

Journal of the House

SIXTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, May 20, 2013, 2:00 p.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 104 members present.

Rep. Dillmore was excused on verified illness.

Reps. Brunk, Carlin, Christmann, Edwards, Goico, Hermanson, Huebert, Kelley, Kleeb, Montgomery, Osterman, Peterson, Rubin, Schwab, Schwartz, Seiwert, Shultz, Sloan, Thimesch and Weber were excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Creator God,
It is that time of the year
when we watch and observe
the majestic display of Your creation
through the Spring thunderstorms.
And, because the storms sometimes come
with disastrous results,
I want to thank You for Your protection over the lives of our
great citizens across this state this past weekend.
We come to session today because of what
some have called a standstill.
My prayer is that You will bring together
all the available instruments and fine tune them into harmony,
creating a symphony which will be pleasant upon the ears of all.
To do this, the motives and decisions must focus
more on pleasing You rather than attempting to please the world.
It is in Your Son's Name I pray for Your will to be accomplished.
Amen.

The Pledge of Allegiance was led by Rep. Lane.

MESSAGE FROM THE SENATE

The Senate adopts the Conference Committee report on **HB 2162**.

The President announced the appointment of Senators Masterson, Denning and Kelly to replace Senators Abrams, Arpke and Henseley as members of the conference committee on **SB 171**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. **HR 6033**—

A RESOLUTION congratulating Sumner Academy of Arts and Science on being ranked the #1 academic high school in Kansas.

WHEREAS, Sumner Academy of Arts and Science has been ranked the "best high school" in Kansas, and the "most challenging high school" in the state; and

WHEREAS, These rankings were announced this week by two renowned ratings programs that measure how well high schools prepare students for college, and student performance on Advanced Placement, International Baccalaureate tests and state-mandated assessments, among other elements; and

WHEREAS, Sumner Academy's mission statement is: Sumner Academy of Arts and Science is an International Baccalaureate World School that creates a culture of global thinking, which serves students beyond the classroom by developing knowledgeable, inquiring and caring young people; and

WHEREAS, Sumner High School, which was founded in 1905, operated through the spring of 1978. Because of the success of many of its graduates, Sumner High School became known nationally as one of the premier high schools academically for African Americans. The school reopened in Fall of 1978 under the new name of Sumner Academy of Arts and Science; and

WHEREAS, Sumner Academy was admitted into the International Baccalaureate network in 1987. Juniors and seniors who participate in the IB program of studies develop essential thinking and communication skills as they engage in university-level coursework at the high school level; and

WHEREAS, The *Washington Post*, as part of its "America's Most Challenging High Schools," gave Sumner a 72.00 percent rating for equity and excellence, and ranked it number one in Kansas. Sumner has a 99 percent graduation rate and 69 percent of its graduates go on to attend four-year colleges. On a regional level, the *Washington Post* ranked Sumner #19 in the Midwest; and

WHEREAS, *U.S. News and World Report*, as part of its 2013 Best High Schools rating system, named Sumner Academy the top-ranked high school in Kansas. In the nation, the school was ranked 64 out of 21,000 public high schools. These rankings are based on the number of advanced placement tests taken as well as student performance on these exams, and

WHEREAS, Sumner Academy of Arts and Science has provided over three decades of exemplary academic scholarship. The school continues the legacy that was known nationally and internationally as a premier academy for advanced academics and continues to stand as a model of academic excellence for all students in Kansas City, Kansas, the state of Kansas and the nation: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we congratulate Sumner Academy of Arts and Science on these remarkable state and national rankings. The children of our state are our future, and we celebrate great education in Kansas; and

Be it further resolved: That the Chief Clerk of the House of Representatives be directed to provide ten enrolled copies of this resolution to Representative Winn.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2213**.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2213** submits the following report:

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

On page 10, by striking all in lines 12 through 43;

By striking all on pages 11 through 14 and inserting:

"Sec. 3. K.S.A. 74-4958 is hereby amended to read as follows: 74-4958. (1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service for which the member contributed at the contribution rate prescribed by subsection (1) of K.S.A. 74-4965, and amendments thereto, or for which such member made a lump sum repayment in accordance with the provisions of K.S.A. 74-4965, and amendments thereto, except that in no case shall such retirement benefit exceed ~~80%~~ 90% of such member's final average salary.

(2) Any member who is appointed or employed prior to July 1, 1989, who does not make an election pursuant to K.S.A. 74-4955a₂ and amendments thereto, and who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of ~~4%~~ 0.4% multiplied by the number of months difference, to the nearest whole month, between the member's attained age at the time of retirement and age 55.

(3) Upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto, or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, and who had not elected to retire under one of the options provided under K.S.A. 74-4964₂ and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, a lump-sum benefit equal to $\frac{1}{2}$ the member's final average salary at the time of the member's retirement; and (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the last day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving

spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902, and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the qualifications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964, and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

Sec. 4. K.S.A. 74-4958a is hereby amended to read as follows: 74-4958a. (1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service for which the member contributed at the contribution rate prescribed by subsection (1) of K.S.A. 74-4965, and amendments thereto, or for which such member made a lump sum repayment in accordance with the provisions of K.S.A. 74-4965, and amendments thereto, except that in no case shall such retirement benefit exceed ~~80%~~ 90% of such member's final average salary.

(2) Any member who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of ~~4%~~ 0.4% multiplied by the number of months difference, to the nearest whole month, between the member's

attained age at the time of retirement and age 55.

(3) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto, or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, and who had not elected to retire under one of the options provided under K.S.A. 74-4964, and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, a lump-sum benefit equal to $\frac{1}{2}$ the member's final average salary at the time of the member's retirement; and (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902, and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the qualifications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964, and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of this section shall be effective on and after July 1, 1989, and

shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a, and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(6) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

Sec. 5. K.S.A. 74-4965 is hereby amended to read as follows: 74-4965. (1) ~~Except as otherwise provided in this section~~ Commencing with the first payroll period beginning on or after July 1, 2013, each participating employer shall, beginning with the first payroll period for services performed after the entry date, deduct from the compensation of each member 7% 7.15% of such member's compensation as employee contributions, except that in the case of a member whose employment is covered by social security and the member is a member of the class certified in the case of Brazelton v. Kansas public employees retirement system, 227 K. 443, 607 P.2d 510 (1980), the deduction from such member's compensation shall be reduced by the amount of such member's contributions to social security. For participating employers who join the system on or after July 1, 2013, such deduction shall commence beginning with the first payroll period for services performed after the entry date.

(2) For any member other than a member who is a member of the class certified in the case of Brazelton v. Kansas public employees retirement system, 227 K. 443, 607 P.2d 510 (1980), no employee contributions shall be reduced because of contributions to social security.

(3) All such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund and shall be credited to the members' individual accounts. Interest on each member's accumulated contributions at the rate determined under subsection (a) of K.S.A. 74-4922, and amendments thereto, shall be added annually to the member's individual account.

(4) ~~For all payroll periods commencing on or after the effective date of this act, each participating employer shall deduct from the compensation of each member who has received 32 years of credited service, 2% of such member's compensation as employee contributions. For each member that is having 2% of such member's compensation deducted as employee contributions on July 1, 2013, for all payroll periods commencing on or after July 1, 2013, the participating employer shall deduct from the compensation of each such member 7.15% of such member's compensation as employee contributions. Such member may repay in a lump sum prior to or on such member's date of retirement, an amount equal to the difference between contributions actually made by the member and contributions which would have been made had such member always been contributing at the employee contribution rate prescribed by subsection (1) for all such service earned during the period of time the member made contributions at the 2% employee contribution rate, with interest. Such repayment, if made at retirement, may be deducted from the proceeds of the partial lump sum retirement options as prescribed in subsection (5)(G) of K.S.A. 74-4964, and amendments thereto, in the event the member elects such option. Such member shall pay the actual amount plus interest at a rate specified by the board. Any member who makes such a payment shall be entitled to service credit for purposes of calculation of retirement benefits pursuant to the provisions of K.S.A. 74-4958 and 74-4958a, and~~

amendments thereto, for all years of service wherein such member contributed at the employee contribution rate prescribed by subsection (1), including all years of service such member previously paid at the 2% employee contribution rate but prior to or on such member's date of retirement repaid the difference pursuant to this subsection.

(5) (a) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) ~~commencing with the third quarter of 1984~~. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member ~~commencing with the third quarter of 1984~~ may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 6. K.S.A. 2012 Supp. 74-49,135 is hereby amended to read as follows: 74-49,135. (a) The provisions of this section and any related provisions shall not be implemented until the board of trustees of the Kansas public employees retirement system has obtained approval for the election and related provisions specified in this section from the federal internal revenue service. The board may implement the remainder of this act prior to implementation of this section. To that end, this section and provisions related thereto are severable from the remainder of this act and shall be repealed if the federal internal revenue service refuses to grant such approval or issues an adverse decision.

(b) Except as otherwise provided in this act, a member of the system under the provisions of K.S.A. 74-4901 et seq., and amendments thereto, on July 1, 2013, may elect to: (1) Contribute, commencing January 1, 2014, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent calendar year, 6% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.85% of such member's final average salary; or (2) continue to contribute 4% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.4% of such member's final average salary. Members shall make such election within a 90-day period established by the board.

(c) (1) Elections made pursuant to this section shall be made on a form and in a manner prescribed by the board.

(2) A member failing to make an election pursuant to subsection (b) shall contribute, commencing January 1, 2014, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent year.

6% of such member's compensation as employee contributions, and shall receive an amount for participating service equal to the total of 1.85% of the member's final average salary.

(3) An election under this section, including the default election pursuant to subsection ~~(d)(2)~~ (c)(2), is a one-time irrevocable election.";

And by renumbering sections accordingly;

On page 20, in line 10, by striking "2012 Supp."; also in line 10, by striking "74-4915, 74-4919," and inserting "74-4958, 74-4958a and 74-4965 and K.S.A. 2012 Supp.";

On page 1, in the title, in line 3, after the first semicolon by inserting "maximum retirement benefits; employee contributions;"; also in line 3, by striking all after "elections;"; in line 4, by striking all before "retirement"; in line 5, by striking "2012 Supp."; also in line 5, by striking "74-"; in line 6, by striking "4915, 74-4919," and inserting "74-4958, 74-4958a and 74-4965 and K.S.A. 2012 Supp.";

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

JEFF KING

TY MASTERTSON

LAURA KELLY

Conferees on part of Senate

STEVEN JOHNSON

JIM HOWELL

KATHY WOLFE MOORE

Conferees on part of House

On motion of Rep. Johnson, the conference committee report on **HB 2213** was adopted.

On roll call, the vote was: Yeas 104; Nays 0; Present but not voting: 0; Absent or not voting: 21.

Yeas: Alcalá, Alford, Ballard, Barker, Becker, Bideau, Boldra, Bollier, Bradford, Bridges, Bruchman, Burroughs, Couture-Lovelady, Campbell, Carlson, Carpenter, Cassidy, Claeys, Clayton, Concannon, Corbet, Crum, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Ewy, Finch, Finney, Frownfelter, Gandhi, Garber, Gonzalez, Grant, Grosserode, Hawkins, Hedke, Henderson, Henry, Hibbard, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Howell, Hutton, Jennings, Johnson, Jones, Kahrs, Kelly, Kinzer, Kuether, Lane, Lunn, Lusk, Macheers, Mast, McPherson, Meier, Meigs, Menghini, Merrick, Moxley, O'Brien, Pauls, Peck, Perry, Petty, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rothlisberg, Ruiz, Ryckman Jr., Ryckman Sr., Sawyer, Schroeder, Siegfried, Sloop, Suellentrop, Sutton, Swanson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Weigel, Whipple, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Brunk, Carlin, Christmann, Dillmore, Edwards, Goico, Hermanson, Huebert, Kelley, Kleebe, Montgomery, Osterman, Peterson, Rubin, Schwab, Schwartz, Seiwert, Shultz, Sloan, Thimesch, Weber.

REPORT ON ENGROSSED BILLS

HB 2249 reported correctly re-engrossed May 17, 2013.

REPORT ON ENROLLED BILLS

HB 2015, HB 2081, HB 2115, HB 2120, HB 2204, HB 2218, HB 2261 reported correctly enrolled, properly signed and presented to the Governor on May 17, 2013.

On motion of Rep. Vickrey, the House adjourned until 2:00 p.m, Tuesday, May 21, 2013.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

