

Journal of the House

SIXTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Wednesday, May 6, 2009, 10:00 a.m.

The House met pursuant to recess with Speaker O'Neal in the chair.
The roll was called with 122 members present.
Reps. Aurand, Peterson and Rardin were excused on excused absence by the Speaker.
Present later: Rep. Aurand

Prayer by guest chaplain, the Rev. Steve L. Vaughn, Senior Pastor, Fairlawn Nazarene Church, Topeka:

Lord, the world wants to pound us down. We are controlled by clocks, traffic lights, endless lines, and requested participation in events. Our energies are drained and our nerves become frayed. The trials and demands continue without end, and they often seem urgent, even chaotic.

Help us to separate trial from opportunity, replace demand with sacrifice. Help us to replace urgency with submission to your will, forgiveness instead of frustration. Give us the gift of patience. Help us to display leadership rather than demanding respect of the title. Help us to relax instead of regret. Help us to be fresh in wisdom and not frustrated in thought.

Father grant a special prayer to those in our military here at home and abroad as they protect our freedom and those who have yet to breathe freedom. Be with their families as they serve in harm's way. Surround them with your mercies and protection. Give them another day to see the sun rise and set. May they know that we as the United States of America stand united in our support of their lives more than their cause or career.

In Christ's name I pray, Amen.

The Pledge of Allegiance was led by Rep. Long.

MESSAGE FROM THE SENATE

Announcing passage of **HB 2373**, as amended by **S. Sub. for HB 2373**.

The Senate accedes to the request of the House for a conference on **HB 2195** and has appointed Senators Vratil, McGinn and Kelly as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2295**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Powell, the House concurred in Senate amendments to **S. Sub. for HB 2295**, An act concerning agriculture; relating to application of swine waste; fees for pesticide and fertilizer programs; fees for milk and dairy products; amending K.S.A. 2-2203, 2-2205, 2-2206, 2-2207, 2-2209, 2-2214, 2-2440a, 2-2440c, 2-2440e, 2-2446, 2-2449, 2-2450, 2-2454, 2-2455, 2-2470 and 2-2471 and K.S.A. 2008 Supp. 2-1205, 2-2202, 2-2204, 2-2438a, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2469, 2-2905, 2-2906, 2-3304, 2-3306, 2-

3309, 2-3318, 65-778, 65-781 and 65-1,182 and repealing the existing sections; also repealing K.S.A. 2-1211 and 2-2466.

On roll call, the vote was: Yeas 120; Nays 2; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Benlon, Bethell, Bowers, Brookens, A. Brown, T. Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Craft, Crow, Crum, Davis, DeGraaf, Dillmore, Donohoe, Faber, Feuerborn, Finney, Flaharty, Frownfelter, Fund, Furtado, Garcia, D. Gatewood, S. Gatewood, George, Goico, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Johnson, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Maloney, Mast, McCray-Miller, McLeland, Menghini, Merrick, Morrison, Moxley, Myers, Navinsky, Neighbor, Neufeld, O'Brien, O'Neal, Olson, Otto, Palmer, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Quigley, Rhoades, Roth, Ruiz, Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Slatery, Sloan, Spalding, Svaty, Swanson, Swenson, Tafanelli, Talia, Tietze, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Williams, Winn, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Gordon, Knox.

Present but not voting: None.

Absent or not voting: Aurand, Peterson, Rardin.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 171**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 171**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 15 through 43;

By striking all of pages 2 through 5 and inserting in lieu thereof the following:

"Section 1. K.S.A. 25-1218 is hereby amended to read as follows: 25-1218. (a) The secretary of state shall prescribe the form of official federal services absentee ballots. Such ballots shall provide for voting for all officers; ~~other than precinct committeeman and committeewoman, for whom the voter would otherwise be entitled to vote and shall also provide for voting on any proposed amendment to the constitution of the state of Kansas and any other and on any proposition or question which is to be submitted to a vote of the qualified electors of the state at large for which the voter would otherwise be entitled to vote.~~ Such ballots shall be uniform in size and in style of type, and the type and paper shall conform generally to that used for the regular official ballots. The respective county election officers shall cause to be prepared and printed such numbers of ballots as may be appropriate for carrying out the provisions of this act.

(b) Such ballots shall contain the title of each office to be voted for, followed by the name and address of each nominated candidate for each office, the party or independent body nominating such candidate, a designation of the political subdivision to be represented, and a blank space for writing in the name of any other person for whom the voter desires to vote; ~~except that.~~ *Except for precinct committee men and committee women* no such blank space shall be printed on the primary ballot following the title of any office for which there is a candidate.

Sec. 2. K.S.A. 2008 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in

the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any sick, physically disabled or illiterate voter who is unable to apply for or mark or transmit an advance voting ballot, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person ~~upon request of~~ *designated in writing by* the voter. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a sick, physically disabled or illiterate voter in applying for or marking an application or advance voting ballot, provided a written statement is signed by the person who renders assistance to the sick, physically disabled or illiterate voter and submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the sick, physically disabled or illiterate voter and that the person providing assistance has completed the application or marked the ballot as instructed by the sick, physically disabled or illiterate voter.

(e) Any person assisting a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot who knowingly and willfully fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9 nonperson felony.

Sec. 3. K.S.A. 2008 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall mark or transmit to the county election officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) *Except as otherwise provided by law, no person other than the voter shall sign an application for an advance voting ballot for such voter.*

~~(d)~~ (d) Except as otherwise provided by law, no person other than the voter, shall mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

~~(e)~~ (e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and amendments thereto, shall intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

~~(f)~~ (f) No person shall willfully and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot, or set of advance voting ballots if the voter is entitled to vote more than one kind of advance voting ballot at a particular election, or in a declaration form on an advance voting ballot envelope.

~~(g) Nothing in this section shall be construed to prohibit any person from mailing, carrying or otherwise conveying advance voting ballots or sets of advance voting ballots to the county election officer upon request of advance voting voters.~~

(g) A voter may return such voter's advance voting ballot to the county election office by personal delivery or by mail. Upon written designation showing the date and signature by the voter on the ballot envelope, a person other than the voter may be designated to return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement and date such statement at the time the ballot is taken from the

voter and which statement appears on the ballot envelope that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter. Any person designated by a voter to deliver such voter's advance voting ballot shall mail or deliver the ballot and the designation and statement required by this section to the county election office. Such delivery shall occur within two business days after receiving the ballot from the voter but not later than the close of polls on election day.

(g) (h) Violation of any provision of this section is a ~~class C misdemeanor~~ severity level 9 nonperson felony. No person may be found to have violated subsection (g) unless there is evidence the violation was knowingly and willfully done.

Sec. 4. K.S.A. 25-205 is hereby amended to read as follows: 25-205. (a) Except as otherwise provided in this section, the names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: (1) They shall have had filed in their behalf, not later than 12:00 noon, ~~June 10~~ June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act, except that in 1998, candidates for judge or district magistrate judge of the district court for positions created in 1998 in those judicial districts that have not approved the proposition of nonpartisan selection of judges of the district court shall have filed in their behalf, not later than 12:00 noon, July 1, 1998, nomination petitions, as provided for in this act; or (2) they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law. Such declaration shall be prescribed by the secretary of state.

(b) Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the county of _____, and state of Kansas, and a duly registered voter, and a member of _____ party, hereby nominate _____, who resides in the township of _____ (or at number _____ on _____ street, city of _____), in the county of _____ and state of Kansas, as a candidate for the office of (here specify the office) _____, to be voted for at the primary election to be held on the first Tuesday in August in _____, as representing the principles of such party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for such office at such primary election.

(HEADING)

| | | | |
|---------------------|---|------------------|---------------------|
| Name of Signers. | Street Number or Rural Route (as registered). | Name of City. | Date of Signing. |
|---------------------|---|------------------|---------------------|

All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(c) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(d) All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit described in this paragraph of a petition circulator who is a resident of the state of Kansas and has the qualifications of an elector in the state of Kansas or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon.

(e) Except as otherwise provided in subsection (g), nomination petitions shall be signed:

(1) If for a state officer elected on a statewide basis or for the office of United States senator, by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the state as compiled by the office of the secretary of state;

(2) If for a state or national officer elected on less than a statewide basis, by voters equal in number to not less than 2% of the total of the current voter registration of the party designated in such district as compiled by the office of the secretary of state, except that for the office of district magistrate judge, by not less than 2% of the total of the current voter registration of the party designated in the county in which such office is to be filled as certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto;

(3) If for a county office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such district or county as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto; and

(4) If for a township office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such township as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto.

(f) Subject to the requirements of K.S.A. 25-202, and amendments thereto, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party and, upon receipt of such nomination petitions, the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

(g) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May ~~10~~ 1, nomination petitions for nomination to such offices shall be signed by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the district as compiled by the office of the secretary of state.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May ~~11~~ 2, nomination petitions for nomination to the following offices shall be signed by registered voters of the party designated in the district equal in number to not less than the following:

- (A) For the office of representative in the United States congress 1,000 registered voters;
- (B) for the office of member of the state board of education 300 registered voters;
- (C) for the office of state senator 75 registered voters; and
- (D) for the office of state representative 25 registered voters.

(h) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before June ~~10~~ 1, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on June ~~24~~ 15, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or holiday.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after June ~~11~~ 2, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on July ~~12~~ 3, or if such date falls on a Saturday, Sunday or holiday, then before 12:00 noon of the next day that is not a Saturday, Sunday or holiday.

Sec. 5. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods and none other: *First*, they shall have had filed in their behalf, not later than ~~twelve o'clock~~ 12:00 noon, ~~June 16~~ June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before twelve o'clock noon the following business day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, *second*, they shall have filed not later than the time for filing nomination papers, as above provided, with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile or *electronic mail*. The voter may also request that the county election officer transmit to such voter by facsimile or *electronic mail* a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile or *electronic mail* such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile or *electronic mail*, the transmittal shall contain the following statement: "I understand that by faxing or *electronically mailing* my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer's staff shall take the steps necessary to keep the voted ballots received by facsimile or *electronic mail* as confidential as practicable.

Sec. 7. K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.;

In the title, in line 10, by striking all after "concerning"; by striking all in line 11; in line 12, by striking all before the period and inserting "elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections.;"

And your committee on conference recommends the adoption of this report.

STEVE HUEBERT
SCOTT SCHWAB
Conferees on part of House

VICKI SCHMIDT
PAT APPLE
Conferees on part of Senate

On motion of Rep. Huebert, the conference committee report on **SB 171** was adopted.

On roll call, the vote was: Yeas 68; Nays 53; Present but not voting: 1; Absent or not voting: 3.

Yeas: Brookens, A. Brown, Brunk, Burgess, Carlson, Colloton, Craft, Crum, DeGraaf, Donohoe, Faber, Fund, George, Goico, Gordon, Grange, Hayzlett, Hermanson, Hill, Hineman, C. Holmes, M. Holmes, Horst, Huebert, Huntington, Jack, Kelley, Kerschen, Kiegerl, King, Kinzer, Kleeb, Knox, Landwehr, Light, Mast, McLeland, Merrick, Morrison, Myers, Neufeld, O'Brien, O'Neal, Olson, Otto, Patton, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Schwab, Schwartz, Shultz, Siegfried, Sloan, Spalding, Swanson, Tafaneli, Talia, Vickrey, Watkins, Whitham, B. Wolf, K. Wolf, Worley, Yoder.

Nays: Ballard, Benlon, Bethell, Bowers, T. Brown, Burroughs, Carlin, Crow, Davis, Dillmore, Feuerborn, Finney, Flaharty, Frownfelter, Furtado, Garcia, D. Gatewood, S. Gatewood, Goyle, Grant, Hawk, Henderson, Henry, Johnson, Kuether, Lane, Loganbill, Long, Lukert, Mah, Maloney, McCray-Miller, Menghini, Navinsky, Neighbor, Palmer, Pauls, Phelps, Quigley, Roth, Ruiz, Sawyer, Schroeder, Seiwert, Slattery, Svaty, Swenson, Tietze, Trimmer, Ward, Wetta, Williams, Winn.

Present but not voting: Moxley.

Absent or not voting: Aurand, Peterson, Rardin.

MESSAGE FROM THE SENATE

The President announced the appointment of Senators Emler and Vratil as members of the conference committee on **H. Sub. for SB 168** to replace Senators V. Schmidt and Apple.

REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 205** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL No. 205," as follows:

"HOUSE Substitute for SENATE BILL No. 205

By Committee on Appropriations

AN ACT making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, and June 30, 2012, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2008 Supp. 72-8814, 76-7,107, as amended by section 139 of 2009 Senate Substitute for House Bill No. 2354, 79-2979, as amended by section 143 of 2009 Senate Substitute for House Bill No. 2354, 79-3425i, as amended by section 144 of 2009 Senate Substitute for House Bill No. 2354, and 79-34,156, as amended by section 91 of 2009 House Substitute for Substitute for Senate Bill No. 23, and repealing the existing sections; also repealing section 102 of 2009 Senate Substitute for House Bill No. 2354."; and the substitute bill be passed.

(**H. Sub. for SB 205** was thereupon introduced and read by title.)

COMMITTEE ASSIGNMENT CHANGE

Rep. Slattery is appointed to replace Rep. Rardin on Committee on Taxation.

On motion of Rep. Merrick, the House recessed until 4:00 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker O'Neal in the chair.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Merrick, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2072**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2072**, submits the following report:

The Senate recedes from all of its amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 1, after line 14, by inserting the following:

“Section 1. K.S.A. 2008 Supp. 74-4914 is hereby amended to read as follows: 74-4914.

(1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b and amendments thereto and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) On or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, *and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant*, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one such calendar year, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, *and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, with such retirant with a participating employer for which such retirant was*

employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under subsection (a) of K.S.A. 72-5410, and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this subsection which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in subsection (b) of K.S.A. 76-12a01 or subsection (f) of K.S.A. 38-2302, and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.”;

And by renumbering the remaining sections accordingly;

On page 4, in line 21, after “Supp.” by inserting “74-4914 and”; also in line 21, by striking “is” and inserting “are”; in line 23, by striking “statute book” and inserting “Kansas register”;

On page 1, in the title, in line 10, by striking “po-”; in line 11, by striking all before “retirement” and inserting “public employees”; also in line 11, after “system” by inserting “and systems thereunder; employment after retirement, retirants employed by third-party entities”; in line 12, after “Supp.” by inserting “74-4914 and”; also in line 12, by striking “section” and inserting “sections”;

And your committee on conference recommends the adoption of this report.

JOHN VRATIL
CAROLYN MCGINN
LAURA KELLY
Conferees on part of Senate

SHARON SCHWARTZ
CLARK SHULTZ
GERALDINE FLAHARTY
Conferees on part of House

On motion of Rep. Schwartz to adopt the conference committee report on **S. Sub. for HB 2072**, Rep. Neufeld offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker O’Neal thereupon appointed Reps. Schwartz, Shultz and Flaharty as second conferees on the part of the House.

REPORT ON ENROLLED RESOLUTIONS

HR 6025, HR 6026, HR 6028 reported correctly enrolled and properly signed on May 6, 2009.

On motion of Rep. Merrick, the House adjourned until 10:30 a.m., Thursday, May 7, 2009.

SUSAN W. KANNARR, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

