

**HOUSE BILL No. 2268**

By Committee on Financial Institutions and Pensions

2-2

Proposed amendment to HB 2268  
For Committee on Financial Institutions and  
Pensions  
February 15, 2017

Combining current special exemptions into one  
special working after retirement exemption

Prepared by David Wiese  
Office of Revisor of Statutes

1 AN ACT concerning retirement and pensions; relating to the Kansas public  
2 employees retirement system; employment after retirement; extending  
3 sunset date for exemptions; amending K.S.A. 2016 Supp. 74-4914 and  
4 74-4937 and repealing the existing sections; also repealing K.S.A. 2016  
5 Supp 74-4914f.  
6

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

8 Section 1. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as  
9 follows: 74-4914. (1) The normal retirement date for a member of the  
10 system shall be the first day of the month coinciding with or following  
11 termination of employment with any participating employer not followed  
12 by employment with any participating employer within 60 days and  
13 without any prearranged agreement for employment with any participating  
14 employer, and the attainment of age 65 or, commencing July 1, 1993, age  
15 62 with the completion of 10 years of credited service or the first day of  
16 the month coinciding with or following the date that the total of the  
17 number of years of credited service and the number of years of attained  
18 age of the member is equal to or more than 85. In no event shall a normal  
19 retirement date for a member be before six months after the entry date of  
20 the participating employer by whom such member is employed. A member  
21 may retire on the normal retirement date or on the first day of any month  
22 thereafter upon the filing with the office of the retirement system of an  
23 application in such form and manner as the board shall prescribe. Such  
24 application shall contain a certification by the member that the member  
25 will not be employed with any participating employer within 60 days of  
26 retirement and the member has not entered into a prearranged agreement  
27 for employment with any participating employer. Nothing herein shall  
28 prevent any person, member or retirant from being employed, appointed or  
29 elected as an employee, appointee, officer or member of the legislature.  
30 Elected officers may retire from the system on any date on or after the  
31 attainment of the normal retirement date, but no retirement benefits  
32 payable under this act shall be paid until the member has terminated such  
33 member's office.

34 (2) No retirant shall make contributions to the system or receive  
35 service credit for any service after the date of retirement.

36 (3) Any member who is an employee of an affiliating employer

1 pursuant to K.S.A. 74-4954b, and amendments thereto, and has not  
2 withdrawn such member's accumulated contributions from the Kansas  
3 police and firemen's retirement system may retire before such member's  
4 normal retirement date on the first day of any month coinciding with or  
5 following the attainment of age 55.

6 (4) Any member may retire before such member's normal retirement  
7 date on the first day of any month coinciding with or following  
8 termination of employment with any participating employer not followed  
9 by employment with any participating employer within 60 days and the  
10 attainment of age 55 with the completion of 10 years of credited service,  
11 but in no event before six months after the entry date, upon the filing with  
12 the office of the retirement system of an application for retirement in such  
13 form and manner as the board shall prescribe. The member's application  
14 for retirement shall contain a certification by the member that the member  
15 will not be employed with any participating employer within 60 days of  
16 retirement and the member has not entered into a prearranged agreement  
17 for employment with any participating employer.

18 (5) Except as provided in subsection (7), on or after July 1, 2006, for  
19 any retiree who is first employed or appointed in or to any position or  
20 office by a participating employer other than a participating employer for  
21 which such retiree was employed or appointed during the final two years  
22 of such retiree's participation, and, on or after April 1, 2009, for any  
23 retiree who is employed by a third-party entity who contracts services  
24 with a participating employer other than a participating employer for  
25 which such retiree was employed or appointed during the final two years  
26 of such retiree's participation to fill a position covered under K.S.A. 72-  
27 5410(a), and amendments thereto, with such retiree, such participating  
28 employer shall pay to the system the actuarially determined employer  
29 contribution and the statutorily prescribed employee contribution based on  
30 the retiree's compensation during any such period of employment or  
31 appointment. If a retiree is employed or appointed in or to any position or  
32 office for which compensation for service is paid in an amount equal to  
33 \$20,000 or more in any one such calendar year, or \$25,000 or more in any  
34 one calendar year between July 1, 2016, and July 1, ~~2020~~ 2021, by any  
35 participating employer for which such retiree was employed or appointed  
36 during the final two years of such retiree's participation, and, on or after  
37 April 1, 2009, by any third-party entity who contracts services to fill a  
38 position covered under K.S.A. 72-5410(a), and amendments thereto, with  
39 such retiree with a participating employer for which such retiree was  
40 employed or appointed during the final two years of such retiree's  
41 participation, such retiree shall not receive any retirement benefit for any  
42 month for which such retiree serves in such position or office. The  
43 participating employer who employs such retiree whether by contract

1 directly with the retirant or through an arrangement with a third-party  
2 entity shall report to the system within 30 days of when the compensation  
3 paid to the retirant is equal to or exceeds any limitation provided by this  
4 section. Any participating employer who contracts services with any such  
5 third-party entity to fill a position covered under K.S.A. 72-5410(a), and  
6 amendments thereto, shall include in such contract a provision or condition  
7 which requires the third-party entity to provide the participating employer  
8 with the necessary compensation paid information related to any such  
9 position filled by the third-party entity with a retirant to enable the  
10 participating employer to comply with provisions of this subsection  
11 relating to the payment of contributions and reporting requirements. The  
12 provisions and requirements provided for in amendments made in this act  
13 which relate to positions filled with a retirant or employment of a retirant  
14 by a third-party entity shall not apply to any contract for services entered  
15 into prior to April 1, 2009, between a participating employer and third-  
16 party entity as described in this subsection. Any retirant employed by a  
17 participating employer or a third-party entity as provided in this subsection  
18 shall not make contributions nor receive additional credit under such  
19 system for such service except as provided by this section. Upon request of  
20 the executive director of the system, the secretary of revenue shall provide  
21 such information as may be needed by the executive director to carry out  
22 the provisions of this act. The provisions of this subsection shall not apply  
23 to retirants employed as substitute teachers or officers, employees or  
24 appointees of the legislature. The provisions of this subsection shall not  
25 apply to members of the legislature prior to January 8, 2000. The  
26 provisions of this subsection shall not apply to any other elected officials  
27 prior to the term of office of such elected official which commences on or  
28 after July 1, 2000. The provisions of this subsection shall apply to any  
29 other elected official, except an elected city or county officer as further  
30 provided in this subsection, on and after the term of office of such other  
31 elected official which commences on or after July 1, 2000.  
32 Notwithstanding any provisions of law to the contrary, when an elected  
33 city or county officer is retired under the provisions of subsection (1) or  
34 (4) of this section and is paid an amount of compensation of \$25,000 or  
35 more in any one calendar year between July 1, 2016, and July 1, ~~2020~~  
36 ~~2021~~, such officer may receive such officer's salary, and still be entitled to  
37 receive such officer's retirement benefit pursuant to the provisions of  
38 K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise  
39 provided, commencing January 8, 2001, the provisions of this subsection  
40 shall apply to members of the legislature. For determination of the amount  
41 of compensation paid pursuant to this subsection, for members of the  
42 legislature, compensation shall include any amount paid as provided  
43 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,

1 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding  
2 any provision of law to the contrary, when a member of the legislature is  
3 paid an amount of compensation of \$20,000 or more in any one calendar  
4 year, the member may continue to receive any amount provided in K.S.A.  
5 46-137a(b) and (d), and amendments thereto, and still be entitled to  
6 receive such member's retirement benefit. Commencing July 1, 2005, the  
7 provisions of this subsection shall not apply to retirants who either retired  
8 under the provisions of subsection (1), or, if they retired under the  
9 provisions of subsection (4), were retired more than 30 days prior to the  
10 effective date of this act and are licensed professional nurses or licensed  
11 practical nurses employed by the state of Kansas in an institution as  
12 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~~~(k)~~, and amendments  
13 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing  
14 in this subsection shall be construed to create any right, or to authorize the  
15 creation of any right, which is not subject to amendment or nullification by  
16 act of the legislature. The participating employer of such retirant shall pay  
17 to the system the actuarially determined employer contribution based on  
18 the retirant's compensation during any such period of employment.

19 (6) For purposes of this section, any employee of a local  
20 governmental unit which has its own pension plan who becomes an  
21 employee of a participating employer as a result of a merger or  
22 consolidation of services provided by local governmental units, which  
23 occurred on January 1, 1994, may count service with such local  
24 governmental unit in determining whether such employee has met the  
25 years of credited service requirements contained in this section.

26 (7) (a) Except as provided in ~~[K.S.A. 74-4937(3), (4), or (5), and~~  
27 ~~amendments thereto, and]~~ the provisions of this subsection, commencing  
28 July 1, 2016, and ending July 1, ~~2020~~ 2021, any retirant who is employed  
29 or appointed in or to any position by a participating employer or a third-  
30 party entity who contracts services with a participating employer to fill a  
31 position, without any prearranged agreement with such participating  
32 employer and not prior to 60 days after such retirant's retirement date, shall  
33 not receive any retirement benefit for any month in any calendar year in  
34 which the retirant receives compensation in an amount equal to \$25,000 or  
35 more, pursuant to this subsection. The provisions of this subsection shall  
36 apply to members of the legislature.

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

39 (i) Licensed professional nurses or licensed practical nurses  
40 employed by the state of Kansas in an institution as defined in K.S.A. 76-  
41 12a01(b) or 38-2302~~(f)~~~~(k)~~, and amendments thereto, the Kansas soldiers'  
42 home or the Kansas veterans' home. The participating employer of such  
43 retirant shall pay to the system the actuarially determined employer

1 contribution based on the retirant's compensation and the statutorily  
2 prescribed employee contribution during any such period of employment;

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

10 (iii) certified law enforcement officers employed by the law  
11 enforcement training center. Such law enforcement officers shall receive  
12 their benefits notwithstanding this subsection. The law enforcement  
13 training center shall pay to the system the ~~actuarial~~ *actuarially* determined  
14 employer contribution and the statutorily prescribed employee contribution  
15 based on the retirant's compensation during any such period of  
16 employment;

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

21 (v) employed as substitute teachers or officers, employees or  
22 appointees of the legislature;

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

26 (vii) employed by, or have accepted employment from, a participating  
27 employer prior to May 1, 2015. Any break in continuous employment by a  
28 retirant or move to a different position by a retirant during the effective  
29 period of this subsection shall be deemed new employment and shall  
30 subject the retirant to the provisions of this subsection.

31 (c) The participating employer shall enroll all retirants and report to  
32 the system when compensation is paid to a retirant as provided in this  
33 subsection. Such report shall contain a certification by the appointing  
34 authority of the participating employer that any hired retirant has not been  
35 employed by the participating employer within 60 days of such retirant's  
36 retirement and that there was no prearranged agreement for employment  
37 between the participating employer and the hired retirant. Upon request of  
38 the executive director of the system, the participating employer shall  
39 provide such information as may be needed by the executive director to  
40 carry out the provisions of this subsection. Any participating employer  
41 who hires a retirant covered by this subsection shall pay to the system the  
42 statutorily prescribed employer contribution rate for such retirant, without  
43 regard to whether the retirant is receiving benefits. No retirant shall

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

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

three

years

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

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

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

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

one year

42 (i) No applications were submitted for the position;  
43 (ii) if applications were submitted, none of the applicants met the

1 reference screening criteria of the employer; or

2 (iii) if applications were submitted, none of the applicants possessed  
3 the appropriate licensure, certification or other necessary credentials for  
4 the position.

5 (f) On July 1, 2021, and at least every five years thereafter, the joint  
6 committee on pensions, investments and benefits shall study the issue of  
7 whether the compensation limitation prescribed in this subsection should  
8 be adjusted. The committee shall consider the effect of inflation and data  
9 on member retirement benefits and active employee compensation.

10 (g) Nothing in this subsection shall be construed to create any right,  
11 or to authorize the creation of any right, which is not subject to  
12 amendment or nullification by act of the legislature.

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

23 (8) If determined by the retirement system that a retirant entered into  
24 a prearranged agreement for employment with a participating employer  
25 prior to such retirant's retirement and prior to the end of the subsequent 60-  
26 day waiting period, the monthly retirement benefit of such retirant shall be  
27 suspended during the period that begins on the month in which the retirant  
28 is re-employed and ends six months after the retirant's termination of such  
29 employment. The retirant shall repay to the retirement system all monthly  
30 retirement benefits paid to the retirant by the retirement system that the  
31 retirant received after such employment began. The participating employer  
32 which hired such retirant shall be required to pay to the system any fees,  
33 fines, penalties or any other cost imposed by the internal revenue service  
34 and indemnify the system for any cost incurred by the system to defend  
35 any action brought by the internal revenue service based on in-service  
36 distributions which are a result of any determined prearranged agreement  
37 and for any cost incurred by the system to collect any monthly retirement  
38 benefit required to be repaid by such retirant pursuant to this subsection.

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

(i) Any retirant who was hired by a participating employer under the provisions of K.S.A. 74-4937(3), (4) or (5), as such subsections existed immediately prior to July 1, 2017, shall be deemed to be hired under the provisions of subsection (7)(d) and shall continue to be exempt from the compensation limitation in this subsection, subject to the requirements of subsection (7)(d). Any service by a retirant under K.S.A. 74-4937(3), (4) or (5), as such subsections existed immediately prior to July 1, 2017, shall be subject to the provisions of subsection (7)(h) that 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.

1       Sec. 2. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as  
2 follows: 74-4937. (1) The normal retirement date of a member of the  
3 system who is in school employment and who is subject to K.S.A. 74-  
4 4940, and amendments thereto, shall be the first day of the month  
5 coinciding with or following termination of employment not followed by  
6 employment with any participating employer within 60 days and without  
7 any prearranged agreement for employment with any participating  
8 employer, and the attainment of age 65 or, commencing July 1, 1986, age  
9 65 or age 60 with the completion of 35 years of credited service or at any  
10 age with the completion of 40 years of credited service, or commencing  
11 July 1, 1993, any alternative normal retirement date already prescribed by  
12 law or age 62 with the completion of 10 years of credited service or the  
13 first day of the month coinciding with or following the date that the total  
14 of the number of years of credited service and the number of years of  
15 attained age of the member is equal to or more than 85. Each member  
16 upon giving prior notice to the appointing authority and the retirement  
17 system may retire on the normal retirement date or the first day of any  
18 month thereafter. Such member's application for retirement shall contain a  
19 certification by the member that the member will not be employed with  
20 any participating employer within 60 days of retirement and the member  
21 has not entered into a prearranged agreement for employment with any  
22 participating employer.

23       (2) Any member who is in school employment and who is subject to  
24 K.S.A. 74-4940, and amendments thereto, may retire before such  
25 member's normal retirement date on the first day of the month coinciding  
26 with or following termination of employment not followed by employment  
27 with any participating employer within 60 days and the attainment of age  
28 55 with the completion of 10 years of credited service, upon the filing with  
29 the office of the retirement system of an application for retirement in such  
30 form and manner as the board shall prescribe. The member's application  
31 for retirement shall contain a certification by the member that the member  
32 will not be employed with any participating employer within 60 days of  
33 retirement and the member has not entered into a prearranged agreement  
34 for employment with any participating employer.

35       ~~[(3) Before July 1, 2020-2021, the provisions of K.S.A. 74-4914(5),~~  
36 ~~and amendments thereto, which relate to an earnings limitation which~~  
37 ~~when met or exceeded requires that the retirant not receive a retirement~~  
38 ~~benefit for any month for which such retirant serves in a position as~~  
39 ~~described herein shall not apply to retirants who either retired under the~~  
40 ~~provisions of K.S.A. 74-4914(1), and amendments thereto, related to~~  
41 ~~normal retirement, or, if they retired under the provisions of K.S.A. 74-~~  
42 ~~4914(4), and amendments thereto, related to early retirement, were retired~~  
43 ~~more than 60 days prior to May 28, 2009, and are subsequently hired in a~~

1 ~~position that requires a license under K.S.A. 72-1388, and amendments~~  
2 ~~thereto, or other provision of law. The provisions of this subsection shall~~  
3 ~~only apply to retirants who retired prior to May 1, 2015. The provisions of~~  
4 ~~this subsection do not apply to retirants who retired under K.S.A. 74-~~  
5 ~~4914(4), and amendments thereto, which relates to early retirement prior~~  
6 ~~to age 62. Except as otherwise provided, when a retirant is employed by~~  
7 ~~the same school district or a different school district with which such~~  
8 ~~retirant was employed during the final two years of such retirant's~~  
9 ~~participation or employed by a third-party entity who contracts services~~  
10 ~~with a school district to fill a position as described in this subsection, the~~  
11 ~~participating employer of such retirant shall pay to the system the~~  
12 ~~actuarially determined employer contribution based on the retirant's~~  
13 ~~compensation during any such period of employment plus 8%. The~~  
14 ~~participating employer shall enroll all retirants and report to the system~~  
15 ~~when compensation is paid to a retirant as provided in this subsection.~~  
16 ~~Such notice shall contain a certification by the appointing authority of the~~  
17 ~~participating employer that any hired retirant has not been employed by~~  
18 ~~the participating employer within 60 days of such retirant's retirement and~~  
19 ~~that there was no prearranged agreement for employment between the~~  
20 ~~participating employer and the hired retirant. Upon request of the~~  
21 ~~executive director of the system, the participating employer shall provide~~  
22 ~~such information as may be needed by the executive director to carry out~~  
23 ~~the provisions of this subsection. The provisions of this subsection shall~~  
24 ~~not apply to retirants employed as substitute teachers. The provisions of~~  
25 ~~K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~  
26 ~~retirants employed as described in this subsection, except as specifically~~  
27 ~~provided in this subsection. Nothing in this subsection shall be construed~~  
28 ~~to create any right, or to authorize the creation of any right, which is not~~  
29 ~~subject to amendment or nullification by act of the legislature. The~~  
30 ~~provisions of this subsection shall expire on June 30, 2020 2021. After~~  
31 ~~such date the Kansas public employees retirement system and its actuary~~  
32 ~~shall report the experience to the joint committee on pensions, investments~~  
33 ~~and benefits.~~

34 ~~(4) (a) On and after July 1, 2016, a school district may hire a retired~~  
35 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~  
36 ~~72-962, and amendments thereto, if such retirant is hired not prior to 60~~  
37 ~~days after such retirant's retirement date without any prearrangement with~~  
38 ~~such school district in the manner prescribed in this subsection. The~~  
39 ~~participating employer shall enroll all retirants and report to the system~~  
40 ~~when compensation is paid to a retirant as provided in this subsection.~~  
41 ~~Such notice shall contain a certification by the appointing authority of the~~  
42 ~~participating employer that any hired retirant has not been employed by~~  
43 ~~the participating employer within 60 days of such retirant's retirement and~~

1 that there was no prearranged agreement for employment between the  
2 participating employer and the hired retiree. Upon request of the  
3 executive director of the system, the participating employer shall provide  
4 such information as may be needed by the executive director to carry out  
5 the provisions of this subsection.

6 (b) A retiree hired under the provisions of this subsection may  
7 continue to receive such retiree's full retirement benefit for a period not to  
8 exceed three school years or 36 months, whichever is less, and shall not be  
9 subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,  
10 which relate to a compensation limitation which when met or exceeded  
11 requires that the retiree not receive a retirement benefit for any month for  
12 which such retiree serves in a position as described herein. Such retiree  
13 may be employed by such employer for some or all of a school year, and  
14 in subsequent school years if the employer is unable to permanently fill the  
15 position with active members, so long as the retiree's total term of  
16 employment with all employers under this subsection does not exceed 36  
17 months or three school years, whichever is less. After such period, the  
18 retiree shall be subject to the provisions of K.S.A. 74-4914(7), and  
19 amendments thereto, which relate to a compensation limitation which  
20 when met or exceeded requires that the retiree not receive a retirement  
21 benefit for any month for which such retiree serves in a position as  
22 described herein. The participating employer of such retiree shall pay to  
23 the system a 30% employer contribution based on the retiree's  
24 compensation during any such period of employment. On or before July 1,  
25 2019, and at least every three years thereafter, the board, in consultation  
26 with the system's consulting actuary, shall evaluate the plan's experience  
27 with employment of such retirees and the corresponding employer  
28 contribution rate to assess whether the employer contribution rate can be  
29 expected to fund adverse experience or higher liabilities accruing under  
30 the system in connection with employment of such retirees, to the extent  
31 that such liability can be ascertained or estimated. Based on this evaluation  
32 of the plan's experience, the board may certify to the division of the  
33 budget, in the case of the state, and to the agent for each other participating  
34 employer, a new rate if needed to more fully fund such adverse experience  
35 or additional liabilities, but such rate shall not be less than 30%. The  
36 provisions of this subsection shall not apply to retirees employed as  
37 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments  
38 thereto, shall be applicable to retirees employed as special teachers,  
39 except as specifically provided in this subsection.

40 (c) Each school district that uses the provisions of this subsection to  
41 hire retirees shall maintain documentation describing their recruiting  
42 efforts to obtain non-retiree employees to fill the special teacher positions.  
43 Upon request of the joint committee on pensions, investments and

1 ~~benefits, an employer shall provide such documentation to the committee.~~  
2 ~~If the committee finds that an employer has not made sufficient efforts to~~  
3 ~~hire a non-retirant for the position or if the committee finds evidence of~~  
4 ~~prearrangement in violation of this section, the three-year exemption~~  
5 ~~provided pursuant to this subsection may be revoked. The committee shall~~  
6 ~~notify the executive director of the system that a retirant's exemption has~~  
7 ~~been revoked within 30 days of making such a determination.~~

8 ~~(d) An employer may submit a written assurance protocol to the~~  
9 ~~system to make a one-time extension to the exception provided for in this~~  
10 ~~subsection by one year. Such written assurance protocol shall be signed by~~  
11 ~~the superintendent and the board president of the school district. Such~~  
12 ~~written assurance protocol shall state that the position was advertised on~~  
13 ~~multiple platforms for a minimum of 30 calendar days and that at least one~~  
14 ~~of the following conditions occurred:~~

15 ~~(i) No applications were submitted for the position;~~

16 ~~(ii) if applications were submitted, none of the applicants met the~~  
17 ~~reference screening criteria of the employer; or~~

18 ~~(iii) if applications were submitted, none of the applicants possessed~~  
19 ~~an appropriate teaching license for the state of Kansas or possessed the~~  
20 ~~appropriate credentials to receive any type of teaching license from the~~  
21 ~~state of Kansas.~~

22 ~~(e) Nothing in this subsection shall be construed to create any right,~~  
23 ~~or to authorize the creation of any right, which is not subject to~~  
24 ~~amendment or nullification by act of the legislature.~~

25 ~~(f) The provisions of this subsection shall expire on July 1, 2020~~  
26 ~~2021.~~

27 ~~(5) (a) On and after July 1, 2016, a school district may hire a retired~~  
28 ~~licensed professional to fill a non-special teacher position if such retirant is~~  
29 ~~hired not prior to 60 days after such retirant's retirement date without any~~  
30 ~~prearrangement with such school district, and if such school district hires a~~  
31 ~~retirant for a hard-to-fill position in the manner prescribed in this~~  
32 ~~subsection. The participating employer shall enroll all retirants and report~~  
33 ~~to the system when compensation is paid to a retirant as provided in this~~  
34 ~~subsection. Such notice shall contain a certification by the appointing~~  
35 ~~authority of the participating employer that any hired retirant has not been~~  
36 ~~employed by the participating employer within 60 days of such retirant's~~  
37 ~~retirement and that there was no prearranged agreement for employment~~  
38 ~~between the participating employer and the hired retirant. Upon request of~~  
39 ~~the executive director of the system, the participating employer shall~~  
40 ~~provide such information as may be needed by the executive director to~~  
41 ~~carry out the provisions of this subsection.~~

42 ~~(b) The state board of education shall annually certify the top five~~  
43 ~~types of licensed positions that are hard-to-fill. A school district may hire a~~

1 ~~retirant to fill a hard-to-fill position for some or all of a school year and in~~  
2 ~~subsequent school years if the employer is unable to permanently fill the~~  
3 ~~position with an active member. A retirant first hired under the provisions~~  
4 ~~of this subsection may be retained by an employer even if such retirant's~~  
5 ~~type of position is no longer one of the five types of positions certified by~~  
6 ~~the state board of education. A retirant hired under the provisions of this~~  
7 ~~subsection may continue to receive such retirant's full retirement benefit~~  
8 ~~for a period not to exceed three school years or 36 months, whichever is~~  
9 ~~less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and~~  
10 ~~amendments thereto, which relate to a compensation limitation which~~  
11 ~~when met or exceeded requires that the retirant not receive a retirement~~  
12 ~~benefit for any month for which such retirant serves in a position as~~  
13 ~~described herein. Such retirant may be employed by such employer for~~  
14 ~~some or all of a school year, and in subsequent school years if the~~  
15 ~~employer is unable to permanently fill the position with active members,~~  
16 ~~so long as the retirant's total term of employment with all employers under~~  
17 ~~this subsection does not exceed 36 months or three school years,~~  
18 ~~whichever is less. After such period, the retirant shall be subject to the~~  
19 ~~provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to~~  
20 ~~a compensation limitation which when met or exceeded requires that the~~  
21 ~~retirant not receive a retirement benefit for any month for which such~~  
22 ~~retirant serves in a position as described herein. The participating~~  
23 ~~employer of such retirant shall pay to the system a 30% employer~~  
24 ~~contribution based on the retirant's compensation during any such period~~  
25 ~~of employment. On or before July 1, 2019, and at least every three years~~  
26 ~~thereafter, the board, in consultation with the system's consulting actuary,~~  
27 ~~shall evaluate the plan's experience with employment of such retirants and~~  
28 ~~the corresponding employer contribution rate to assess whether the~~  
29 ~~employer contribution rate can be expected to fund adverse experience or~~  
30 ~~higher liabilities accruing under the system in connection with~~  
31 ~~employment of such retirants, to the extent that such liability can be~~  
32 ~~ascertained or estimated. Based on this evaluation of the plan's experience,~~  
33 ~~the board may certify to the division of the budget, in the case of the state,~~  
34 ~~and to the agent for each other participating employer, a new rate if needed~~  
35 ~~to more fully fund such adverse experience or additional liabilities, but~~  
36 ~~such rate shall not be less than 30%. The provisions of this subsection shall~~  
37 ~~not apply to retirants employed as substitute teachers. The provisions of~~  
38 ~~K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~  
39 ~~retirants employed as described in this subsection, except as specifically~~  
40 ~~provided in this subsection.~~

41 ~~(c) Each school district that uses the provisions of this subsection to~~  
42 ~~hire retirants for hard-to-fill positions shall maintain documentation~~  
43 ~~describing their recruiting efforts to obtain non-retirant employees to fill~~

1 the hard-to-fill positions. Upon request of the joint committee on pensions,  
2 investments and benefits, a school district shall provide such  
3 documentation to the committee. If the committee finds that a school  
4 district has not made sufficient efforts to hire a non-retirant for the position  
5 or if the committee finds evidence of prearrangement in violation of this  
6 section, the three-year exemption provided pursuant to this subsection may  
7 be revoked. The committee shall notify the executive director of the  
8 system that a retirant's exemption has been revoked within 30 days of  
9 making such a determination.

10 (d) An employer may submit a written assurance protocol to the  
11 system to make a one-time extension to the exception provided for in this  
12 subsection by one year. Such written assurance protocol shall be signed by  
13 the superintendent and the board president of the school district. Such  
14 written assurance protocol shall state that the position was advertised on  
15 multiple platforms for a minimum of 30 calendar days and that at least one  
16 of the following conditions occurred:

17 (i) No applications were submitted for the position;

18 (ii) if applications were submitted, none of the applicants met the  
19 reference screening criteria of the employer; or

20 (iii) if applications were submitted, none of the applicants possessed  
21 an appropriate teaching license for the state of Kansas or possessed the  
22 appropriate credentials to receive any type of teaching license from the  
23 state of Kansas.

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

27 (f) The provisions of this subsection shall expire on July 1, 2020  
28 2021.

29 (6) The provisions of K.S.A. 74-4914(8), and amendments thereto,  
30 shall apply to retirants under the provisions of this section.

31 (7) Any retirant hired by any participating employer under the  
32 provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and  
33 amendments thereto, may continue to receive such retirant's full retirement  
34 benefit so long as, commencing July 1, 2016, such retirant's total term of  
35 employment with all participating employers under one or more of such  
36 provisions does not exceed 48 months or four school years, whichever is  
37 less. After such period, such retirant shall not receive any retirement  
38 benefit for any month in any calendar year in which such retirant receives  
39 compensation in an amount equal to \$25,000 or more in such calendar  
40 year.

41 (8) For the purposes of this section a prearranged agreement for  
42 employment may be determined by whether the facts and circumstances of  
43 the situation indicate that the employer and employee reasonably

1 anticipated that further services would be performed after the employee's  
2 retirement.

3 Sec. 3. K.S.A. 2016 Supp. 74-4914, 74-4914f and 74-4937 are hereby  
4 repealed.

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