Approved: 5/29/98

Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 3:30 p.m. on April 30, 1998 in

Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Russell Mills, Legislative Research Department
April Holman, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ann Deitcher, Committee Secretary

Conferees appearing before the committee: Julian Efird, Legislative Research Department
Jack Hawn - KPERS
Jan Johnson - Department of Corrections

Others attending: See attached list:

SB 501 <u>**Concerning public officers and employees.**</u>

Julian Efird of the Legislative Research Department explained to the Committee, the Supplemental note in <u>**SB 501**</u> and the amendments made to the bill. <u>(Attachment 1</u>).

Senator Kerr pointed out to the Committee the paragraph on "employer contributions" and of the importance of interpreting it correctly. Misinterpretation could make a difference of about $18 million a year.

Senator Petty said the way she'd heard the wording was interpreted by the House Appropriations Committee was that the employer rate could not fall below the employee rate.

Senator Ranson asked if there was any language in current law about the percentages.

Mr. Efird said there was no specific statutory provision currently in law to that effect. The law delegates to the board, based on actuarial studies, the authority to set the rate. The legislature has imposed an additional law that requires a .2 percent annual increase plus any COLAs that might be financed over time. For the different plan, such as regular KPERS, it is set statutorily at a constant four percent, and has been since 1961. The employee pays no death and disability premium coverage. The 4% goes entirely to retirement. The employer pays for retirement as well as death and disability. It is not separated out in any definition.

Jack Hawn of KPERS, explained that the employer contribution rate of retirement fees is defined in a separate section, and there is an additional category for employer contributions of active non-retired members.

On the section of COLA for Disabled KPERS Members, Julian Efird explained that the original Governor's bill submitted to Legislature, excluded the disabled members from the Governor's COLA. This amendment would add the three percent increase in monthly disability payments for insured disability benefit recipients.

Senator Kerr reminded the Committee that the purpose of the meeting was to understand what the House has done with **SB 501**. He said that now that they had done that, it would be his intention for the time being, to not take any action.

The meeting was adjourned at 4:20 p.m.

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.

SESSION OF 1998

SUPPLEMENTAL NOTE ON SENATE BILL NO. 501

As Amended by House on Final Action

Brief*

S.B. 501, as amended, would implement portions of the Governor's salary plan for state employees for FY 1999, authorize a 3.0 percent COLA for KPERS retirees and beneficiaries, revise other KPERS statutes, and amend the Kansas Tort Claims Act.

Retirement Provisions

COLA Provision. The House added a provision that would provide an ad hoc 3.0 percent cost-of-living adjustment for all persons who retired prior to July 1, 1997. The House on Final Action amended the period for paying the cost to 15 years. The original provision would have required payments until FY 2034. This COLA is permanent in the sense that it increases the base monthly retirement benefit payment by 3.0 percent and continues throughout the lifetime of the member, as well as any beneficiary that shares in the member's plan.

KSRS COLA Increase. This provision would grant Kansas School Retirement System (KSRS) members with 25 or more years of service a monthly benefit increase of $100, effective July 1, 1998, for anyone who had retired under KSRS prior to January 1, 1971. This increase would impact 336 KSRS retirants (as of October 1, 1997) and the additional first year benefits would cost $403,200 if paid for 12 months to all 336 people. Because this is an older group, the KPERS actuary has indicated there would be a negligible actuarial cost since the mortality rate annually would reduce the size of this closed group. The provision was included

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.ink.org/public/legislative/fulltext-bill.html.

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in **H.B. 2963** that originally was recommended for introduction by the Joint Committee on Pensions, Investments and Benefits.

Employer Contributions. A provision would ensure that the regular KPERS employer rate will be at least equal to or greater than the employee rate. This measure originally was introduced as **H.B. 2935.**

Upgrading KP&F Service. This provision would allow a participating KP&F employer to reaffiliate for the purpose of bringing employees' past service into coverage under KP&F if the employer had initially affiliated for future service only.

COLA for Disabled KPERS Members. A provision was added to include a 3.0 percent increase in monthly disability payments for insured disability benefit recipients.

Salary Plan

For classified employees, the bill authorizes a 1.5 percent increase in the pay matrix for a base salary adjustment. For unclassified employees, the bill authorizes a merit pool totaling 4.0 percent, including the salaries of elected state officials whose salaries are established by statute. The salaries of state elected officials that would increase 4.0 percent in FY 1999 include the Commissioner of Insurance (Section 2), state legislators (Section 3), legislative leaders (Section 4), Governor (Section 5), Lieutenant Governor (Section 6), Secretary of State (Section 7), State Treasurer (Section 8), and Attorney General (Section 9). Classified employees step movement and eligible employees longevity bonus payments, which are other components of the Governor's proposed salary plan, are authorized under other provisions of law. (**Staff Note:** Because the substantive law regarding elected state officials was not amended by the 1996 Legislature or the 1997 Legislature, the statutory changes reflect the cumulative approved increases for FY 1997, FY 1998, and the Governor's recommendation for FY 1999. However, such increases for FY 1997 and FY 1998 were granted within appropriations bills.)

Attachment 1-2

The amendment regarding representation to government employees summoned to appear before grand juries and inquisitions is also added to K.S.A. 75-4360. K.S.A. 75-4360 requires the state to represent the Governor, Adjutant General, Highway Patrol Troopers, Kansas Bureau of Investigation agents, and employees of correctional institutions. K.S.A. 75-4360 currently does not allow for the state to refuse to provide representation to those officials. The amendment allows the state to refuse to provide representation pursuant to K.S.A. 75-4360 for the same reasons as are set out in K.S.A. 75-6108 including a failure to provide notice.

The provision also amends K.S.A. 75-4360 to include employees of the Department of Corrections who do not work at a correctional facility and the Kansas Parole Board.

Other technical changes were made by the House Committee to cure problems noted by the Revisor's staff.

Background

Although S.B. 501 does not make any specific appropriations for FY 1999, the fiscal note to provide a 1.5 percent base salary adjustment for classified employees and the 4.0 percent for unclassified employees total \$40.5 million, of which \$22.0 million would be from the State General Fund. These amounts are included in the Governor's budget recommendation for each state agency and approved by the Legislature in 1998 S.B. 495.

The House Committee added a provision based on the Governor's recommended 3.0 percent COLA in 1998 H.B. 2875. Under that plan, the state's actuarial costs would be paid over a 33-year period beginning in FY 2001. The actuarial liability, or one-time cost, for this proposal is \$108.0 million. By paying the cost of this COLA over 33 years beginning in FY 2001, the estimated total cost is \$489.58 million. The House on Final Action reduced the period to 15 years, and consequently reduced the estimated total cost to \$228.4 million. The estimated cost for adding disabled members is \$3.5 million. Currently, the average KPERS monthly benefit payment is approximately \$689, and a 3.0 percent COLA would provide an average increase of \$20 per

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Section 3(b) would codify the subsistence pay currently allowed for legislators, which is tied to the rate allowable under applicable federal law and regulations for employees of the executive branch of the federal government for *per diem* expenses in the capital city of Kansas.

Section 3(c) would statutorily convert the payment to legislators for allowed expenses incurred between sessions of the Legislature from a monthly rate to a biweekly rate, but would not provide an increase in the amount paid.

Section 3(e) would provide that legislative salaries be increased by the same percentage increase in all steps of the pay plan approved for persons in the classified service under the Kansas Civil Service Act chargeable to payroll periods commencing after June 30, 1999.

Section 10 would provide that the salaries of the statewide elected officials (Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, and Commissioner of Insurance) salaries would be increased by the same percentage increase in all steps of the pay plan approved for persons in the classified service under the Kansas Civil Service Act chargeable to payroll periods commencing after June 30, 1999.

Tort Claims

Sections 13 and 14 amend the Kansas Tort Claims Act to require a governmental entity to provide representation to employees summoned to appear before a grand jury or inquisition on account of an act or omission in the scope of their employment as an employee of the governmental entity. A governmental entity may refuse to provide representation if the act or omission was not within the scope of the employee's employment, the employee acted or failed to act because of actual fraud or actual malice, or the representation would create a conflict of interest between the governmental entity and the employee. A governmental entity shall not be required to provide the defense or representation to any employee in a criminal or civil service proceeding.

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month. A summary of the fiscal note shows the first year costs and multiyear costs for the different plans.

Contributions (In Millions):	Original Plan FY 2001*	Original Plan 33-Year	Amended Plan FY 2001	Amended Plan 15-Year
State Government				
State General Fund	$5.07	$321.70	$7.91	$149.94
All Other Funds	0.83	52.37	1.29	24.41
Total--State	$5.90	$374.07	$9.20	$174.35
Local Governments	1.66	115.51	2.70	54.05
Employers--State&Local	$7.56	$489.58	$11.90	$228.40

* CY 2001 for local units

The Tort Claims amendment originally was included in S.B. 513 and was supported by the Secretary of Corrections, who said the failure of a governmental entity to provide representation and leaving the employee to bear the cost of representation before a grand jury proceeding is as demoralizing as the abandonment of the employee in traditional civil litigation.

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