to a certain extent when you compare a defined contribution or cash balance plan to a traditional defined benefit plan. So the rules do need to be a bit different.

**Groene:** [00:23:31] Thank you.

**Lindstrom:** [00:23:32] Thank you. Any other questions from the committee? Seeing none, thank you, Mr. Hill.

**Orron Hill:** [00:23:35] Thank you.

**Lindstrom:** [00:23:36] Other proponents? Good afternoon.

**Beth Bazyn Ferrell:** [00:23:51] Good afternoon. 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. I'm appearing in support of LB1005. We'd like to thank Senator Kolterman and NPERS for bringing this bill forward. We appreciate that they're always making efforts to protect the county plan and we see this as a measure that would protect the county plan if an entity, a county hospital as an example, would like to withdraw from the plan. So we'd just like to register our support of the bill. I'd be happy to take questions.

**Lindstrom:** [00:24:23] Very good, thank you. Any questions from the committee? Seeing none, thank you. Next proponent.

**Jason Hayes:** [00:24:38] Good afternoon, Senator Lindstrom and members of the Retirement Committee. My name is Jason Hayes, J-a-s-o-n H-a-y-e-s. I'm here today on behalf of the 28,000 members of the NSEA to support LB1005. This bill is important legislation in that it seeks to protect members and employers in a multi-employer retirement plan from the business decisions of a single employer covered by the plan. Requiring that the financial liability of such business decisions affecting the retirement plan be calculated and that the withdrawing entity bears those financial liability costs, as well as any administrative costs associated with the change, helps to ensure the continued financial stability of the retirement plan for all participants. We believe that such legislation will result in better decision making by school districts because, under LB1005, the district will have to take into account all costs, both direct and indirect plan costs, involved in the transaction as a whole. Any negative externalities or costs resulting from such a move will be required to be factored into the final cost versus benefit analysis of such a business decision impacting the retirement plan. NSEA supports LB1005. And we thank Senator Kolterman and NPERS for introducing the bill.

**Lindstrom:** [00:25:53] Thank you, Mr. Hayes. Any questions from the committee? Seeing none, thank you.

**Jason Hayes:** [00:25:58] Thank you.

**Lindstrom:** [00:25:59] Next proponent. Seeing none, we'll now move to opponents. Good afternoon.

**Tyler Toline:** [00:26:18] Thank you. Chairman Kolterman and members of the Retirement Committee, my name is Tyler Toline, T-y-l-e-r T-o-l-i-n-e. I'm the CEO of Saunders Medical Center in Wahoo, Nebraska. We are a 16-bed critical access hospital with a clinic that employs four physicians, two physician assistants, and three nurse practitioners, as well as a physical therapy department, pharmacy, and an attached 60-bed, long-term care facility. We employ 208 full-time employees that are dedicated to our patients. We have a fiduciary responsibility to our patients and to the community to do the best to continue and grow service. Uniquely, we are one of only two hospitals in the Nebraska-- in Nebraska affiliated with a county that is part of the state retirement plan. Although we receive no tax dollars for many years, we are still affiliated with the county. As the federal regulations or requirements, as well as state laws, changes frequently in the healthcare field, we must remain flexible and responsive to change. We have seen firsthand in our state what happens when one insurance carrier significantly changes their network, if even for a short time, and the impact that has on the healthcare providers and patients needing care. As those changes come about, it is important for our healthcare facility to be able to react with sound business decisions that are not encumbered by insurmountable potential liabilities, liabilities which would come about as a result of legislation you're discussing today. For decades, Saunders Medical Center has made a significant commitment to the care of the community's elderly population. Saunders Medical Center operates a long-term care facility which has 60 beds and maintains an occupancy which is greater than 90 percent, of which over 80 percent of those residents are Medicaid eligible. Due to recent change in the long-term care regulatory environment, the leadership in Saunders Medical Center has been looking into potential partnerships with operators who share similar values and missions and could potentially operate a long-term care in a more efficient manner. It is possible that an operator that has multiple long-term care locations may be able to operate the business in a more efficient manner than we can only operating one facility. However, we assume the economic justification for such a partnership such as this would be eliminated by the liability created as a result of LB1005. Thus, if it becomes necessary for us to look at a different option for a long-term care facility or pharmacy or a physical therapy or even our clinic, etcetera, etcetera, we may have our hands tied, as it would be more costly for us to remove even a small part of our business without incurring liability that may greatly exceed the value of doing so. In summary, I understand the bill has the best intentions aimed to eliminate any potential liability to the state plan that would come as a result of a withdrawing entity. However, a byproduct of this bill would result in entities such as Saunders Medical Center being significantly hindered in their ability to change their operations as the regulatory and reimbursement environments change. We ask the committee to study this carefully and consider whether the two county-affiliated hospitals could be treated in a manner that would not make it impossible for us to make changes in our healthcare operation. Thank you, Chairman Kolterman, for taking the time to meet with us the other day. And thank you today for allowing us to provide you information on the impact of LB1005 on our facility.

**Lindstrom:** [00:29:49] Thank you, Mr. Toline. Any questions from the committee? Seeing none--

**Tyler Toline:** [00:30:02] OK, thank you.

**Lindstrom:** [00:30:05] Next opponent. Seeing none, any neutral testimony? Seeing none, Senator Kolterman, if you'd like to close.

**Kolterman:** [00:30:20] Thank you, members of the committee. And thank you for all those that came to testify. We're very much aware of the Saunders County situation. We've been working with them, had a meeting with them. And I know that the PERB and NPERS have been working with them as well. We'll continue to try and dialogue and figure out a way that we can help them get through this challenge. We do have to look at whether these county hospitals are appropriately in the plan or not in the plan or how that-- how that will affect them. So we're committed to trying to work through those challenges. But at the same time, we're also starting to see more of this happen. And they actually weren't the first ones that brought this to our attention. One of my school districts took all their-- all their people, all their-- other than their classified people out of the system a couple of years ago. And it was brought to our attention after it all happened by the PERB. And we started thinking about it already a couple of years ago. So we think that more and more of this is going to go on, and it's our obligation to protect those that are in the plan on going forward. And again, it's not our intent to cripple anybody or tell them they can't do it. We're just saying if you're going to do it, we have to have the ability to tell you what it's going to cost up-front. So with that, I'd try and answer any more questions you might have.

**Lindstrom:** [00:31:41] Thank you, Chairman Kolterman. Any final questions for the Chairman? Senator Groene.

**Groene:** [00:31:46] I apologize, I wasn't completely paying-- did Saunders County Hospital already do this?

**Kolterman:** [00:31:51] No.

**Groene:** [00:31:52] They're thinking of doing it.

**Kolterman:** [00:31:54] Thinking about it, correct.

**Groene:** [00:31:56] So they get in a financial situation and they're not just removing their employees off the plan to just get rid of them. They're cutting their employee force by 25 percent.

**Kolterman:** [00:32:07] Well--

**Groene:** [00:32:07] What happens then?

**Kolterman:** [00:32:07] It has a negative impact on the plan.

**Groene:** [00:32:10] It's the same situation.

**Kolterman:** [00:32:11] Correct.

**Groene:** [00:32:12] It's not when they just get off the plan and go a different direction.

**Kolterman:** [00:32:14] No.

**Groene:** [00:32:14] It's also if they have a financial situation where they cut and then we're going to come back at them with a financial demand on them?

**Kolterman:** [00:32:23] Well, we're going to at least let them know what the cost would be going forward that they'd be responsible for.

**Groene:** [00:32:31] And now we don't?

**Kolterman:** [00:32:32] We don't at the-- we don't have any way of doing it at the present time.

**Groene:** [00:32:37] Are they still responsible now? Are we going to tell them how much they're responsible for and also create that they have a responsibility?

**Kolterman:** [00:32:42] At the present time I don't believe they're-- the state is responsible for the ones that have happened in the past.

**Groene:** [00:32:48] So it's more than just telling them what it could be; we're also telling them they are responsible.

**Kolterman:** [00:32:52] Correct.

**Groene:** [00:32:53] All right, thank you.

**Lindstrom:** [00:32:55] Any other questions? Senator Kolowski.

**Kolowski:** [00:32:57] Thank you, Mr. Chairman. Mark, the-- back to the employee who might find his or her job changing in the structure of a school district or a hospital or anywhere else; talking about that family, talking about that person, talking about where do they then turn to, to put together another savings plan so there would it be something for them at the end. I'm moving away from the CEO of something to the [INAUDIBLE]--

**Kolterman:** [00:33:28] Rank and file.

**Kolowski:** [00:33:31] -- have the impact on.

**Kolterman:** [00:33:31] It’s a good question, Senator Kolowski. And I'll try to address it as much as I-- as well as I can. What you find is where you're-- in the particular case of the one school district that I'm familiar with, it's my understanding they took their bus drivers, they took their janitors, they took their food service people, some of the clerical staff and they put them all-- they terminated them all from the school. So the school doesn't employ them any longer. Then they send them to-- they let a leasing company hire them as employees and they lease them back. When they--

**Kolowski:** [00:34:14] Single company, one name?

**Kolterman:** [00:34:14] One name, one company. When they leased them back, they leased them back as employees for the leasing company,--

**Kolowski:** [00:34:23] OK.

**Kolterman:** [00:34:23] --but they eliminated their workers’ compensation, they eliminated their health insurance, they eliminated their retirement plan. So what-- so what has to happen, the leasing company, if they're really going to take care of those employees, they're going to have to provide some sort of a health insurance benefit and some sort of a 401(k). But I can guarantee you it's not going to be anything near as good as the defined benefit plan that a teacher has or classified staff. And so here again, I'm not here to pass judgment on what they want to do. That's up to the individual school districts. But what I am seeing, those that are vested, they know that it's based on a formula and they know what potentially they're going to get at retirement. But the amount of money that's not going into the plan, that they're not contributing, they'll have to start a 401(k) or something of that nature or an IRA on their own and start funding it themselves. And maybe they'll get a match; maybe they won't get a match. I can guarantee it won't be-- if it was going to be as equal to or as good as the state teacher retirement plan or the education plan, they wouldn't make the change because somebody has to make up that difference. And so that's what's going on.

**Kolowski:** [00:35:43] I understand the neutral aspect of what you're doing is preserving the retirement system for those that are still in it and all the rest. But that--

**Kolterman:** [00:35:56] It hurts-- it hurts the small person that's being outsourced.

**Kolowski:** [00:35:59] It really does. And that--

**Kolterman:** [00:36:00] It does, no question about that.

**Kolowski:** [00:36:01] That's troublesome to me. That-- but that's modeling or that's very similar to what's happened the last ten years, since 2008-2009, to the school districts in our state with the reduction of funding and options that they've had. And they have to make some of these decisions.

**Kolterman:** [00:36:20] Absolutely.

**Kolowski:** [00:36:20] It's not easy. It's not good. It's not good for those families. It's not good for those individuals that are at the other end of the spectrum.

**Kolterman:** [00:36:30] But again, we're not here to pass judgment on that. We're here just to say that if we're going to do that, you need all the tools necessary to make that possible.

**Kolowski:** [00:36:40] Well, I agree with that and I appreciate what you're doing to do this, but there's a larger moral issue here that I think is really difficult.

**Kolterman:** [00:36:49] The other thing I would tell you is I really appreciate the-- we had an opportunity to meet with the school district-- the School Board Association and told them what we're trying to do here. We met with the NSEA. We met with OSERS. We met with the PERB. We did meet with Saunders County and we're-- and we talked to-- we let everybody know that this is coming ahead of time. County officials, we tried to be as open and honest about this as possible. And we really didn't want to throw Saunders County under the bus on this situation. So we're going to continue to try and figure out a way to make them whole or at least continue to work with them. And I know that the PERB and the NPERS is willing to do that as well.

**Lindstrom:** [00:37:36] Very good. Any final questions? Seeing none, thank you, Chairman. And that'll close the hearing--

**Kolterman:** [00:37:41] Thank you.

**Lindstrom:** [00:37:41] --on LB1005.