

Journal of the Senate

SEVENTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 23, 2017, 10:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.
The roll was called with 39 senators present.
Senator Bowers was excused.
Invocation by Reverend Cecil T. Washington:

Lord, we thank You again for ALL the servants under this dome...for the Senators, for those in the House of Representatives, for All the guards, for the custodians behind the scenes trying to keep everything clean.

We thank You for the engineers, the technical people, for ALL the supporting staff that keep things running.

Lord, we're all part of the same team...a team charged with the significant responsibility of representing You in civil affairs.

Some of us carry the ball. Others of us open up opportunities to advance. Some of us run interference to prevent the blocking of progress.

Some of us are Democrats. Some of us are Republicans. Some say we're conservative. Some say we're liberal. But whether we're left or right, fore or aft, we're all in the same boat. And for good to overcome evil, for our team to win, love for our neighbors must prevail, despite our differences.

And Lord, we continue with the prayer of yesterday...praying for our President; those traveling with him; the foreign leaders they're meeting with and their combined efforts to seek peace.

We pray for those devastated by the murderous bombing in Manchester. Again, Lord, we long for the day, when evil is ultimately overcome by good. Let the authority, that You have given these leaders, mentioned in Romans 13, be effective in suppressing evil while encouraging and rewarding good.

I come to You Lord, in the Name of Him, Who is the Prince of Peace, Amen.

The Pledge of Allegiance was led by Vice President Longbine.

MESSAGE FROM THE HOUSE

The House not adopts the Conference Committee report on **SB 30**, requests a conference and appoints Representatives Johnson, Phillips and Sawyer as second conferees on the part of the House.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Hensley and Wagle introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1750—

A RESOLUTION recognizing Sharon Wenger's dedicated service to the State of Kansas and, in particular, the Kansas Legislature.

WHEREAS, Sharon Wenger began her career working for the State of Kansas with the Kansas Legislative Division of Post Audit in 1991, where she worked as a Senior Auditor until April 1998; and

WHEREAS, In 1998, Sharon was hired as the Assistant Director of the Division of Health at the Kansas Department of Health and Environment (KDHE). Sharon held that position until she was appointed Assistant Secretary in 2000. Sharon's time at KDHE ended with her serving as the Director of Epidemiology and Disease Prevention from 2002 to 2006; and

WHEREAS, In 2006, Sharon accepted a position as a research analyst with the Kansas Legislative Research Department (KLRD). In 2008, Sharon became a Principal Analyst and, from 2014 until her retirement in 2017, she was a Principal Fiscal Analyst; and

WHEREAS, In her work at KLRD, Sharon became an expert in several areas, most notably in education policy and school finance, and legislators on both sides of the aisle relied on her excellent and factual analysis; and

WHEREAS, Prior to entering into service with the State of Kansas, Sharon spent a year as the Management Assistant to the Chief Administrative Officer for the City of Topeka; and

WHEREAS, Sharon earned her Bachelor of Arts in Political Science degree from Kansas State University and her Masters in Public Administration from the University of Kansas, where she also completed a Masters-level Public Health Certificate; and

WHEREAS, Sharon has received many professional and academic honors, including being named a Kansas Health Foundation Leadership Fellow, a member of the Phi Beta Kappa honor society and a Truman Congressional Scholar; and

WHEREAS, Sharon is supported in her endeavors by her husband, Bob, and her daughter, Carrie: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize Sharon Wenger's service to the State of Kansas and we wish her all the best during her well-deserved retirement; and

Be it further resolved: That the Secretary of the Senate shall send three enrolled copies of this resolution to Senator Hensley.

On emergency motion of Senator Hensley **SR 1750** was adopted unanimously.

Sharon's husband, Bob, was also present.

The Senate honored Sharon with a standing ovation.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator Estes the Senate nonconcurred in the House amendments to **SB 201** and requested a conference committee be appointed.

The Vice President appointed Senators Estes, Olson and Faust-Goudeau as a

conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **SB 30**.

The Vice President appointed Senators Tyson, Kerschen and Holland as conferees on the part of the Senate.

On motion of Senator McGinn, the Senate acceded to the request of the House for a conference on **HB 2280**.

The Vice President appointed Senators V. Schmidt, Billinger and Kelly as conferees on the part of the Senate.

On motion of Senator Denning, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Susan Wagle in the chair.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report to agree to disagree on **SB 83**, and has appointed Representatives Barker, Highland and Ruiz as Second conferees on the part of the House.

ORIGINAL MOTION

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **H Sub SB 21, H Sub SB 60; SB 83**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 21** 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 as House Substitute for Senate Bill No. 21, as follows:

On page 1, by striking all in lines 7 through 36;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 25; following line 25, by inserting:

"Section 1. K.S.A. 2016 Supp. 74-4914, as amended by section 4 of 2017 Senate Bill No. 205, 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 60 days, or 180 days as provided in subsection (10), and without any prearranged agreement for employment with any participating employer, 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. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection (10), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. 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 60 days, or 180 days as provided in subsection (10), 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. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection (10), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(5) Except as provided in ~~subsection~~ subsections (7) and (10), on or after July 1, 2006, through December 31, 2017, 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 K.S.A. 72-5410(a), 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 is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~\$20,000 or more in any one such calendar year~~, or \$25,000 or more in any one calendar year between July 1, 2016, and ~~July 1, 2020~~ January 1, 2018, 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 K.S.A. 72-5410(a), 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 K.S.A. 72-5410(a), 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 act 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 without a contract 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, ~~except an elected city or county officer as further provided in this subsection, on and after the term of office of such other elected official which commences on or after July 1, 2000~~. Notwithstanding any provisions of law to the contrary, when an elected city or county officer is retired under the provisions of subsection (1) or (4) of this section and is ~~paid an amount of compensation of \$25,000 or more in any one calendar year between July 1, 2016, and July 1, 2020, such officer may receive such officer's salary, and still be entitled to receive such officer's retirement benefit pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments thereto. 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 K.S.A. 46-137a(a), (b), (c) and (d), 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 \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in K.S.A. 46-137a(b) and (d), 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 K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), 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. The provisions of the subsection shall expire on January 1, 2018.

(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.

(7) (a) (i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending ~~July 1, 2020~~ January 1, 2018, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. ~~The provisions of this subsection shall apply to members of the legislature.~~ Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.

(ii) Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49.202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is

employed in a non-covered position, no employer contribution shall be paid to the system.

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto. ~~Any retirant employed by a school district in a position under K.S.A. 74-4937(3), (4) or (5), and amendments thereto, shall be subject to the provisions of subsection (7)(h) which relate to a limitation on the total term of employment with any participating employer in which a retirant may receive such retirant's full retirement benefit;~~

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center 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;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

(v) employed as substitute teachers without a contract or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county; ~~and~~

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection. Commencing January 1, 2018, the participating employer of a retirant described in this subsection (7)(b)(vii) who is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49.202, and amendments thereto, shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system; or

(viii) state or local elected officials. A retirant shall not be employed in an elected office within 30 days of such retirant's retirement, except that if a retirant is filling a vacant elected office, no waiting period shall be required.

(c) The participating employer shall enroll all retirants, including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. ~~Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.~~ No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:

(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;

(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. ~~On or before July 1, 2019, and at least every three years thereafter, the board, in consultation with the system's consulting actuary, shall evaluate the plan's experience with employment of such retirants and the corresponding employer contribution rate to assess whether the employer contribution rate can be expected to fund adverse experience or higher liabilities accruing under the system in connection with employment of such retirants, to the extent that such liability can be ascertained or estimated. Based on this evaluation of the plan's experience, the board may certify to the division of the budget, in the case of the state, and to the agent for each other participating employer, a new rate if needed to more fully fund such adverse experience or additional liabilities, but such rate shall not be less than 30%; and~~

(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.

The provisions of this paragraph shall expire on January 1, 2018.

(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following

conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

The provisions of this paragraph shall expire on January 1, 2018.

~~(f) On July 1, 2021, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active-employee compensation. Retirants who are independent contractors or employees of third-party entities who contract with a participating employer, shall not be subject to the compensation limitation or employer contribution requirements in this subsection or the requirements of subsection (7)(c) regarding enrollment and reporting to the system, so long as all of the following apply:~~

~~(A) The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;~~

~~(B) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and~~

~~(C) the retirant meets the classification of independent contractor as provided in K.S.A. 2016 Supp. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.~~

(g) 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.

~~(h) Any retirant hired by any participating employer under the provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to \$25,000 or more in such calendar year.~~

(8) If determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, or the 180-day waiting period under subsection (10), the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any

action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

(10) (a) Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, or an independent contractor or a third-party entity who contracts service to fill such covered position shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.

(b) Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a non-covered position, or an independent contractor or a third-party entity who contracts service to fill such non-covered position, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a retirant hired in a non-covered position.

(c) The participating employer shall enroll all retirants, including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or

receive credit for service while employed under the provisions of this subsection.

(d) The provisions of this subsection relating to an earnings limitation and employer contributions shall not apply to any retirant described in subsection (7)(b) or to retirants who are independent contractors or employees of third-party entities who contract with a participating employer as described in subsection (7)(f), except as specifically provided in this subsection.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right that is not subject to amendment or nullification by act of the legislature.";

Also on page 8, in line 31, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,";

On page 9, in line 2, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,"; in line 9, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,"; in line 14, after "days" by inserting ", or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto,"; in line 17, by striking "Before July 1, 2020,"; also in line 17, after "(5)" by inserting ", (7) and (10)"; in line 24, by striking all after the second comma; in line 25, by striking all before "and"; in line 28, by striking all after "to"; by striking all in line 29; in line 30, by striking all before the period and inserting "January 1, 2018"; in line 34, after "employed" by inserting "as an independent contractor or"; in line 38, after the period by inserting "Commencing January 1, 2018, if a retirant is employed in a covered position, as defined in K.S.A. 2016 Supp. 74-49,202, and amendments thereto, the participating employer shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.";

On page 10, in line 6, after "teachers" by inserting "without a contract"; in line 11, by striking "The"; by striking all in lines 12 through 15;

On page 11, in line 6, by striking all after the period; by striking all in lines 7 through 16; in line 17, by striking all before "The"; in line 19, after "teachers" by inserting "without a contract";

On page 12, in line 7, by striking all after "on"; in line 8, by striking "2017" and inserting "January 1, 2018"; by striking all in lines 9 through 20;

On page 13, in line 19, by striking all after the period; by striking all in lines 20 through 29; in line 30, by striking all before "The"; in line 31, after "teachers" by inserting "without a contract";

On page 14, in line 21, by striking all after "on"; in line 22, by striking "2017" and inserting "January 1, 2018"; by striking all in lines 23 through 34; in line 37, by striking all after "(7)"; by striking all in lines 38 through 43;

On page 15, by striking all in lines 1 through 3; in line 4, by striking "(8)"; following line 8, by inserting:

"Sec. 3. K.S.A. 2016 Supp. 74-49,204 is hereby amended to read as follows: 74-49,204. The normal retirement date for a member of the system first employed by a

participating employer on or after July 1, 2009, 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 60 days, or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, without any prearranged agreement for employment with any participating employer, and the attainment of age 65 with the completion of five years of credited service, or age 60 with the completion of 30 years of credited service. The provisions of this section shall apply to a member of the retirement system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto.

Sec. 4. K.S.A. 2016 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313. (a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, and without any prearranged agreement for reemployment with any participating employer, and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate equal to the actuarial assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, and without any prearranged agreement for reemployment with any participating employer, without forfeiting such member's account, with the completion of at least 10 years of service, shall be eligible to receive, upon attainment of age 55, an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's annuity start date, and such interest rate shall be equal to the actuarially assumed investment rate of return established by the board minus 2%, as of the member's annuity start date. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's

retirement annuity account of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under K.S.A. 2016 Supp. 74-49,311(a), and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (e), in the case of an active or inactive member:

- (1) Who is vested in the member's retirement annuity account;
- (2) who has five or more years of service at death; and
- (3) who dies before attaining normal retirement age, with such member's spouse at time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and interest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.";

Also on page 15, in line 9, by striking "74-4914f and" and inserting "as amended by section 4 of 2017 Senate Bill No. 205,"; also in line 9, after "74-4937" by inserting ", 74-49,204 and 74-49,313";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking the first "and" and inserting ", as amended by section 4 of 2017 Senate Bill No. 205,"; also in line 3, after "74-4937" by inserting ", 74-49,204 and 74-49,313"; in line 4, by striking "; also repealing K.S.A. 2016 Supp. 74-4914f";

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

JIM KELLY
RANDY POWELL
GAIL FINNEY

Conferees on part of House

JEFF LONGBINE
RICK BILLINGER
LYNN ROGERS

Conferees on part of Senate

Senator Longbine moved the Senate adopt the Conference Committee Report on **H Sub SB 21**.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley,

Hilderbrand, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pettey, Pilcher-Cook, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Pyle.

Absent or Not Voting: Bowers.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 60** 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 as House Substitute for Senate Bill No. 60, as follows:

On page 2, by striking all in lines 9 through 17; in line 18, by striking all before "The"; in line 32, after the period by inserting "The secretary of agriculture shall reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act. The secretary may increase the inspection fee by adopting rules and regulations under this section when the secretary finds that such increase is necessary to produce sufficient revenues for the purpose of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section.";

Also, on page 2, following line 32, by inserting:

"Sec. 2. K.S.A. 2016 Supp. 2-2204 is hereby amended to read as follows: 2-2204. (a) Every agricultural chemical which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered by the secretary. The secretary shall have the authority to classify or designate as restricted-use any pesticide registered for sale, use or distribution in the state of Kansas, according to rules and regulations promulgated by the secretary. The secretary may adopt rules and regulations to allow products to be registered for a period not to exceed three years. All registration of products shall expire on December 31 of the year the registration is set to expire, unless such registration shall be renewed, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated. Products which have the same formula, and are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same agricultural chemical may be registered as a single product and additional names and labels shall be added by supplement statements during the current period of registration. Within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formulas of an agricultural chemical may be made within the current period of registration without requiring a reregistration of the product. Any agricultural chemical imported into this state which is subject to the provisions of any federal act providing for the registration and which has been duly registered under the provisions of such federal act, in the discretion of the secretary, may be exempted from registration under this act when such agricultural chemical is sold or distributed in the unbroken immediate container in which such agricultural chemical was originally shipped.

(b) The registrant shall file with the secretary, a statement including: (1) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; (2) the name of the agricultural chemical; (3) a complete copy of the labeling accompanying the agricultural chemical and a statement of all claims made and to be made for it and a statement of directions for use; and (4) if requested by the secretary, or an authorized representative of the secretary, a full description of the tests made and the results thereof upon which the claims are based.

(c) The secretary may require the registrant to submit a copy of the product label registered by the EPA under the provisions of FIFRA.

(d) Any time the registrant modifies the label, the modified label shall be submitted to the secretary for review and approval prior to implementing the new label in Kansas.

(e) On the date of registration, the registrant shall pay a fee fixed by rules and regulations adopted by the secretary of agriculture. Such fee shall equal an amount per registered agricultural chemical, not to exceed \$150 per year. Such fee shall be deposited in the state treasury and credited as follows: (1) An amount equal to \$100 for each year of registration shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; and (2) the remainder shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. ~~The secretary of agriculture is hereby authorized and empowered, shall reduce the fee imposed by this subsection by adopting rules and regulations whenever it the secretary determines that the fee imposed by this subsection and paid into the state treasury as provided by law is yielding more revenue than is required for the purposes to which such fee is devoted by law, to reduce the fee imposed by this subsection for such period as the secretary shall deem justified by adopting rules and regulations under this subsection but not for less than one year. In the event that the secretary, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the secretary is authorized and empowered may increase the fee by adopting rules and regulations under this subsection, to restore in full or in part such fee to an amount which, in the judgment of the secretary, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.~~

(f) The secretary, or an authorized representative of the secretary, whenever it is deemed essential in the administration of this act, may require the submission of the complete formula or any other data in support of the registration for any pesticide. The complete formula and any other trade secrets submitted to support the registration application shall be considered as confidential. If it appears to the secretary, or an authorized representative of the secretary, that the composition of the product is such as to warrant the proposed claims for the product and if the product and its labeling and other material required to be submitted comply with the requirements of this act, the secretary shall register the product.

(g) If it does not appear to the secretary, or an authorized representative of the secretary, that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with

the provisions of this act, the secretary shall notify the registrant of the manner in which the product, labeling, or other material required to be submitted fail to comply with the act and rules and regulations adopted pursuant thereto so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant does not make the required changes within 30 days, the secretary may deny registration of the product. In addition, the secretary may deny registration of a product if the application for registration fails to comply with this act or any rule or regulation adopted pursuant thereto. If the secretary denies a registration, the registrant may request a hearing in accordance with the provisions of the Kansas administrative procedure act.

(h) Any pesticide registration canceled or suspended under the provisions of FIFRA shall be considered to be canceled or suspended under provisions of the agricultural chemical act of 1947, unless such cancellation is due to the nonpayment of registration fees required under FIFRA.

(i) If the secretary determines that a registered product fails to meet the claims made on its label, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act. In addition, if the secretary determines that a registered product or its labeling fails to comply with this act, or a rule or regulation adopted pursuant to this act, the secretary may suspend or revoke the product registration after a hearing in accordance with the provisions of the Kansas administrative procedure act.

(j) In order to protect the public, the secretary, or a duly authorized representative of the secretary, on the secretary's own motion, may at any time, after written notice to the registrant, suspend or revoke the registration of an agricultural chemical. Any person so notified shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act with regard to the secretary's contemplated action, before any registration is suspended or revoked.

(k) Notwithstanding any other provisions of this act, registration is not required in the case of an agricultural chemical shipped from one plant within this state to another plant within this state operated by the same person.

(l) Any information required to be filed pursuant to this section, may be filed electronically pursuant to rules and regulations promulgated by the secretary.;

On page 13, in line 12, after "and" by inserting "may be up to 6% of such applicable fee amount, but";

On page 21, in line 7, after the first comma by inserting "2-2204,"; in line 8, by striking ", 65-781";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the first comma by inserting "2-2204,";

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

KYLE HOFFMAN

KENT THOMPSON

SYDNEY CARLIN

Conferees on part of House

DAN KERSCHEN
 BUD ESTES
 MARCI FRANCISCO

Conferees on part of Senate

Senator Kerschen moved the Senate adopt the Conference Committee Report on **H Sub SB 60**.

On roll call, the vote was: Yeas 32; Nays 7; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Berger, Billinger, Bollier, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, Lynn, Masterson, McGinn, Petersen, Pettey, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Wagle, Wilborn.

Nays: Baumgardner, Fitzgerald, Hilderbrand, Olson, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Bowers.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 83** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

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

JOHN BARKER
 RON HIGHLAND
 LOUIS RUIZ

Conferees on part of House

BUD ESTES
 ROB OLSON
 OLETHA FAUST-GOUDEAU

Conferees on part of Senate

On motion of Senator Estes the Senate adopted the conference committee report on **SB 83**, and requested a new conference be appointed.

The President appointed Senators Estes, Olson and Faust-Goudeau as a second Conference Committee on the part of the Senate on **SB 83**.

On motion of Senator Denning, the Senate recessed until 2:30 p.m.

The Senate met pursuant to recess with Vice President Longbine in the chair.

On motion of President Wagle, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the chair.

MESSAGE FROM THE HOUSE

The House concurs in Senate amendments to **Sub HB 2277**.

The House accedes to the request of the Senate for a conference on **SB 201** and has appointed Representatives Barker, Highland and Ruiz as conferees on the part of the House.

On motion of Senator Petersen the Senate adjourned until 10:00 a.m., Wednesday, May 24, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

