

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by Senator August "Gus" Bogina at
Chairperson

3:00 a/m/p.m. on April 4, 1985 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Research Department: Richard Ryan, Alan Conroy, Robin Hunn
Revisor's Office: Norman Furse
Committee Office: Judy Bromich, Doris Fager

Conferees appearing before the committee:

Rick von Ende, Dr. Frank Masters, Marlin Rein, University of Kansas
Medical Center
Senator Jack Walker
Dr. Robert Harder, Secretary, SRS
Jerry Palmer, Kansas Trial Lawyers Association
Ernie Mosher, League of Kansas Municipalities
Graig Grant, KNEA
David Reavis, Kansas Fraternal Order of Police, Lawrence
John Lamb, Director, ABC Division, Department of Revenue
Tuck Duncan
Representative Clint Acheson
Bob Clester, Executive Director, Kansas Sheriffs' Association
Marshall Crowther, Executive Director, KPERs
Senator Jack Steineger
Paul Shelby, Judicial Department
Etta Blanche Dahlgren, Kansas City
Clarence Turpin, Chairman Retired Teachers Association, Kansas City
Basil Covey, Topeka
Representative Bill Wisdom
Senator James Francisco

SB 270 - ABC to be under Kansas Police and Firemen's Retirement System

Mr. Lamb stated the bill was introduced at the request of his agency. He distributed his remarks (Attachment A) and read from the written testimony. It was noted the measure would transfer liquor control investigators from KPERs to KP&F. When asked by Senator Doyen if those investigators carry firearms, Mr. Lamb answered in the affirmative. It was revealed that there has not been need to use firearms, but there has been need to display them in making an arrest, because another person was armed.

Mr. Duncan appeared as a proponent for SB 270, stating he feels the ABC investigators deserve to be part of KP&F retirement system.

HB 2219 - KP&F Retirement System, benefits of members' spouses

Senator Winter called the committee's attention to Attachment B, a memorandum from Representative Jessie Branson, dated April 4, 1985. He said she was unable to attend this meeting.

Representative Acheson indicated that his interest in HB 2219 stems from the fact that he has a retired highway patrolman in his district who has re-married since his retirement. The bill changes the time they must be married to five years for the spouse to be eligible for retirement benefits in case of his death. Representative Acheson said it is his understanding there is no fiscal note.

Mr. Reavis appeared in support of the bill, noting that he has a situation very similar to that reported by Representative Acheson.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
room 123-S, Statehouse, at 3:00 a.m./p.m. on April 4, 1985

HB 2220 - KP&F, Employer affiliation

Mr. Clester presented testimony contained in Attachment C, which he distributed to members of the committee.

Mr. Mosher appeared as a proponent of the measure, indicating his organization is highly in favor of HB 2220.

HB 2017 - Post Retirement benefit adjustments (Wyandotte County teachers)

Representative Wisdom explained that HB 2017 is an attempt to provide some additional income for the older Kansas City, Kansas, retired teachers. He explained that it would include an increase in retirement pay provided by SD 500 and the thirteenth check as in the past.

Senator Steineger added that some of the older retirants had been taken care of in the past. HB 2017 is an attempt to provide equal treatment for a group which has been overlooked in the past.

Ms. Dahlgren read from her written testimony (Attachment D). Senator Werts asked if the teachers in this particular group had paid the same amount into the retirement fund as those who were included in KPERS. Ms. Dahlgren indicated that they had paid their proportionate share.

Senator Harder asked if, in 1971 when KPERS went into effect for teachers, the Kansas City teachers had a choice of joining KPERS or staying with the Kansas City Retirement System. Mr. Dahlgren answered that they did have a choice, and the Kansas City system was the better one at that time. She added that KPERS has improved since then.

Mr. Turpin stated his support of HB 2017.

Mr. Covey presented his written testimony (Attachment E) and committee members were given an opportunity to question him.

SB 356 - Legislatores to remain members of KPERS

Senator Francisco indicated that Section 1 refers only to legislators. He recommended that this be amended to allow "any elected official" who is a member of KPERS with 10 years of service to participate when they leave the government service. Following his presentation, committee members were given the opportunity to ask questions.

HB 2182 - Optional death benefit plan, KPERS

There were no conferees on HB 2182.

HB 2218 - Retirement benefit options, KPERS

There were no conferees on HB 2218.

HB 2500 - KPERS - purchase of additional benefits and crediting of military service

Mr. Covey appeared as a proponent of this measure, and committee members were given the opportunity to question him. (See Attachment F)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
 room 123-S, Statehouse, at 3:00 a.m. on April 4, 1985

SB 163 - Disability benefits of police and firemen's retirement system

Mr. Reavis appeared in support of SB 163. He explained that, in 1978, one of the Lawrence police officers was struck by a car and permanently disabled. He was medically retired that year, and last year he died of cancer. Under the present retirement system, there is no provision for his spouse or family, since he died other than from the injury. Mr. Reavis said he felt this might have been an oversight in present law.

Members of the committee were given the opportunity to question Mr. Reavis.

SB 362 - Exemption from liability under Kansas tort claims act of residents at KUMC

Mr. von Ende appeared in support of SB 362, which is the result of discussion during subcommittee deliberations on the Medical Center Budget.

Mr. von Ende explained SB 362, and noted that savings would be in excess of \$800,000 this year, and a larger sum next year if the measure is passed. He explained that the students in question operate only under supervision of MD's or under the responsibility of the hospital, so the bill would not leave them without liability insurance. He added that two cases of KUMC students who have been sued were successful, but the students were moonlighting at the time.

Dr. Masters presented concerning liability cases, costs, etc. (Attachment G). He explained the figures on the table. He then commented that the Medical Center feels that students who moonlight should pay their own insurance premiums. He stressed that the cost of malpractice insurance has risen so rapidly that KUMC is in need of help in reducing the premiums.

In answer to a question from Senator Gaines, Dr. Masters said if students work in an approved area and with proper staff supervision, they would be covered even in they were moonlighting. He agreed that if the bill passes, there will be less moonlighting without supervision.

Responding to a question from Senator Winter, Dr. Masters said the policy that covers the KUMC has been reviewed in detail, and he is sure it covers the kind of activity provided by residents. He said it will provide coverage just like for any other practicing physician in Kansas.

There was discussion concerning the number of students moonlighting (Dr. Masters said approximately 75 or 100 who would not be covered by provisions of the bill), and the circumstances under which they would be covered. Dr. Masters said that, according to provisions of SB 362, the student would need to be supervised by faculty, and the supervision constitutes responsibility for the students' actions.

Senator Johnston asked if this matter might have the effect of increasing premiums for the hospital or individual physicians. Dr. Masters agreed that this is possible, but he is willing to take that chance.

Mr. Rein reminded the committee that last year the Legislature amended the Health Care Stabilization Act. Based on those amendments, and the nature of changes in the Fund, it was necessary for KUMC to supplement its budget by more than \$300,000. Even with that addition, it was inadequate. Mr. Rein said that during FY 1986 budget proposals, KUMC was confronted with the issue of how to deal with malpractice insurance. He said it seemed that the cost of the program is disproportionate to the experience of the liability. By including house staff, the result constituted state subsidation of the Health Care Stabilization Fund. He said that the total for FY 1986 for KUMC would be nearly \$1.7 million. Of that amount, approximately \$750,000 would be basic premium and \$900,000 would be used to support the Stabilization Fund. He added that, at this point, there is \$750,000 in the Medical Center budget for FY 1986 for malpractice insurance. Therefore, it would be necessary to add nearly \$900,000 in the Omnibus Appropriations Bill. He stated that, if SB 362 is enacted, the amount of \$750,000 could be removed from the budget.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
room 123-S, Statehouse, at 3:00 a.m./p.m. on April 4, 1985

SB 362 - Continued

There were questions from Senator Johnston concerning the reaction of the insurance provider to the provisions of SB 362. Dr. Masters answered that he is not sure they have been approached about the possibility of authorizing someone who is not qualified to perform surgery, for instance. Senator Johnston said he wondered if someone who writes the insurance may have some concern about proper supervision of residents. Mr. von Ende reminded the committee that there is also a general liability policy for the hospital.

Senator Walker commented that, if SB 362 is passed, it is locked into the temporary licensure situation with the State Board of Healing Arts.

Dr. Harder distributed a balloon of a proposed amendment to SB 362 and his comments about the amendment (See Attachments H and I).

Dr. Harder suggested his amendment would be cost effective, since it means that SRS would become self-insured. According to Dr. Harder, it would not mean that employees would be excused from liability. He noted that, if this is not appropriate, it is his feeling that the state should make payments if they are mandated. Dr. Harder then answered questions posed by members of the committee .

Mr. Palmer read from his written testimony, which he distributed to members of the committee. (Attachment J) Upon completion of his statement, he said he feels it is erroneous that by enacting this legislation, the rights of the patient are not taken away. He stressed that Kansas has separate liability--not joint liability.

There was an extended discussion and many questions asked concerning the legal implications of SB 362. Mr. Palmer said he felt the result of passage of SB 362 would be a liability facing the resident; and that the liability would be separate and there would be nobody to cover the resident. He said he felt the bill might have the opposite result from what is intended.

This concluded the hearing on SB 362.

KPERS SUBCOMMITTEE CONCLUSIONS

A subcommittee report entitled "Retirement Bills and Issues" was distributed to members of the committee (Attachment K). Senator Talkington, Chairman of the subcommittee, explained that Mr. Crowther had informed the members of the most recent actuarial studies, and the suggestions in the report are the result of those studies.

In answer to a question from Senator Gaines concerning tables on page 2 of the subcommittee report, Mr. Crowther said the suggestions for revision of employer rates are the result of greater opportunities for earnings. He added that Kansas has one of the top three retirement systems in the nation. Other members of the committee asked questions of Mr. Crowther concerning the actuarial findings. Senator Talkington expressed appreciation to Mr. Crowther and members of the legislative staff for their help in preparing the report before the committee.

Mr. Crowther spoke for people connected with the retirement system who were not able to appear. He thanked the subcommittee for showing a willingness to spend some of the savings in the system to provide enhancements for members of KPERS and related retirement systems.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

room 123-S Statehouse, at 3:00 a.m./p.m. on April 4, 1985.

HB 2218 - KPERS and KP&F provisions

Senator Talkington explained the provisions of the subcommittee report, and noted that it would be appropriate to include all those suggestions in HB 2218.

Motion was made by Senator Talkington and seconded by Senator Kerr to amend the suggestions in the subcommittee report into HB 2218. The motion carried by voice vote.

Motion was made by Senator Talkington and seconded by Senator Johnston to report HB 2218 as amended favorably for passage. The motion carried by roll call vote.

SB 361 - Creating the animal disease control fee fund

Staff indicated this was an item recommended in the subcommittee report for the Animal Health Department for accounting purposes. This merges several funds into one.

Motion was made by Senator Gannon and seconded by Senator Winter to report SB 361 favorably for passage. The motion carried by roll call vote.

SB 363 - Assessment of costs for mediation and fact-finding services in public employer-employee relations

Mr. Mosher presented a balloon of SB 363 with suggested amendments. He said the interim committee on this subject recommended that the PERB Board should not be authorized on its own motion to become involved. He said it is a major policy change and he would suggest giving the PERB Board a blank check. Then it would be divided between the employer organization and the governmental unit. Senator Winter said the question raised by Mr. Mosher was not considered, and he feels the bill is not necessary.

Mr. Grant also appeared as an opponent to SB 363.

Motion was made by Senator Winter and seconded by Senator Feleciano to report SB 363 adversely. The motion carried by voice vote.

INTRODUCTION OF BILLS

There was a request for introduction of two measures concerning the Board of Healing Arts: (1) Authorizing the Board to assess fines against licensees violating the Kansas healing arts act; and (2) relating to reporting to the Board information concerning persons licensed, registered or certified by the Board.

Motion was made by Senator Kerr and seconded by Senator Gannon to introduce the requested bills. The motion carried by voice vote.

The meeting was adjourned by the Chairman.

MEMORANDUM

TO: Honorable August "Gus" Bogina
Chairperson, Senate Ways and Means Committee

FROM: JOHN A. LAMB, Director, ABC Division

RE: Senate Bill 270

DATE: March 28, 1985

The purpose of the memorandum is to provide information to the committee concerning senate bill 270 and the potential eligibility of the Liquor Control Investigators in the ABC Division, Department of Revenue to participate in the Kansas Police and Firemen's Retirement System.

The Liquor Control Investigators are currently members of the regular KPERS, and as police officers we feel they should be considered for inclusion in the Kansas Police and Firemen's Retirement System.

K.S.A. 41-201 gives to the Director of Alcoholic Beverage Control the authority to appoint agents and employees who "...are hereby vested with the power and authority of peace and police officers..." Additionally, K.S.A. 74-4602(e), which defines the term "Police Officers" or "Law Enforcement Officers," provides a non-inclusive list of the kinds of police or law enforcement officers that are currently employed in Kansas. That list includes "law enforcement agents of the director of alcoholic beverage control..." As law enforcement officers, Liquor Control Investigators are:

1. Required to attend the Kansas Law Enforcement Training Academy.
2. Required to complete successfully the mandatory basic police course as well as complete 40 hours of refresher training annually, and
3. Authorized to carry firearms and make arrests.

Liquor Control Investigators investigate and make arrests for alleged violations of the Kansas Liquor Control Act, the Private Club Licensing Act, and the Cereal Malt Beverage Act (Chapter 41, Kansas Statutes Annotated.)

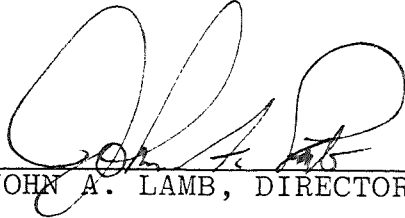
With respect to salary, the twenty-four (24) Liquor Control Investigator I's are Range 17 and the two (2) Liquor Control Investigator II's are Range 19. The Chief Enforcement Officer is Range 26. This compares with a KBI Investigator I at Range 25 and Kansas Highway Patrol Officer at Range 21.

Senator Bogina
Senate Bill 270
March 28, 1985

The initial cost to the state for the first year could be up to \$71,595. These figures are high because several of the agents were hired at an older age and would not elect to participate of which they are aware, but still favor passage of this bill. I am sure additional information will be provided to you by Mr. Marshall Crowther, Executive Secretary, Public Employment Retirement System, if you need it.

Liquor Control Investigators of the Alcoholic Beverage Control Division are fully qualified, certified law enforcement officers. They are not, however, afforded the opportunity to participate in a retirement system designed specifically for law enforcement officers. We feel in the interest of consistent application of retirement systems that the Liquor Control Investigators in the ABC Division should be included under the Kansas Police and Firemen's Retirement System.

We would be glad to provide the Committee with any further information you may desire.



JOHN A. LAMB, DIRECTOR

JAL:cjk

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
PENSIONS, INVESTMENTS AND BENEFITS
PUBLIC HEALTH AND WELFARE

April 4, 1985

TO: Senator Gus Bogina, Chairman
and Members
Senate Committee on Ways and Means

FROM: Representative Jessie Branson

RE: HB 2219

Thank you for the opportunity of presenting HB 2219.

HB 2219 relates to retirement benefits of spouses of members of the police and firemen's retirement system.

Currently, if a surviving spouse who is receiving retirement benefits remarries, he/she loses those benefits. Also, if a member of the system marries after retiring, his/her spouse will never be eligible for benefits.

HB 2219 basically has three provision to correct the above inadequacies:

- 1) Allows a surviving spouse who remarries to continue receiving benefits in the event that the new spouse dies. (No fiscal note).
- 2) Provides that if a member (of the retirement system) becomes married after his/her retirement, his/her spouse shall be eligible for benefits if the couple has been married for at least five years. (No fiscal note)

ATB 4-4

- 3) HB 2219 also provides that no person shall be entitled to receive more than one benefit. (No double-dipping!)

Thank you for your consideration of HB 2219. I urge your favorable action.



Kansas Sheriffs Association

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TESTIMONY FOR H.B. 2220

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FOR THE PAST SEVERAL YEARS SHERIFFS HAVE ASKED FOR COVERAGE UNDER THE KANSAS POLICE AND FIREMENS RETIRMENT SYSTEM. THE SYSTEM IS AVAILABLE TO ALL COUNTY SHERIFFS' OFFICERS BUT THE HIGH COST OF INITIAL ENTRY HAS BEEN A DETERRENT TO MOST COUNTIES. JOHNSON, RILEY, SEDGWICK, SUMNER, AND WYANDOTTE COUNTIES HAVE BEEN SUCCESSFUL IN ENTERING THE SYSTEM AND SHAWNEE COUNTY WILL COMMENCE COVERAGE IN 1986.

DURING THE 1984 LEGISLATIVE SESSION SENATOR ROY EHLRICH INTRODUCED SENATE BILL 682 THAT WOULD HAVE ALLOWED SHERIFFS AND DEPUTIES TO COME UNDER A MODIFIED KPERS PLAN. THIS WAS A PLAN DEVELOPED FOR THE DEPARTMENT OF CORRECTIONS AND ALLOWED FOR RETIREMENT AT AGE 55. THIS PLAN HAD SOME SHORTCOMINGS BUT WAS FOR THE MOST PART BETTER FOR LAW ENFORCEMENT THAN REGULAR KPERS. THIS BILL WAS PASSED BY THE SENATE BY A 40 TO 0 VOTE IN THE CLOSING DAYS OF THE 1984 SESSION AND SENT TO THE HOUSE. THE BILL WAS REFERRED TO AN INTERIM COMMITTEE. THIS COMMITTEE HELD SEVERAL DAYS OF HEARINGS AND IN DISCUSSIONS ON THE PROPOSAL. DURING THESE HEARINGS, MARSHALL CROWTHER, EXECUTIVE SECRETARY, KPERS, OUTLINED ANOTHER OPTION FOR SHERIFF DEPARTMENT PERSONNEL. THIS OPTION WOULD MOVE THE PERSONNEL INTO KP&F FOR FUTURE SERVICE AND LEAVE THEIR PAST CREDIT IN KPERS.

MARSHALL CROWTHER AND HIS STAFF PREPARED A PROPOSAL, PRESENTED IT TO THIS COMMITTEE AND IT BECAME H.B. 2220.

THIS PROPOSAL GIVES THE EMPLOYER THE OPTION OF FUTURE KP&F COVERAGE, FOR SHERIFFS PERSONNEL, WITHOUT THE COST OF MATCHING THE FUNDS PREVIOUSLY PAID INTO KPERS.

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THE BILL AS PROPOSED WOULD NOT ONLY COVER SHERIFFS' PERSONNEL NOT NOW UNDER KP&F.

IT IS ESTIMATED THE EMPLOYEE WOULD PAY AN ADDITIONAL THREE PERCENT OF HIS GROSS SALARY AND THE EMPLOYER FROM FIVE TO SIX PERCENT.

THE COUNTIES WOULD HAVE THE OPTION OF REMAINING KPERS, GOING FULL KP&F, OR GOING KP&F FUTURE SERVICE ONLY. LOCAL LAW ENFORCEMENT AND LOCAL GOVERNMENT WOULD THEN HAVE TO DECIDE WHICH PLAN THEY COULD AFFORD AND WHICH BEST SERVES THEIR NEEDS.

I WILL NOT BELABOR THE FACT OF STRESS AND DANGER INVOLVED WITH BEING A MEMBER OF THE LAW ENFORCEMENT PROFESSION, SUFFICE IT TO SAY THAT MOST SHERIFFS' OFFICERS WORK UNDER THESE CONDITIONS AS WELL AS WORKING LONG DUTY HOURS AND MANY TIMES SEVEN DAYS A WEEK.

UNDER KPERS WHICH MOST SHERIFFS AND DEPUTIES NOW HAVE, THEY MUST WORK UNTIL THEY ARE 65 ... PAST THE TIME WHEN THEY ARE BEST ABLE TO PROTECT THEMSELVES AND OTHERS. IT IS EVIDENT THAT 55 IS CONSIDERED THE AGE AT WHICH LAW ENFORCEMENT OFFICERS SHOULD RETIRE AS PENSION PLANS DEVELOPED FOR THEM ALL HAVE THAT AGE IN COMMON.

DEPARTMENTS NOT COVERED BY KP&F SUFFER A HIGH INCIDENCE OF LOSS OF EMPLOYEES TO THOSE WHO ARE. HIRING AND TRAINING OFFICERS IS VERY COSTLY. RETAINING THESE EMPLOYEES WOULD RESULT IN CONSIDERABLE SAVINGS PLUS A HIGHER DEGREE OF EXPERIENCE AND PROFESSIONALISM.

WE SINCERELY THANK MARSHALL CROWTHER AND HIS STAFF FOR PREPARING THIS PROPOSAL AND THANK THIS COMMITTEE FOR HEARING OUR TESTIMONY. WE HOPE THE LEGISLATURE SEES FIT TO ENACT H.B. 2220 INTO LAW.

ROBERT CLESTER
EXECUTIVE DIRECTOR
KANSAS SHERIFFS ASSOCIATION

April 4
~~March 28~~, 1985

Members of the Senate Ways and Means Committee:

My name is Etta Blanche Dahlgren. The group here today represents the Kansas City, Kansas Retired Teachers Association. We want to speak in support of HB 2017.

We represent the retirees of the Kansas City, Kansas Teacher Retirement System. The present law does not treat the retirees from September 1, 1971 to September 1, 1981 the same as earlier retirees of the local system or the retirees of the state KPERS plan in this same time period.

The increased cost of living is the problem for retirees on a fixed income. The increases given to others have helped them. We would like to be given the same consideration.

Most of the group of retirees from 1971 to 1981 taught in the Kansas City, Kansas school system 30 years or more. Some taught up to 45 years. They paid into the retirement fund for many years. They are tax payers, also. The number in this group of teachers is decreasing all the time.

The salaries paid to teachers, in many cases, were lower than those received by some city employees, firemen, police and others in industry. We did not receive as many fringe benefits, such as, paid insurance.

Some of this group had taught in Kansas before being employed in Kansas City, Kansas. The local retirement system has had some funding from KPERS.

We appreciate the interest and support of this committee. We hope you will give HB 2017 favorable consideration.

Thank you,

Etta Blanche Dahlgren

Etta Blanche Dahlgren
Kansas City, Kansas Retirement System

The Kansas City, Kansas Retired Teachers Association includes members receiving benefits under KPERS and the Local KCK System.

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Kansas Retired Teachers Association



1984-1985

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March 28, 1985

Members of the Senate Ways and Means Committee:

My name is Basil Covey and I represent the Kansas Retired Teachers Association.

We support HB2017 which will increase benefits for retired teachers in school districts maintaining a separate retirement system. This bill will benefit retired teachers who have served the youth in the Kansas City school district. The bill will benefit about 125 teachers.

HB2017 will increase benefits equal to, or similar to, the increased benefits received by retired teachers outside the Kansas City school district from the KPERS retirement system in 1984. This bill will give the retired teachers the 13th check to be funded by the KPERS retirement system.

The Kansas City school district and their retired teachers served as pioneers in the teaching profession in Kansas in providing the first retirement system. The responsibility exists for the Kansas City school district to provide benefits for their retired teachers.

HB2017 gives legislators a sense of well-being in helping to mend a flaw in the retirement security net of this group of retirees.

We urge you to give HB2017 a favorable vote.

Sincerely,

Basil Covey
Basil Covey
KRTA

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BUILDING BRIDGES FOR KRTA SERVICE:

To the local UNITS; From the state ASSOCIATION; With the NRTA DIVISION

E 4-4



Kansas Retired Teachers Association



1984-1985

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March 28, 1985

Members of the Senate Ways and Means Committee:

My name is Basil Covey and I represent the Kansas Retired Teachers Association.

We support HB2500 which permits Kansas public employees to purchase additional benefits and credits for military service, teaching in foreign countries and service in another state.

There are KPERS members with a direct interest in this bill. There are sons and daughters of KPERS members that have a direct interest. This bill will permit members of KPERS to gain the benefit of all of their service years.

We urge you to give a positive vote on HB2500.

Sincerely,

Basil Covey
basil Covey
KRTA

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BUILDING BRIDGES FOR KRTA SERVICE:

To the local UNITS; From the state ASSOCIATION; With the NRTA DIVISION

F 4-4

PROFESSIONAL LIABILITY CASES
HOUSESTAFF POLICY CLAIMS
PAST FIVE (5) YEARS

Department/Program	No of Cases	Staff Named w/ Housestaff	Housestaff Only
Anesthesiology	2	2	0
Diagnostic Radiology	0	0	0
Ear-Nose-Throat	0	0	0
Family Practice	7	7	0
Gynecology/Obstetrics	12	12	0
Medicine	7	7	0
Neurology	0	0	0
Ophthalmology	0	0	0
Pathology/Oncology	0	0	0
Pediatrics	2	2	0
Psychiatry	0	0	0
Radiation Therapy	0	0	0
Rehabilitation Medicine	0	0	0
Surgery	4	0	2*
Thor/Cardio Surgery	UNK	UNK	UNK
Wichita	UNK	UNK	UNK

*Staff not named, but resident was functioning under staff supervision.

PROFESSIONAL LIABILITY INSURANCE COSTS
 PROJECTIONS FOR FY 85-86 FOR ATTENDING STAFF
 ESTIMATES

Department/Corp.	I 30% Incr. 100% Stab.	II 30% Incr. 120% Stab.
Anesthesiology	\$135,000	\$193,000
Diagnostic Radiology	114,000	125,000
Ear-Nose-Throat	36,000	40,000
Family Practice	48,000	53,000
Gynecology/Obstetrics	196,000	216,000
Medicine	337,000	371,000
Neurology	29,000	32,000
Ophthalmology	14,000	16,000
Pathology/Oncology	62,000	68,000
Pediatrics	77,000	85,000
Psychiatry	11,000	13,000
Radiation Therapy	56,000	61,000
Rehabilitation Medicine	8,000	9,000
Surgery	557,000	610,000
Thor/Cardio Surgery	32,000	35,000
Wichita	NA	NA
TOTALS	\$1,712,000	\$1,927,000

Assumes:

I Potential 30% increase in basic premium plus 100% of premium to the Kansas Stabilization Fund.

II Potential 30% increase in basic premium plus 120% of premium to Kansas Stabilization Fund.

PROFESSIONAL LIABILITY INSURANCE COSTS
 PROJECTIONS FOR FY 85-86 FOR HOUSESTAFF
 ESTIMATES

Department/Program	I 30% Incr. 100% Stab.	II 30% Incr. 120% Stab.
Anesthesiology	\$141,000	\$155,000
Diagnostic Radiology	65,000	72,000
Ear-Nose-Throat	62,000	69,000
Family Practice	56,000	61,000
Gynecology/Obstetrics	163,000	180,000
Medicine	171,000	188,000
Neurology	14,000	15,000
Ophthalmology	37,000	40,000
Pathology/Oncology	32,000	36,000
Pediatrics	33,000	36,000
Psychiatry	47,000	52,000
Radiation Therapy	17,000	19,000
Rehabilitation Medicine	13,000	15,000
Surgery	619,000	680,000
Thor/Cardio Surgery	9,000	10,000
Wichita	37,000	41,000
TOTALS	\$1,516,000	1,669,000

Assumes:

- I Potential 30% increase in basic premium plus 100% of premium to the Kansas Stabilization Fund.
- II Potential 30% increase in basic premium plus 120% of premium to Kansas Stabilization Fund.

SENATE BILL No. 362

By Committee on Ways and Means

3-20

0017 AN ACT relating to persons engaged in a postgraduate training
0018 program approved by the state board of healing arts and
0019 operated by the university of Kansas medical center; provid-
0020 ing certain exemptions from liability for such persons under
0021 the Kansas tort claims act; amending K.S.A. 75-6104 and
0022 K.S.A. 1984 Supp. 40-3401 and repealing the existing sections.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. K.S.A. 1984 Supp. 40-3401 is hereby amended to
0025 read as follows: 40-3401. As used in this act the following terms
0026 shall have the meanings respectively ascribed to them herein:

0027 (a) "Applicant" means any health care provider;

0028 (b) "Basic coverage" means a policy of professional liability
0029 insurance required to be maintained by each health care pro-
0030 vider pursuant to the provisions of subsection (a) or (b) of K.S.A.
0031 40-3402 and amendments thereto;

0032 (c) "Commissioner" means the commissioner of insurance;

0033 (d) "Fiscal year" means the year commencing on the effec-
0034 tive date of this act and each year, commencing on the first day of
0035 that month, thereafter;

0036 (e) "Fund" means the health care stabilization fund estab-
0037 lished pursuant to subsection (a) of K.S.A. 40-3403 and amend-
0038 ments thereto;

0039 (f) "Health care provider" means a person licensed to prac-
0040 tice any branch of the healing arts by the state board of healing
0041 arts, a person who holds a temporary permit to practice any
0042 branch of the healing arts issued by the state board of healing
0043 arts, a person engaged in a postgraduate training program ap-
0044 proved by the state board of healing arts *other than a program*
0045 *operated by the university of Kansas medical center under the*
0046 *supervision of a clinical faculty member of the university of*

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0047 *Kansas school of medicine*, a medical care facility licensed by the
0048 department of health and environment, a health maintenance
0049 organization issued a certificate of authority by the commissioner
0050 of insurance, an optometrist licensed by the board of examiners
0051 in optometry, a podiatrist registered by the state board of healing
0052 arts, a pharmacist registered by the state board of pharmacy, a
0053 licensed professional nurse who is licensed by the board of
0054 nursing and certified as a nurse anesthetist by the American
0055 association of nurse anesthetists, a professional corporation or-
0056 ganized pursuant to the professional corporation law of Kansas
0057 by persons who are authorized by such law to form such a
0058 corporation and who are health care providers as defined by this
0059 subsection, a Kansas not-for-profit corporation organized for the
0060 purpose of rendering professional services by persons who are
0061 health care providers as defined by this subsection (f), a dentist
0062 certified by the state board of healing arts to administer anes-
0063 thetics under K.S.A. 65-2899 and amendments thereto, a physical
0064 therapist registered by the state board of healing arts, or a mental
0065 health center or mental health clinic licensed by the secretary of
0066 social and rehabilitation services, except that health care pro-
0067 vider does not include any state institution for the mentally
0068 retarded;

0069 (g) "Inactive health care provider" means a person or other
0070 entity who purchased basic coverage or qualified as a self-in-
0071 surer on or subsequent to the effective date of this act but who, at
0072 the time a claim is made for personal injury or death arising out
0073 of the rendering of or the failure to render professional services
0074 by such health care provider, does not have basic coverage or
0075 self-insurance in effect solely because such person is no longer
0076 engaged in rendering professional service as a health care pro-
0077 vider;

0078 (h) "Insurer" means any corporation, association, reciprocal
0079 exchange, inter-insurer and any other legal entity authorized to
0080 write bodily injury or property damage liability insurance in this
0081 state, including workmen's compensation and automobile liabil-
0082 ity insurance, pursuant to the provisions of the acts contained in
0083 article 9, 11, 12 or 16 of chapter 40 of Kansas Statutes Annotated;

or state psychiatric hospital or the employees
of such institution or hospital while practicing
within the scope of their employment at such
institution or hospital

0084 (i) "Plan" means the operating and administrative rules and
0085 procedures developed by insurers and rating organizations or the
0086 commissioner to make professional liability insurance available
0087 to health care providers;

0088 (j) "Professional liability insurance" means insurance pro-
0089 viding coverage for legal liability arising out of the performance
0090 of professional services rendered or which should have been
0091 rendered by a health care provider;

0092 (k) "Rating organization" means a corporation, an unincor-
0093 porated association, a partnership or an individual licensed pur-
0094 suant to K.S.A. 40-930 or 40-1114, or both sections, and amend-
0095 ments to those sections to make rates for professional liability
0096 insurance;

0097 (l) "Self-insurer" means a health care provider who has
0098 qualified as a self-insurer pursuant to K.S.A. 40-3414 and
0099 amendments thereto;

0100 (m) "Medical care facility" means the same when used in the
0101 health care provider insurance availability act as the meaning
0102 ascribed to that term in K.S.A. 65-425 and amendments thereto,
0103 except that as used in the health care provider insurance availa-
0104 bility act such term, as it relates to insurance coverage under the
0105 health care provider insurance availability act, also includes any
0106 director, trustee, officer or administrator of a medical care facil-
0107 ity;

0108 (n) "Mental health center" means a mental health center
0109 licensed by the secretary of social and rehabilitation services
0110 under K.S.A. 75-3307b and amendments thereto, except that as
0111 used in the health care provider insurance availability act such
0112 term, as it relates to insurance coverage under the health care
0113 provider insurance availability act, also includes any director,
0114 trustee, officer or administrator of a mental health center;

0115 (o) "Mental health clinic" means a mental health clinic li-
0116 censed by the secretary of social and rehabilitation services
0117 under K.S.A. 75-3307b and amendments thereto, except that as
0118 used in the health care provider insurance availability act such
0119 term, as it relates to insurance coverage under the health care
0120 provider insurance availability act, also includes any director,

0121 trustee, officer or administrator of a mental health clinic;
 0122 (p) "State institution for the mentally retarded" means Nor-
 0123 ton state hospital, Winfield state hospital and training center,
 0124 Parsons state hospital and training center and the Kansas neuro-
 0125 logical institute.

0126 Sec. 2. K.S.A. 75-6104 is hereby amended to read as follows:
 0127 75-6104. A governmental entity or an employee acting within the
 0128 scope of the employee's employment shall not be liable for
 0129 damages resulting from:

0130 (a) Legislative functions, including, but not limited to, the
 0131 adoption or failure to adopt any statute, regulation, ordinance or
 0132 resolution;

0133 (b) judicial function;

0134 (c) enforcement of or failure to enforce a law, whether valid
 0135 or invalid, including, but not limited to, any statute, regulation,
 0136 ordinance or resolution;

0137 (d) any claim based upon the exercise or performance or the
 0138 failure to exercise or perform a discretionary function or duty on
 0139 the part of a governmental entity or employee, whether or not the
 0140 discretion ~~be~~ is abused;

0141 (e) the assessment or collection of taxes or special assess-
 0142 ments;

0143 (f) any claim by an employee of a governmental entity arising
 0144 from the tortious conduct of another employee of the same
 0145 governmental entity, if such claim is (1) compensable pursuant to
 0146 the Kansas workmen's compensation act or (2) not compensable
 0147 pursuant to the Kansas workmen's compensation act because the
 0148 injured employee was a firemen's relief association member who
 0149 was exempt from such act pursuant to K.S.A. 44-505d *and*
 0150 *amendments thereto* at the time the claim arose;

0151 (g) the malfunction, destruction or unauthorized removal of
 0152 any traffic or road sign, signal or warning device unless it is not
 0153 corrected by the governmental entity responsible within a rea-
 0154 sonable time after actual or constructive notice of such malfunc-
 0155 tion, destruction or removal. Nothing herein shall give rise to
 0156 liability arising from the act or omission of any governmental
 0157 entity in placing or removing any of the above signs, signals or

(q) "State psychiatric hospital" means
 Larned state hospital, Osawatomie state
 hospital, rainbow mental health facility
 and Topeka state hospital.

0158 warning devices when such placement or removal is the result of
0159 a discretionary act of the governmental entity;

0160 (h) any claim which is limited or barred by any other law or
0161 which is for injuries or property damage against an officer,
0162 employee or agent where the individual is immune from suit or
0163 damages;

0164 (i) any claim based upon emergency preparedness activities,
0165 except that governmental entities shall be liable for claims to the
0166 extent provided in article 9 of chapter 48 of the Kansas Statutes
0167 Annotated;

0168 (j) the failure to make an inspection, or making an inadequate
0169 or negligent inspection, of any property other than the property
0170 of the governmental entity, to determine whether the property
0171 complies with or violates any law or regulation or contains a
0172 hazard to public health or safety;

0173 (k) snow or ice conditions or other temporary or natural
0174 conditions on any public way or other public place due to
0175 weather conditions, unless the condition is affirmatively caused
0176 by the negligent act of the governmental entity;

0177 (l) the plan or design for the construction of or an improve-
0178 ment to public property, either in its original construction or any
0179 improvement thereto, if the plan or design is approved in ad-
0180 vance of the construction or improvement by the governing body
0181 of the governmental entity or some other body or employee
0182 exercising discretionary authority to give such approval and if
0183 the plan or design was prepared in conformity with the generally
0184 recognized and prevailing standards in existence at the time
0185 such plan or design was prepared;

0186 (m) failure to provide, or the method of providing, police or
0187 fire protection;

0188 (n) any claim for injuries resulting from the use of any public
0189 property intended or permitted to be used as a park, playground
0190 or open area for recreational purposes, unless the governmental
0191 entity or an employee thereof is guilty of gross and wanton
0192 negligence proximately causing such injury;

0193 (o) the natural condition of any unimproved public property
0194 of the governmental entity;

0195 (p) any claim for injuries resulting from the maintenance of
0196 an abandoned cemetery, title to which has vested in a govern-
0197 mental entity pursuant to K.S.A. 17-1366 through 17-1368, and
0198 amendments thereto, unless the governmental entity or an em-
0199 ployee thereof is guilty of gross and wanton negligence prox-
0200 imately causing the injury; ~~or~~

0201 (q) the existence, in any condition, of a minimum mainte-
0202 nance road, after being properly so declared and signed as
0203 provided in K.S.A. ~~1982~~ 1984 Supp. 68-5,102; *or*

0204 (r) *any claim for damages arising out of the rendering of or*
0205 *failure to render health care services by a person who is engaged*
0206 *in a postgraduate training program: (1) Approved by the state*
0207 *board of healing arts; (2) under the supervision of a clinical*
0208 *faculty member of the university of Kansas school of medicine;*
0209 *and (3) operated by the university of Kansas medical center.*

0210 The enumeration of exceptions to liability in this section shall
0211 not be construed to be exclusive nor as legislative intent to waive
0212 immunity from liability in the performance or failure to perform
0213 any other act or function of a discretionary nature.

0214 Sec. 3. K.S.A. 75-6104 and K.S.A. 1984 Supp. 40-3401 are
0215 hereby repealed.

0216 Sec. 4. This act shall take effect and be in force from and
0217 after its publication in the statute book.

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Senate Bill No. 362

The State Department of Social and Rehabilitation Services is requesting that Senate Bill No. 362 be amended to delete the following from the definition of the term "health care provider" as set forth in K.S.A. 1984 Supp. 40-3401:

1. State psychiatric hospitals.
2. Health care professionals employed at state psychiatric hospitals while practicing within the scope of their employment.
3. Health care professionals employed at state institutions for the mentally retarded while practicing within the scope of their employment.

The impact of the proposed amendments would be as follows:

1. Health care professionals employed at the state psychiatric hospitals and state institutions for the mentally retarded would no longer be mandated to carry malpractice insurance to cover claims arising out of their practice at such hospitals and institutions.

The insurance premiums that our physicians pay vary dramatically depending upon their length of service in the state of Kansas and whether or not they belong to the American Psychiatric Association. Currently we have 81 physicians in our system and the average cost of liability insurance per physician is \$1,438.

2. The state psychiatric hospitals would no longer be mandated to carry malpractice insurance. This is already true for the state institutions for the mentally retarded.

The deletion of the requirement that state psychiatric hospitals carry malpractice insurance would result in a premium savings of at least \$300,000 per year (FY 85 premiums = \$307,312).

SRS legal staff indicate that under this proposal the annual cost for legal fees and the payment of adverse judgments should be, on the average, substantially less than what we now pay out in malpractice insurance premiums. We can not guarantee what will happen in the future; however, history indicates that malpractice claims against state psychiatric hospitals and their employees are somewhat infrequent and usually do not result in adverse

judgments against the state or its employees. The highest adverse judgment awarded in recent history concerning a state psychiatric hospital was in the Durflinger case (Federal District Court) in which the judgment was approximately \$100,000+.

3. Claims of medical malpractice against health care professionals employed at state psychiatric hospitals or state institutions for the mentally retarded which arise out of their practice at such hospitals and institutions would now be brought under the Kansas Tort Claims Act.

4. Claims of medical malpractice against a state psychiatric hospital would now be brought under the Kansas Tort Claims Act. This is already true for the state institutions for the mentally retarded.

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services
296-3271
April 4, 1985

TO: SENATE COMMITTEE ON WAYS AND MEANS
FROM: JERRY R. PALMER, KANSAS TRIAL LAWYERS ASSOCIATION
DATE: APRIL 4, 1985
RE: SB 362

1. Position of the Kansas Trial Lawyers Association:
We oppose the bill.

2. Primary reason for opposition: The bill fundamentally is a denial of equal protection of the law to the victims of malpractice committed by physicians who are involved in post-graduate training programs operated by the University of Kansas.

The Kansas Supreme Court in the case of Flax v. Kansas Turnpike Authority, (226 Kan. 1, 1976) decided that highway defects upon the turnpike created an unconstitutional classification violative of the Equal Protection Clauses of the federal and state constitutions. The Court believes that since all other entities operating roadways other than the turnpike were held accountable for roadway defects it "reaches the ultimate in its discrimination against one small segment of the motoring public." They found it difficult to see why the state of Kansas, its counties, townships and cities performing precisely the same acts as the Turnpike Authority should be liable for defective roadways and the Kansas Turnpike Authority should not. They were concerned that the ultimate effect of the series of statutes was to create a small class of motorists who were subjected to discrimination for no other reason than the fact that they happen to use the turnpike and as a result were deprived of a remedy granted other motorists on every other roadway in Kansas. Thus, they found K.S.A. 46-901 constitutionally invalid to the extent that it attempted to grant the turnpike immunity from damages suffered by persons sustaining damages because of roadway defects therein.

Precisely, the same situation occurs when a person is being treated as a private or public patient in facilities where there are physicians in residency programs sponsored by the University of Kansas under the supervision of a clinical faculty member. If Dr. A the supervisor is negligent he is responsible. However, if Dr. B his resident does exactly the same inappropriate act he is not responsible. Should Dr. B do moonlighting at another facility using his Kansas license to practice he would be liable there for doing the identical malfeasant act. Thus, even the same doctor doing the same thing to the same patient may be held liable, depending on his status in the residency program.

It must be remembered that Kansas has comparative negligence and the resident would be a person to whom fault could be assigned and the supervisor could be a person to whom fault would be assigned. Thus, to the extent that the resident's act was negligent there would be an entire loss of remedy to the individual patient insofar as he was wronged by the resident.

It is hard to believe that any Kansas citizen would willingly submit to the care of a resident if the facts were known and the impact of the Comparative Negligence Law was explained.

3. Minor reason for KTLA's opposition: Assuming that the bill is unconstitutional, as we believe it is then the resident who has not provided his own coverage, and for whom no coverage has been purchased by the University of Kansas Medical Center, then may find himself at fault, the immunity he thought was there has been abolished and he is liable and he is bare, and so he starts his medical career with a choice of paying any judgments rendered against him for acts committed while he was a resident or suffering the embarrassment of a bankruptcy and denying his victim the remedy.

It is hard to believe that with the expectations that residents must have as to their future earning capacities that they would willingly make a choice to go into the University of Kansas Medical Center program if they were well advised as to the status of Kansas law.

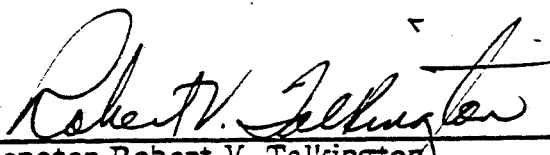
Therefore, with informed citizens and informed potential residents there should be a decrease in the patient load at the University of Kansas Medical Center as well as a commensurate decreased in the admitees to the residency program.

4. Another consideration: Apparently, there is a program at the University of Kansas Medical Center approved by the Board of Healing Arts where clinical faculty members are in supervision which provides for post-graduate education for doctors educated in foreign medical schools. The patients then who have these physicians treating them who do not even have the credentialing of a United States school behind them are given immunity. Moreover, the residents at Menningers and Wesley Hospital are on different footing than K.U. residents.

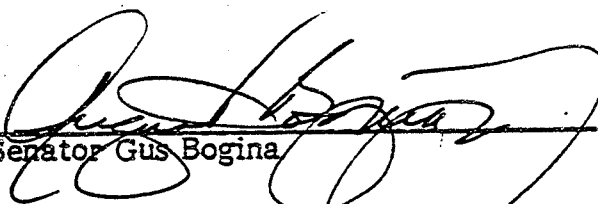
5. Recommendation: The legislature should provide that the University of Kansas should give a full and adequate warning to the patients and to the residents of the exposures that they are undertaking by being respectively patients or residents at the University of Kansas Medical Center.

SENATE SUBCOMMITTEE REPORT

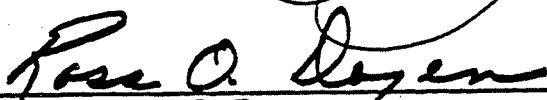
RETIREMENT BILLS AND ISSUES



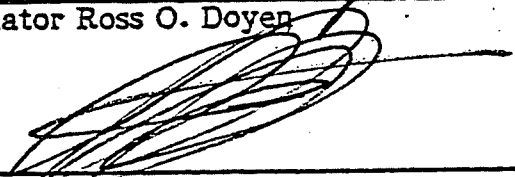
Senator Robert V. Talkington
Subcommittee Chairman



Senator Gus Bogina



Senator Ross O. Doyen



Senator Michael L. Johnston

SUBCOMMITTEE REPORT

Agency: Retirement Issues Bill No. — Bill Sec. —
Analyst: Ryan/Conroy Analysis Pg. No. — Budget Pg. No. —

The Subcommittee held several meetings reviewing specific retirement bills and general retirement policy issues. During the course of the deliberations Mr. Marshall Crowther, Executive Secretary of KPERS, informed the Subcommittee that the most recent actuarial studies relating to the retirement systems indicated that reductions to the future employer contribution rates would be communicated to the KPERS Board of Trustees later this month. These reductions are a result of actuarially favorable experience for the retirement systems.

The actuarial studies indicate the KPERS nonschool rate would drop from the currently certified rate for fiscal year 1986 of 4.9 percent of covered payroll to 3.7 percent of covered payroll. The KPERS school rate would drop from the currently certified rate for FY 1986 of 4.3 percent of covered payroll to 3.6 percent of covered payroll. Unless accelerated by the 1985 Legislature, the changes would be reflected in FY 1987.

The Subcommittee was informed that there would be no change in the rate for the Kansas Police and Firemen's Retirement System (KP&F) and that the rate for the Judges Retirement System was certified for three years at a time and the present rate will not change again until FY 1989.

Mr. Crowther also informed the Subcommittee that the approximate value of .1 percent of covered payroll for employer contribution rates is \$1 million for school and \$460,000 for nonschool state. The Subcommittee was advised that the nonschool state rate was apportioned approximately at 50 percent State General Fund and 50 percent agency special revenue funds, while the school rate is all charged to the State General Fund. The following table reflects the total amount of estimated savings.

KPERS EMPLOYER RATES

FY 1986

	<u>Current</u>	<u>Revised*</u>	<u>Difference</u>
Nonschool	4.9	3.7	1.2
School	4.3	3.6	0.7

* This rate would apply to state FY 1987 unless advanced to FY 1986 by 1985 Legislature.

Estimated Savings

<u>State</u>			
<u>Nonschool</u>	\$ 460,000	Per 0.1	
	x 12		
	<u>\$ 5,520,000</u>	All Funds	
	x 50%		
	<u>\$ 2,760,000</u>	General Fund	
<u>School</u>	\$ 1,000,000	Per 0.1	
	x 7		
	<u>\$ 7,000,000</u>	General Fund	
<u>Totals</u>	\$12,520,000	All Funds	
	9,760,000	General Fund	

The Subcommittee recommends that the employer rate for school and nonschool be accelerated to FY 1986 and that a rate of 4.0 percent for school and 4.3 percent for nonschool be certified. This would continue the present policy of the employer's contributions being at least as great as the employee's contributions. The employee's contribution rate is 4.0 percent. The Subcommittee's recommendation of an employer contribution rate of 4.0 percent for school and 4.3 percent for nonschool accelerated to FY 1986 would realize savings in excess of \$4.3 million from the State General Fund. The following table indicates the potential savings.

Employer Contribution Rate of
4.0 Percent - School and 4.3 Percent - Non-School

		<u>All Funds</u>		<u>SGF</u>
<u>Nonschool</u>	\$ 460,000 x 6 =	\$2,760,000	x 50% =	\$1,380,000
<u>School</u>	1,000,000 x 3 =	<u>3,000,000</u>	x 100% =	<u>3,000,000</u>
		\$5,760,000		\$4,380,000

The Subcommittee also recommends numerous enhancements, many of which have no actuarial cost, for retirants and active members of KPERS, KP&F and the Judges Retirement System. The Subcommittee requests that all of the following enhancements be combined into an omnibus retirement bill:

KPERS

1. Governor's recommendation to increase the maximum amount of optional group life insurance for state employees to \$100,000. No cost. (H.B. 2182)
2. Governor's recommendation to establish a survivor option D and revise the existing option factors. No cost. (H.B. 2218)
3. Permit purchase of benefits for teaching service in overseas dependent schools or recognized teacher exchange programs. Double deductions for purchase of military service credit if commenced during calendar year 1986. No cost. (H.B. 2500)
4. Change definition of final average salary to the average of the highest four (4) years of participation. Effective for those retiring on and after July 1, 1988. Cost: school - .2 nonschool - .2
5. Make the retirant dividend payment (13th check) permanent for all who retire through July 1, 1987. Cost: school - .1 nonschool - .2
6. Increase benefits for all who retire prior to July 1, 1984, by 5 percent. Provide for prior service benefits based on final average salary for all retirants. (Back date 1981 H.B. 2529). Any increases would be inclusive of all post-retirement adjustments. Effective January 1, 1986. Cost: school - .1 nonschool - .1
7. Increase death benefit for all retirants from \$1,000 to \$1,500. No cost. (H.B. 2245)
8. Increase the value of all participating service to 1.4 for all who retire on and after July 1, 1988 with 10 or more years of participating service. Cost: school - .1 nonschool - .1
9. Provide for inclusion of post 1981 Kansas City retirants and the retirant dividend payment and two 10 percent increases for the same group of Kansas City, Kansas school retirants. No cost. (H.B. 2017)
10. Provide an election for all active members of the Kansas City, Kansas plan to elect KPERS membership. No cost.
11. Provide additional benefits for special members who retired under KSRS which would give partial benefits for noncredited school service. No cost.
12. Allow members of the Legislature to elect to include all expense money and compensation for retirement purposes. Permit those electing to include compensation at the effective date of the act to make retroactive payments to include up to three years of expense payments in past compensation. Allow a new election for those elected officials who are not presently KPERS members. No cost.

13. Amend the definition of compensation to follow the social security definition of compensation unless specifically provided by statute. Effective date to be the first day of fiscal year coinciding with or following the effective date of the act. No cost.
14. Provide that any elected official could elect to continue participating in KPERS after leaving office by contributing the appropriate employer and employee contributions. No cost. (S.B. 356)
15. Provide for the mandatory certification of final contributions by the employer for members who have terminated or died. No cost.
16. Provide that KPERS could annualize compensation of Regents' employees under TIAA who are paid their contractual salary in less than 12 months. No cost.

Judges Retirement System

1. Reduce the factor for early retirement from .6 to .3. No cost.
2. Provide for salary adjustment at the time of retirement for all who are disabled for five or more years immediately preceding retirement. No cost.
3. Reduce the period for selecting an option without proof of insurability from three years to one year before retirement. No cost.
4. Governor's recommendation to establish a survivor option D and revise the existing option factors. No cost. (H.B. 2218)
5. Make the retirant dividend payment (13th check) permanent for all who retire through July 1, 1987. Cost: .2
6. Increase benefits for all who retire prior to July 1, 1984, by 5 percent. Cost: .1
7. Increase death benefit for all retirants from \$1,000 to \$1,500. No cost.
8. Governor's recommendation to increase the maximum amount of operational group life insurance for state employees to \$100,000. No cost. (H.B. 2182)

KP&F

1. Provide that local units may apply for affiliation with KP&F by transferring present KPERS participants for future service only. Provides safety nets to protect individuals who are transferred in such manner. No cost. (H.B. 2220)
2. Decrease the period prior to retirement for selecting an option without proof of good health from three years to one year. No cost.
3. Provide 50 percent FAS lump-sum death benefit and one-half of member's monthly benefit to beneficiaries of KP&F service-connected disability members who die after two years and whose death is not the approximate cause of disability. No cost. (S.B. 163)

4. Provide a 50 percent FAS lump-sum death benefit and one-half of member's monthly retirement benefit to beneficiaries of KP&F nonduty disability members.
5. Provide spouse's benefit for KP&F retirants who marry after retirement and are married for five years at the time of retirant's death. No cost. (H.B. 2219)
6. Governor's recommendation to establish a survivor option D and revise the existing option factors. No cost. (H.B. 2218)
7. Make the retirant dividend payment (13th check) permanent for all who retire through July 1, 1987. Cost: .2
8. Increase benefits for all who retire prior to July 1, 1984, by 5 percent. Cost: .1
9. Increase death benefit for all retirants from \$1,000 to \$1,500. No cost. (H.B. 2245)

Howe WdN

SENATE BILL No. 363

By Committee on Ways and Means

3-20

0017 AN ACT concerning public employer-employee relations; relat-
0018 ing to costs for mediation and fact-finding services; amending
0019 K.S.A. 75-4332 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 75-4332 is hereby amended to read as fol-
0022 lows: 75-4332. (a) Public employers may include in memoranda
0023 of agreement concluded with recognized employee organiza-
0024 tions a provision setting forth the procedures to be invoked in the
0025 event of disputes which reach an impasse in the course of meet
0026 and confer proceedings. Such memorandum shall define condi-
0027 tions under which an impasse exists, and if the employer is
0028 bound by the budget law set forth in K.S.A. 79-2925 *et seq.*, and
0029 amendments thereto, the memorandum shall provide that an
0030 impasse is deemed to exist if the parties fail to achieve agree-
0031 ment at least ~~fourteen~~ (14) 14 days prior to budget submission
0032 date.

0033 (b) In the absence of such memorandum of procedures, or
0034 upon the failure of such procedures resulting in an impasse,
0035 either party may request the assistance of the public employee
0036 relations board, or the board may render such assistance on its
0037 own motion. In either event, if the board determines an impasse
0038 exists in meet and confer proceedings between a public em-
0039 ployer and a recognized employee organization, the board shall
0040 aid the parties in effecting a voluntary resolution of the dispute,
0041 and request the appointment of a mediator or mediators, repre-
0042 sentative of the public, from a list of qualified persons main-
0043 tained by the secretary of human resources, and such appoint-
0044 ment of a mediator or mediators shall be made forthwith by the
0045 secretary.

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0046 (c) If the impasse persists seven (7) days after the mediators
 0047 have been appointed, the board shall request the appointment of
 0048 a fact-finding board of not more than three (3) members, each
 0049 representative of the public, from a list of qualified persons
 0050 maintained by the secretary of human resources. The fact-find-
 0051 ing board shall conduct a hearing, may administer oaths, and may
 0052 request the board to issue subpoenas. It shall make written
 0053 findings of ~~facts~~ fact and recommendations for resolution of the
 0054 dispute and, not later than ~~twenty-one (21)~~ 21 days from the day
 0055 of appointment, shall serve such findings on the public employer
 0056 and the recognized employee organization. The board may make
 0057 this report public seven (7) days after it is submitted to the
 0058 parties. If the dispute continues ~~fourteen (14)~~ 14 days after the
 0059 report is submitted to the parties, the report shall be made
 0060 public.

0061 (d) If the parties have not resolved the impasse by the end of
 0062 a forty-day period, commencing with the appointment of the
 0063 fact-finding board, or by a date not later than ~~fourteen (14)~~ 14
 0064 days prior to the budget submission date, whichever date occurs
 0065 first: (1) The representative of the public employer involved
 0066 shall submit to the governing body of the public employer
 0067 involved a copy of the findings of fact and recommendations of
 0068 the fact-finding board, together with ~~his or her~~ recommendations
 0069 for settling the dispute; (2) the employee organization may
 0070 submit to such governing body its recommendations for settling
 0071 the dispute; (3) the governing body or a duly authorized com-
 0072 mittee thereof shall forthwith conduct a hearing at which the
 0073 parties shall be required to explain their positions; and (4)
 0074 thereafter, the governing body shall take such action as it deems
 0075 to be in the public interest, including the interest of the public
 0076 employees involved. The provisions of this subsection shall not
 0077 be applicable to the state and its agencies and employees.

0078 (e) The cost for the mediation and fact-finding services pro-
 0079 vided by the secretary of human resources upon request of the
 0080 board ~~shall be borne by the secretary of human resources. All~~
 0081 ~~and all other~~ costs, including that of a neutral arbitrator, shall be
 0082 borne equally by the parties to a dispute. *The payment of such*

On its own motion shall be borne by the secretary
 of human resources.

of services provided at the request of the public
 employer or the recognized employee organization

0083 *costs shall be at such time and in such manner as is determined*
0084 *by the secretary of human resources.*

0085 Sec. 2. K.S.A. 75-4332 is hereby repealed.

0086 Sec. 3. This act shall take effect and be in force from and
0087 after its publication in the statute book.