

MINUTES OF THE SENATE KPERS SELECT COMMITTEE

The meeting was called to order by Chairman Stephen Morris at 1:30 p.m. on March 18, 2011, in Room 546-S of the Capitol.

All members were present except:

Senator King, excused
Senator Masterson, excused.

Committee staff present:

Julian Efird, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Linda Reed, Committee Assistant

Conferees appearing before the Committee:

Glenn Deck – Executive Director of KPERS (Kansas Public Employees Retirement System)
Jane Carter – Kansas Organization of State Employees
Brian Thompson – President of Public Employees Association of Kansas

Others attending:

See attached list.

The Chairman directed the floor to Senator Vratil. Senator Vratil indicated that in the meeting of March 15, 2011, he suggested that in the bill what is commonly known as the Reservation of Rights Provision be included. The Senator stated that he still feels that the provision should receive future consideration, but it is now more appropriate to leave it out of **SB 49** and in turn, ask the Study Commission to look at it as one issue that they may consider in their recommendation.

Senator Vratil made the motion to remove the Reservation of Rights Provision language from SB 49.
The motion was seconded by Senator Kelly.

Ms. Jane Carter, Chairwoman for the Coalition for Keeping the Kansas Promise, presented testimony with Limited Opposition to **SB 49** (Attachment 1). Ms. Carter stated with the removal of the language regarding the Reservation of Rights Provision, the Coalition was now in favor of the bill.

The Chairman stated that he wanted to assure that the Study Commission would include members who would be well represented if this legislation is passed.

Brian Thomspom, President of Public Employees Association of Kansas presented testimony as a Neutral Opponent (Attachment 2).

Discussion was opened on **SB 49--Increased employee and employer contribution rates and benefit formula multiplier.**

The Chairman indicated that the agenda for today would look at the recommendations of the base bill of **SB 49**, proposed amendments and take action so that this bill can be passed out to the floor of the senate.

Mr. Julian Efird, from the Kansas Legislative Research Department, presented to the Committee the DRAFT Proposed Amendments to Substitute for **SB 49** Summary of Key Provisions – March 16, 2011. (Attachment 3) Mr. Efird explained to the Committee the Statutory Employer Contribution Cap Increases, Employee Contribution Rate Increases, Elect and Increase Benefit Formula Multiplier and KPERS Study Commission. Mr Efird stated that with the action of the motion earlier today, the Reservation of Rights Provision was removed from the draft.

Mr. Glenn Deck, Executive Director of KPERS provided to the Committee information previously requested by Senator Kelly regarding the Effect of Increased Contributions and the Effect of Increasing Multiplier. (Attachment 4). The Projected Fiscal Impact Substitute for **SB 49** Proposed by Senate Select Committee on KPERS' was also presented by Mr. Deck. (Attachment 5)

CONTINUATION SHEET

The minutes of the KPERS Select Committee at 1:30 p.m. on March 18, 2011, in Room 546-S of the Capitol.

Senator Hensley pledged to the coalition presented here that the minority party's appointments to the Commission would consist of three of the four coming from school, non-school and local groups. Senator Longbine agreed with the input from Senator Hensley regarding representation of the Commission. Senator Morris stated that this legislation is designed for all of us to work with our State Employees.

Senator Vratil moved to approve amendments as listed in the documents.

Senator Kelly second the motion.

Senator Vratil moved that the committee recommend the **SB 49** documents be included in Senate Sub for **HB 2194** as amended favorably for passage.

Senator Teichman seconded the motion.

The meeting was adjourned at 2:15 p.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

KPERS SELECT COMMITTEE GUEST LIST

DATE: 3/18/11

NAME	REPRESENTING
Ellie Devine	Ks. Lumbach Assoc.
Mark Birdsell	KID
Miranda Breon	Intern-Schodorf
Adam Courtney	
JASON FLORY	
GARY ADKINS	SEAK
Linda Hubbard	KCPR/SEAK
Nancy Tudor	PEAK
John Faber	PEAK
Glenn Deck	KPERS
Jane Carter	SE KOSE
Ed Redmond	KSE F/I
Nicole Proulx Aiken	LKM
Travis Lowe	Little Girl Relations
ERIK SARTORIUS	City of Overland Park
EDMOND LEBOEUF	KDOT
RON BROWN	FOP
Es Kump	KACP/KPDA/KSA

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KPERS SELECT COMMITTEE GUEST LIST

DATE: 3/18/11

NAME	REPRESENTING
Brian R. Thompson	PEAK
Harvey J. Indecide	KARSP.
Ernie Candel	KCPR
TED HENRY	CS.
Melissa Fairbanks	City of Ottawa
Richard H. Nienstedt	" " "
Lisa Ochs	ROSE / AFT - Kansas
JP Arpin	Division of the Budget
Tom Ilnu	IASB
Gene Meyer	Kansas Reporter
Nicole Proulx Aiken	LKM
Kim Fowler	Judicial Branch
Tyler Carter	GSA
Stephanie Bunter	Judicial Branch
Randall Allen	KS. Assoc. of Counties
Jim Rankin	Security Benefit
Donneis	KS NARF ch 2
Fernie HARMU	Transfers 696

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

KPERs SELECT COMMITTEE GUEST LIST

DATE:

3/18/11

[illegible]

Coalition for Keeping the Kansas Promise
715 SW 10th Street, Topeka, KS 66612
Jane Carter, Chair • Terry Forsyth, Vice Chair
www.keepingthekansaspromise.com



Written Testimony Submitted to the:

**Kansas Senate Select KPERs Committee
March 18, 2011**

Jane Carter, Chairwoman
Coalition for Keeping the Kansas Promise

Testimony In Limited Opposition to the Amended Senate Bill 49

President Morris and Members of the Select Committee:

On February 23, 2011, the Coalition for Keeping the Kansas Promise had the opportunity before this committee to submit testimony in limited opposition to Senate Bill 49.

While in certain circumstances, we applaud the efforts of the committee to create a less Draconian approach to managing the multiple and complex issues regarding the Kansas Public Employees Retirement System (KPERs), we must, again, rise in limited opposition to the currently amended version of Senate Bill 49.

- I. **Provisions Opposed by the Coalition for Keeping the Kansas Promise.**
- A. Reservation of Rights for State.

In our testimony presented on February 23,¹ the Coalition for Keeping the Kansas Promise explained its position, saying:

“Each year, Kansas public employees face uncertainty – uncertainty that their efforts to do more with less will be appropriately acknowledged and rewarded according to the rules of the free market. Kansas public employee compensation, year-after-year, is the first target of those who seek to reduce government spending *despite the fact that public employees are paid less and contribute more than their private market counterparts.*”

¹ Keeping the Kansas Promise Testimony on Senate Bill 49, February 23, 2011 (available at <http://www.keepingthekansaspromise.com/ksleg/senate-bill-49-opposition-testimony/>).



Kansas' public employees do earn substantially less than private market counterparts. The 2007 Hay Group study performed on behalf of the Kansas Legislature illustrated that Kansas public employees generally make 25 percent less than private market counterparts.² And, just two weeks ago, *USA Today* illustrated again that Kansas public employees, in terms of pay, ranked number 49 out of 50 states and the District of Columbia, with the average Kansas public employee earning \$3,300.00 less annually than their private market counterparts.³

The amendment added to the Senate Bill 49 package grating reservations of rights to the state on Tuesday, March 15, 2011 in the Senate Select KPERS hearing would make the KPERS contract illusory for KPERS members and retirees. The Coalition opposes the reservation of rights for the state, because it is feature of the promise – a bilateral contract – offered by the Kansas Public Employee Retirement System with Kansas' public employees that enables the state of Kansas to attract and retain trained, skilled and experienced employees to fulfill the numerous missions of state government. The reservation of rights for the state provision would make the bilateral contract with Kansas' public employees unilateral and illusory, undermining the basic promise and retirement security of current and future public employees.

The Coalition would respectfully request the removal of this provision from the Tuesday, March 15 amendments to Senate Bill 49.

B. Removal of Provision Providing One Member from the State Employee Groups Upon the KPERS Study Commission.

In the amendments offered by President Morris and accepted by the Committee on Tuesday, March 15, 2011, the proposed KPERS Study Commission included "One member from the State employee groups." As drafted, however, that provision has been removed from the package. The Coalition for Keeping the Kansas Promise opposes this removal.

² State of Kansas: Salary Survey Report, *The Hay Group*, January 2007 (report commissioned by the Kansas Legislature, finding that Kansas public employees make, on average, 25 percent less than private market counterparts) (available online at <http://www.scribd.com/doc/50173819>).

³ "Wisconsin one of 41 states where public employees earn more," by Dennis Cauchon, *USA Today*, March 1, 2011 (available at <http://www.scribd.com/doc/50173838>) (ranking Kansas 49th nationally for public employee pay and illustrating that public employees in Kansas, on average, make \$3,229 less than private market counterparts).



In testimony provided before the House Pensions and Benefits Committee on February 15, Utah Senator Dan Ljilenquist spoke briefly of the state of Utah's experience in amending the public employee retirement system in that state. One of the key points that Senator Ljilenquist stressed regarding his experience was to have all stakeholders present at the table. This is particularly true for those who have the most to lose regarding potential amendments to the KPERS system in Kansas.

In order to reach a solid, long-term solution for KPERS, we would encourage the Select Committee to include a provision granting KPERS member representatives three (3) seats upon the proposed study commission. There are over 275,000 KPERS members in the state of Kansas – active, retired and inactive – and there are six (6) groups of coverage within the system (state, school, local, corrections officers, KP&F and Judges). It is important that these KPERS members – stakeholders in the current system – have their voices heard in order to reach a workable compromise solution for resolving the long-term issues faced by KPERS.

While all KPERS members stand to be impacted by amendments to KPERS, the state group, the school group and the locals group stand to be the most impacted by the provisions of the amended version of Senate Bill 49. Because these three groups stand to be the most impacted and in the interest of reaching a long-term solution for KPERS, we would encourage member representatives from each of these three groups be granted representative seats upon the KPERS Study Commission.

II. Provisions Supported by the Coalition for Keeping the Kansas Promise.

A. Statutory Employer Contribution Cap Increase.

In our February 23 testimony provided to the Select Committee⁴ and in our February 14 testimony provided to the House Benefits and Pensions Committee⁵ on House Bill 2086, the Coalition supported the provisions of increasing the maximum annual employer contribution cap.

Numerous conferees appearing before both pension committees in the House and Senate this year, including KPERS Executive Director Glenn Deck and KPERS consulting actuary Patrice Beckham,⁶ have expressly advised it is necessary for the annual

⁴ FN1.

⁵ House Benefits & Pensions Committee hears HB 2086, February 14, 2011 (available at <http://www.keepingthekansaspromise.com/ksleg/house-pensions-benefits-2-14-2011/>).

⁶ Senate Select KPERS: KPERS actuary lays foundation, February 3, 2011 (available at <http://www.keepingthekansaspromise.com/ksleg/senate-select-kpers-committee-feb-3-2011/>); and House



contribution cap be increased so that the actuarially required contribution (ARC) is reached more quickly and the unfunded actuarial liability begins to shrink. The Coalition supported the original language of Senate Bill 49 regarding the annual contribution cap. We continue to support the amended version of Senate Bill 49 providing for a 1.1 percent (%) contribution cap.

B. Employee Contribution Rate Increase and Election.

When the Coalition testified in opposition to Senate Bill 49 on February 23, our fundamental disagreement with the legislation as then drafted was the two percent (2%) increase in contributions proposed for Tier II KPERS members. Currently, those employees make a six percent (6%) contribution towards their KPERS retirement, which is two percent (2%) higher than that contributed by KPERS Tier I members. An additional 2% contribution by Tier II KPERS members would have raised contributions for those employees, who already are living on limited incomes, to an astonishing eight percent (8%).

While the Coalition is reluctant to support any increases in employee contributions, we recognize that some level of sacrifice will be necessary among all stakeholders to the KPERS system, public employees and public employers alike. The Coalition acknowledges the sacrifice illustrated by the Select Committee through the proposed 1.1% contribution cap increase.

Because the proposed increases provide Tier II members with a *voluntary election* to pay an increased contribution in return for a COLA and increased multiplier, we support the provision.

It is important to note, however, that our support is limited: should the default election be amended to place non-electing members in the increased contribution rate, or *Option 1*, we would oppose the measure.

C. Increase Benefit Formula Multiplier.

The Coalition supports the increased benefit formula multiplier. This measure will enhance the retirement security of our members. More importantly, it is likely a required counterbalancing benefit required under the *Singer* analysis of the Kansas Supreme Court

Pensions & Benefits: KPERS actuary lays factual foundation, January 24, 2011 (available at <http://www.keepingthekansaspromise.com/ksleg/1-24-2011-committee/>).



regarding the KPERS contract,⁷ though we make no statement regarding the sufficiency of the counterbalancing benefit provided by the amended Senate Bill 49.

D. KPERS Study Commission.

In principle, the Coalition supports the proposed KPERS Study Commission. Our support for the commission, however, is limited by the opposition testimony provided hereinbefore. Fundamentally, it is the belief of Coalition partners that to reach a workable solution for shoring up the long-term solvency of the current KPERS system, all interested stakeholders must be provided a voice at the table.

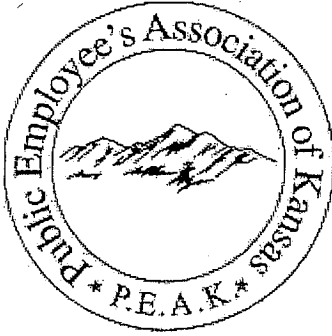
The original package provided a member representative upon the proposed study commission, and we would encourage the Select Committee to return to that provision and add two additional members so that the school, state and local groups may be represented and provide insights regarding their respective KPERS groups.

III. Conclusions.

The Coalition for Keeping the Kansas Promise appreciates the diligence and attentiveness of the Senate's Select KPERS committee. Fundamentally, we do not disagree with the major provisions of the amended Senate Bill 49; however, those provisions of which we do disagree are too profound to earn the support of Coalition partners on Senate Bill 49. Removal of the provision reserving rights for the state in increasing employee contributions without also increasing counterbalancing benefits and the addition of three (3) member representatives from each of the respective school, state and local employee groups upon the KPERS Study Commission collectively represent the Coalition's opposition to Senate Bill 49.

END

⁷ *Singer v. City of Topeka*, 227 Kan. 356, 366 (1980) ("[C]hanges which result in disadvantages to the employees must be accompanied by offsetting or counterbalancing advantages.").



Public Employees Association of Kansas, Inc.

1122 S.W. 10th Avenue, P.O. Box 2573, Topeka, Kansas 66601 · 785.633.9989

Thank you Chairman Morris, Vice-chair King, Ranking Minority Member Kelly and members of the committee. My name is Brian R. Thompson and I am the president of Public Employees Association of Kansas and a retired KDOT employee. I come before you both professionally and personally.

Today I stand before you to request that no legislation be enacted at this time. My reasoning is based on the fact that there are too many unasked and unanswered questions as well as there has not been enough input provided to you by the stakeholders, i.e., the active and retired public employees of Kansas.

Mr. Chairman, there are approximately 200,000 active public employees and approximately 70,000 retired public employees who are depending on this committee and the House committee to do the right thing. If we don't get this right at this time, we will be back trying to fix it again, and each time we do that it reflects badly on our resolve to once and for all fix the problem. We have an alleged \$7.7 billion unfunded actuarial liability to erase and we also need to address COLAs for present and future Tier 1 members. Both of these need to be taken care of now so that we don't have to come back at some point in the future to fix KPERS again. Part of the solution will be to redefine the Board of Trustees makeup as well as emphasis, to the Board, its mission. We feel that we should do as Utah did, have meetings until no one shows up. Hear everyone's concerns and act on them. We should not rush to judgment, but we should do the right thing, whatever that is, and the only way that can be accomplished is to hear from the stakeholders, so, therefore Mr. Chairman, we ask the following:

We recommend that a fact-finding task force be created and be comprised of representatives of the Legislative branch, the Administrative branch, active employee representatives, retiree group representatives and taxpayers. The task would be to hold statewide public hearings to take input from all sides and stakeholders on the issue and create a fair and final solution so that we are not back here in five years to create Tiers 4, 5 and so on.

Public Employees of Kansas, Inc., has created a task force to study this issue. This group is made up of current and retired public employees as well as current and retired private sector employees. Our goal is to define the problem and create a solution that will fix KPERS for now and the future. We meet weekly with progress attained at each meeting and we would welcome the opportunity to present our solution to this committee once our task is complete. We would also welcome all of you to join us and give us your thoughts as we progress toward a clear, concise and constructible solution.

Thank you so much for allowing me to speak on this issue. It has been near and dear to my heart for over ten years, not only the unfunded liability, but the COLA for current and future retirees as well.

Mr. Chairman, I will stand for questions.

DRAFT
Proposed Amendments to Substitute for SB 49
Summary of Key Provisions
March 16, 2011

Statutory Employer Contribution Cap Increase

- Employer contribution statutory cap increases to 1.1% starting FY 2014 for all three KPERS Groups:
 - July 1, 2013 for State and School
 - January 1, 2014 for Local

Employee Contribution Rate Increases and Election

- Tier 1 employee contribution rate increases 1% commencing January 1, 2014 and an additional 1% commencing January 1, 2015, for a total employee contribution rate of 6%.
- Subject to IRS approval, current Tier 2 members are given a one-time irrevocable option (election) to: 1) have their employee contributions increase a total of 2%. The employee contribution rate increases 1% on January 1, 2014 and an additional 1% on January 1, 2015 for a total employee contribution rate of 8% in order to continue to be eligible for the Tier 2 cost-of-living adjustment (COLA) at retirement and for the 1.85% future service multiplier; or 2) forfeit the cost-of-living adjustment for Tier 2 members and remain at an employee contribution rate of 6%. Those who choose the second option will remain at the 1.75% multiplier for all service credit. Members who fail to select an option will default to option 2.
- All Tier 2 members hired after July 1, 2013 will have an employee contribution rate of 6%; will not receive the cost-of-living adjustment (COLA) at retirement; and will have a 1.75% multiplier for all service credit.

Increase Benefit Formula Multiplier

- The KPERS retirement benefit formula multiplier would increase from 1.75 percent to 1.85 percent for all future years of service credited to all KPERS Tier 1 members and only Tier 2 members who choose to have an employee contribution increase of 2% commencing January 1, 2014.

KPERS Study Commission

- Establish a KPERS Study Commission to analyze the current retirement system and develop a viable plan to ensure the long-term sustainability of the system, possibly to include a defined contribution plan, hybrid plan, modified defined benefit plan, or other possible options. Membership of the Commission would include 11 voting members appointed as follows:
 - Four legislative members (one appointed by President of the Senate, one by the Senate Minority Leader, one by the Speaker of the House and one by the House Minority Leader).

- Four at-large members (one appointed by President of the Senate, one by the Senate Minority Leader, one by the Speaker of the House and one by the House Minority Leader).
- Three members appointed by the Governor (one must be a licensed Kansas attorney).
- Four ex-officio non-voting members: Director of the Budget, Director of Legislative Research, Revisor of Statutes, and Executive Director of KPERS.

The Commission must issue a final report with recommended legislation by December 15, 2011. The 2012 Legislature must act on the report within 180 days of receiving report for the other legislative provisions in Substitute for SB 49 to be implemented.

Effective Date

- Provisions of SB 49 on contribution rates will not go into effect until Legislature acts on Study Commission recommendations.

Reservation of Rights for State

- Add a provision effective on January 1, 2014, to reserve for the Legislature the right to unilaterally to modify provisions of the KPERS retirement plan for the State, School and Local Groups.

Prepared and edited by staff:

**Kansas Legislative Research Department
Kansas Public Employees Retirement System**

Effect of Increased Contributions

- The following table shows the impact of increasing the employee contribution rate by 2.0% over two years for a Tier 1 and a Tier 2 member, each earning \$40,000.

Annual KPERS Contribution

	Tier 1 Member		Tier 2 Member*	
Current Rate:	4.0%	\$1,600	6.0%	\$2,400
Rate effective 1/1/2014	5.0%	\$2,000	7.0%	\$2,800
Increase	1.0%	\$ 400	1.0%	\$ 400
Rate effective 1/1/2014	5.0%	\$2,000	7.0%	\$2,800
Rate effective 1/1/2015	6.0%	\$2,400	8.0%	\$3,200
Increase	1.0%	\$ 400	1.0%	\$ 400
Total Increase	2.0%	\$ 800	2.0%	\$ 800

*Assumes IRS approval of one-time, irrevocable option for members of Tier 2 as of July 1, 2013, to increase contributions by 2.0%, receive a 1.85% multiplier for future service, and retain existing 2.0% COLA.

Effect of Increasing Multiplier

- The following table shows the impact of increasing the benefit multiplier factor to 1.85% for all future service, assuming an average final salary of \$40,000.

	<u>Years of Service</u>	X	<u>Multiplier</u>	X	<u>Final Average Salary</u>	=	<u>Annual Benefit</u>	
							<u>Subtotal</u>	<u>Total</u>
Current Law	30	X	1.75%	X	\$40,000	=		\$21,000
Example 1:	25	X	1.75%	X	\$40,000	=	\$17,500.00	= \$21,200
	5		1.85%		\$40,000	=	\$3,700.00	
Example 2:	15	X	1.75%	X	\$40,000	=	\$10,500.00	= \$21,600
	15		1.85%		\$40,000	=	\$11,100.00	
Example 3:	5	X	1.75%	X	\$40,000	=	\$3,500.00	= \$22,000
	25		1.85%		\$40,000	=	\$18,500.00	
Example 4:	30	X	1.85%	X	\$40,000	=		\$22,200

Projected Fiscal Impact
Substitute for SB 49
Proposed by Senate Select Committee on KPERS'

	Baseline	SB 49 As Introduced	Proposed Sub for SB 49
ARC Rate & Date			
State	11.80% in FY 2018	9.13% in FY 2013 Continues rising to a maximum ARC rate of 10.64% in FY 2016	9.46% in FY 2014 Continues rising to a maximum ARC rate of 10.61% in FY 2016
State/School (School Group rates are the same)	No ARC rate or date. Statutory rate of 21.37% by FY 2033	15.66% in FY 2019 Continues rising to a maximum ARC rate of 15.82% in FY 2021	15.70% in FY 2019 Continues rising to a maximum ARC rate of 15.88% in FY 2021
Local	10.58% in CY 2018	9.16% in CY 2014 Continues rising to a maximum ARC rate of 9.34% in CY 2015.	8.74% in CY 2014 Continues rising to a maximum ARC rate of 9.32% in CY 2015.
Contributions (In Millions): FY 2011-FY 2033			
State	\$ 5,575.6	\$ 4,713.5 Savings of \$ 862.1	\$ 4,845.0 Savings of \$ 730.6
School	\$17,473.2	\$14,803.7 Savings of \$ 2,669.5	\$15,212.1 Savings of \$ 2,261.1
State/School Group Total	\$23,048.8	\$19,517.1 Savings of \$ 3,531.6	\$20,057.0 Savings of \$ 2,991.7
Local	\$ 4,667.4	\$ 3,802.0 Savings of \$ 865.4	\$ 4,031.2 Savings of \$ 636.1