

HOUSE BILL No. 2757

By Committee on Taxation

2-22

1 AN ACT concerning school districts; relating to teacher contracts; due
2 process; amending K.S.A. 2017 Supp. 72-2252, 72-2253, 72-2254 and
3 72-2260 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 72-2252 is hereby amended to read as
7 follows: 72-2252. As used in ~~this act~~ *K.S.A. 2017 Supp. 72-2252 through*
8 *72-2262, and amendments thereto:* (a) "Teacher" means *any professional*
9 *employee who is required to hold a certificate to teach in any school*
10 *district and any teacher or instructor in any technical college, the institute*
11 *of technology at Washburn university or community college. The term*
12 *"teacher" does not include within its meaning any supervisor, principal,*
13 *superintendent or any person employed under the authority of K.S.A. 2017*
14 *Supp. 72-1134, and amendments thereto, or any persons person employed*
15 *in an administrative capacity by any technical college, the institute of*
16 *technology at Washburn university or community college.*

17 (b) "Board" means *the board of education of any school district,*
18 *governing body of any technical college or the institute of technology at*
19 *Washburn university, and the board of trustees of any community college.*

20 Sec. 2. K.S.A. 2017 Supp. 72-2253 is hereby amended to read as
21 follows: 72-2253. (a) Whenever a teacher is given written notice of
22 intention by a board to not renew or to terminate the contract of the teacher
23 as provided in K.S.A. 2017 Supp. 72-2251, and amendments thereto, the
24 written notice of the proposed nonrenewal or termination shall include: (1)
25 A statement of the reasons for the proposed nonrenewal or termination;
26 and (2) a statement that the teacher may have the matter heard by a hearing
27 officer upon written request filed with *the clerk of the board of education*
28 *or the board of control or the secretary of the board of trustees within 15*
29 *calendar days from the date of such notice of nonrenewal or termination.*

30 (b) Within 10 calendar days after the filing of any written request of a
31 teacher to be heard as provided in subsection (a), the board shall notify the
32 commissioner of education that a list of qualified hearing officers is
33 required. Such notice shall contain the mailing address of the teacher.
34 Within 10 days after receipt of notification from the board, the
35 commissioner shall provide to the board and to the teacher, a list of five
36 randomly selected, qualified hearing officers.

1 (c) Within five days after receiving the list from the commissioner,
2 each party shall eliminate two names from the list, and the remaining
3 individual on the list shall serve as hearing officer. In the process of
4 elimination, each party shall eliminate no more than one name at a time,
5 the parties alternating after each name has been eliminated. The first name
6 to be eliminated shall be chosen by the teacher within five days after the
7 teacher receives the list. The process of elimination shall be completed
8 within five days thereafter.

9 (d) Either party may request that one new list be provided within five
10 days after receiving the list. If such a request is made, the party making the
11 request shall notify the commissioner and the other party, and the
12 commissioner shall generate a new list and distribute it to the parties in the
13 same manner as the original list.

14 (e) In lieu of using the process provided in subsections (b) and (c), if
15 the parties agree, they may make a request to the American arbitration
16 association for an arbitrator to serve as the hearing officer. Any party
17 desiring to use this alternative procedure shall so notify the other party in
18 the notice required under subsection (a). If the parties agree to use this
19 procedure, the parties shall make a joint request to the American
20 arbitration association for a hearing officer within 10 days after the teacher
21 files a request for a hearing. If the parties choose to use this procedure, the
22 parties shall each pay one-half of the cost of the arbitrator and of the
23 arbitrator's expenses.

24 (f) The commissioner of education shall compile and maintain a list
25 of hearing officers comprised of residents of this state who are attorneys at
26 law. Such list shall include a statement of the qualifications of each
27 hearing officer.

28 (g) Attorneys interested in serving as hearing officers under the
29 provisions of this act shall submit an application to the commissioner of
30 education. The commissioner shall determine if the applicant is eligible to
31 serve as a hearing officer pursuant to the provisions of subsection (h).

32 (h) An attorney shall be eligible for appointment to the list if the
33 attorney has: (1) Completed a minimum of 10 hours of continuing legal
34 education credit in the area of education law, due process, administrative
35 law or employment law within the past five years; or (2) previously served
36 as the chairperson of a due process hearing committee prior to the effective
37 date of this act. An attorney shall not be eligible for appointment to the list
38 if the attorney has been employed to represent a board or a teacher in a due
39 process hearing within the past five years.

40 Sec. 3. K.S.A. 2017 Supp. 72-2254 is hereby amended to read as
41 follows: 72-2254. The hearing provided for under K.S.A. 2017 Supp. 72-
42 2253, and amendments thereto, shall commence within 45 calendar days
43 after the hearing officer is selected unless the hearing officer grants an

1 extension of time. The hearing shall afford procedural due process,
 2 including the following:

3 (a) The right of each party to have counsel of such party's own choice
 4 present and to receive the advice of such counsel or other person whom
 5 such party may select;

6 (b) the right of each party or such party's counsel to cross-examine
 7 any person who provides information for the consideration of the hearing
 8 officer, except those persons whose testimony is presented by affidavit;

9 (c) the right of each party to present such party's own witnesses in
 10 person, or their testimony by affidavit or deposition, except that testimony
 11 of a witness by affidavit may be presented only if such witness lives more
 12 than 100 miles from the location of *the unified school district office*, the
 13 technical college, institute of technology at Washburn university or
 14 community college, or is absent from the state, or is unable to appear
 15 because of age, illness, infirmity or imprisonment. When testimony is
 16 presented by affidavit the same shall be served upon *the clerk of the board*
 17 *of education*, the board of control, the secretary of the board of trustees or
 18 the agent of the board and upon the teacher in person or by first-class mail
 19 to the address of the teacher which is on file with the board not less than
 20 10 calendar days prior to presentation to the hearing officer;

21 (d) the right of the teacher to testify in the teacher's own behalf and
 22 give reasons for the teacher's conduct, and the right of the board to present
 23 its testimony through such persons as the board may call to testify in its
 24 behalf and to give reasons for its actions, rulings or policies;

25 (e) the right of the parties to have an orderly hearing; and

26 (f) the right of the teacher to a fair and impartial decision based on
 27 substantial evidence.

28 Sec. 4. K.S.A. 2017 Supp. 72-2260 is hereby amended to read as
 29 follows: 72-2260. (a) *Except as otherwise provided in this section*, the
 30 provisions of K.S.A. 2017 Supp. 72-2253 through 72-2258, and
 31 amendments thereto, apply only to:

32 (1) Teachers who have completed not less than three consecutive
 33 years of employment, and been offered a fourth contract, in the *school*
 34 *district*, technical college, institute of technology at Washburn university
 35 or community college by which any such teacher is currently employed;
 36 and

37 (2) teachers who have completed not less than two consecutive years
 38 of employment, and been offered a third contract, in the *school district*,
 39 technical college, institute of technology at Washburn university or
 40 community college by which any such teacher is currently employed if at
 41 any time prior to the current employment the teacher has completed the
 42 years of employment requirement of paragraph (1) ~~of this subsection~~ in
 43 any *school district*, technical college, the institute of technology at

1 Washburn university or community college in this state.

2 (b) Any board may waive, at any time, the years of employment
3 requirements of subsection (a)(1) for any teacher employed by it.

4 (c) The provisions of this ~~subsection~~ *section* are subject to the
5 provisions of K.S.A. 2017 Supp. 72-2262, and amendments thereto.

6 (d) *The provisions of K.S.A. 2017 Supp. 72-2253 through 72-2258,*
7 *and amendments thereto, do not apply to any teacher whose license has*
8 *been non-renewed or revoked by the state board of education because the*
9 *teacher has:*

10 (1) *Been convicted of a felony under K.S.A. 2010 Supp. 21-36a01*
11 *through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the*
12 *Kansas Statutes Annotated, and amendments thereto, or any felony*
13 *violation of any provision of the uniform controlled substances act prior to*
14 *July 1, 2009;*

15 (2) *been convicted of a felony described in article 34 of chapter 21 of*
16 *the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter*
17 *21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6104, 21-*
18 *6325, 21-6326 or 21-6418, and amendments thereto, or an act described*
19 *in K.S.A. 21-3412 or 21-3412a, prior to its repeal, or K.S.A. 2017 Supp.*
20 *21-5413(a) or 21-5414, and amendments thereto, if the victim is a minor*
21 *or student;*

22 (3) *been convicted of a felony described in article 35 of chapter 21 of*
23 *the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter*
24 *21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6419*
25 *through 21-6422, and amendments thereto, or has been convicted of an*
26 *act described in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2017 Supp.*
27 *21-5505(a), and amendments thereto, if the victim is a minor or student;*

28 (4) *been convicted of any act described in article 36 of chapter 21 of*
29 *the Kansas Statutes Annotated, prior to its repeal, or article 56 of chapter*
30 *21 of the Kansas Statutes Annotated, and amendments thereto;*

31 (5) *been convicted of a felony described in article 37 of chapter 21 of*
32 *the Kansas Statutes Annotated, prior to its repeal, or article 58 of chapter*
33 *21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-6412(a)(6),*
34 *and amendments thereto;*

35 (6) *been convicted of an attempt under K.S.A. 21-3301, prior to its*
36 *repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, to commit*
37 *any act specified in this subsection;*

38 (7) *been convicted of any act that is described in K.S.A. 21-4301, 21-*
39 *4301a or 21-4301c, prior to their repeal, or K.S.A. 2017 Supp. 21-6401 or*
40 *21-6402, and amendments thereto;*

41 (8) *been convicted in another state or by the federal government of*
42 *an act similar to any act described in this subsection; or*

43 (9) *has entered into a criminal diversion agreement after having been*

1 *charged with any offense described in this subsection.*

2 Sec. 5. K.S.A. 2017 Supp. 72-2252, 72-2253, 72-2254 and 72-2260
3 are hereby repealed.

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