

STATE OF KANSAS

SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2405**, as amended by Senate Committee, on page 1, following line 8, by inserting:

"Section 1. (a) The provisions of sections 1 through 14, and amendments thereto, shall be known and may be cited as the Kansas thrift savings plan act, and shall be effective on and after July 1, 2024.

(b) The provisions of this act shall not apply to members of the Kansas police and firemen's retirement system, K.S.A. 74-4951 et seq., and amendments thereto, and the retirement system for judges, K.S.A. 20-2601 et seq., and amendments thereto, or to members of the Kansas public employees retirement system as provided in K.S.A. 74-4901 et seq., 74-49,201 et seq. and K.S.A. 74-49,301 et seq., and amendments thereto, except as specifically provided in this act.

Sec. 2. Unless the context requires otherwise, terms that are used in this act have the meanings set forth for them in K.S.A. 74-4902, and amendments thereto, and the following definitions apply:

(a) "Act" means the Kansas thrift savings plan act, sections 1 through 14, and amendments thereto;

(b) "active plan member" means a thrift savings plan member who is actively employed by a participating employer;

(c) "covered position" means a position with an affiliated employer that is eligible for membership in the Kansas public employees retirement system pursuant to the provisions of K.S.A. 74-4901 et seq., and amendments thereto;

(d) "defined benefit plan" means the defined benefit plan for the Kansas public employees retirement system, K.S.A. 74-4901 et seq., 74-49,201 et seq., and 74-49,301 et seq., and amendments thereto, the Kansas police and firemen's retirement system, K.S.A. 74-4951 et seq., and amendments thereto, and the retirement system for judges, K.S.A. 20-2601 et seq., and amendments thereto;

(e) "first employed" means: (1) An employee who has not been an employee in a covered position of any participating employer prior to July 1, 2024, and is employed by a participating employer in a covered position on or after July 1, 2024; or (2) an employee who is a former member of the system who withdrew contribution accounts before July 1, 2024, and who is again employed by a participating employer in a covered position on or after July 1, 2024; and

(f) "plan" or "thrift savings plan" means the thrift savings plan established by section 3, and amendments thereto.

Sec. 3. (a) The board shall establish a separate thrift savings plan in accordance with the provisions of this act. The plan shall be established as a pension plan for the exclusive benefit of members and their beneficiaries and as a qualified governmental plan pursuant to sections 401(a) and 414(d) of the federal internal revenue code and its implementing regulations. Retirement accounts shall be established for each thrift savings plan member. Assets of the plan shall be held in trust. The plan is established in addition to any retirement, pension, deferred compensation or other benefit plan administered by the state or a political subdivision thereof.

(b) The board may enter into an agreement or agreements with approved insurers, investment managers or other contracting parties whereby benefits or investment services under the thrift savings plan would be made available to participants. The board may enter into an agreement with one or more qualified private firms for consolidated billing services, participant enrollment services, communications services, participant account recordkeeping services and

other services related to the administration of the thrift savings plan.

(c) No significant costs shall be incurred by the state as a result of the administration of this act unless such costs are recovered by one or both of the following means: (1) A service charge collected from all participants; or (2) credit allowances or reimbursement of specified plan expenses as provided under agreements with one or more qualified private firms entered into pursuant to subsection (b). The amount of any such significant costs incurred and to be recovered by the state shall be determined by the board.

(d) The board is authorized to negotiate and enter into contracts with qualified insurers, investment managers and other contracting parties for the purposes of implementing and providing essential services for the thrift savings plan, including acquisition of actuarial, investment, consulting, auditing and other services necessary therefor. Contracts entered into under this act shall be subject to the provisions of K.S.A. 75-3739, and amendments thereto, and shall not be negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto, or K.S.A. 75-37,132, and amendments thereto.

Sec. 4. The legislature may from time to time prospectively change the statutory provisions governing the plan, and expressly reserves the right to do so. The state of Kansas shall not be responsible for any loss incurred by any member under the plan established pursuant to this act.

Sec. 5. An eligible employee of the defined benefit plan who is first employed on or after July 1, 2024, may elect, within 14 days of commencement of employment in a covered position with a participating employer, to become a member of the thrift savings plan upon filing with the board a one-time irrevocable election to become or not become a member of the thrift savings plan. An election to become a member of the thrift savings plan terminates any eligibility to be a member of the defined benefit plan. In the event that any employee fails to file an election

to become a member of thrift savings plan, it shall be presumed that such employee has elected to become a member of the defined benefit plan. Elections under this section shall be on a form and in a manner prescribed by the board.

Sec. 6. (a) This section shall not be implemented until the board has obtained approval from the federal internal revenue service. The board may implement the remainder of this act prior to implementation of this section. This section is 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, an active member of the defined benefit plan on July 1, 2024, or an inactive non-vested member who is again employed by a participating employer in a covered position on or after July 1, 2024, may elect to become a member of the thrift savings plan by making an 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 defined benefit plan member failing to make an election prescribed by this section remains a member of the defined benefit plan.

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

(4) An election to become a member of the thrift savings plan is for all of such member's credited service. An election to become a thrift savings plan member terminates active membership in the defined benefit plan and the service of such member on and after July 1, 2024, in the thrift savings plan shall not be credited for the purposes of the defined benefit plan. The system shall calculate the actuarial present value of such member's accrued retirement benefit for all credited service prior to July 1, 2024, and shall transfer a lump-sum amount equal

to such actuarial present value to such member's rollover account.

(d) A member in either the defined benefit plan or the thrift savings plan who becomes inactive after an election under this section and who returns to active membership remains in the plan previously elected.

(e) A member of the defined benefit plan who is subject to a domestic relations order or an execution or income-withholding order may not transfer to the thrift savings plan unless the order is modified to apply under the thrift savings plan.

(f) (1) A member of the defined benefit plan who is purchasing service credit through installment payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer membership to the thrift savings plan unless the member first completes the contract for purchase of service credit.

(2) A member who files an election to transfer membership may make a lump-sum payment for up to the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of section 415 of the federal internal revenue code. The lump-sum payment, unless made by a rollover, shall be made with after-tax dollars.

(3) If a member who files an election to transfer membership fails to complete the contract for purchase of service credit by the end of the member's 90-day election window, the board shall terminate the service purchase contract and credit the member with the prorated amount of service credit purchased under the contract.

Sec. 7. The board shall accept the rollover of contributions and the income on those contributions from another eligible retirement plan to the member's rollover account only to the extent allowed under the federal internal revenue code.

Sec. 8. (a) A thrift savings plan member's mandatory contribution account includes the member's contributions and the income on those contributions and is vested from the date that

the employee becomes a member of the plan.

(b) A thrift savings plan member's employer contribution account includes the employer's contributions and the income on those contributions and is vested only when the member has a total of five years of participating service in the thrift savings plan.

(c) A thrift savings plan member's rollover account includes the member's rollovers of contributions made pursuant to section 6 or 7, and amendments thereto, and income on those contributions and are vested from the date that the contributions are credited to the account.

(d) If the thrift savings plan member's employer contribution account is not vested upon termination of plan membership, as provided in this section, the employer contributions and income are forfeited as provided in section 9, and amendments thereto.

Sec. 9. (a) An active thrift savings plan member shall contribute 3% of compensation to the thrift savings plan. These contributions shall be picked up by the employer via a salary reduction as provided in section 414(h)(2) of the federal internal revenue code.

(b) An active plan member's employer shall contribute the following:

(1) 4% of compensation to the active plan member's employer contribution account;
and

(2) an additional 0.5% of compensation to the active plan member's employer contribution account if such member contributes 4% of compensation to the plan or an additional 1% of compensation if such member contributes 5% or more of compensation to the plan.

(c) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a plan member's retirement account. The board shall allocate the forfeitures under this section to meet the plan's administrative expenses, including startup expenses.

Sec. 10. (a) (1) The board shall require in any agreement or agreements with entities

pursuant to section 3, and amendments thereto, that at least the following investment alternatives under the thrift savings plan are offered to members, including:

- (A) A government securities investment fund;
- (B) a fixed income index investment fund;
- (C) a common stock index investment fund;
- (D) a small capitalization stock index investment fund;
- (E) an international stock index investment fund; and
- (F) hybrid funds mixing and matching various investment funds, tailored to projected retirement years.

(2) (A) The board shall select an index that is a commonly recognized index comprised of common stock the aggregate market value of which is a reasonably complete representation of the United States equity markets.

(B) The common stock index investment fund shall be invested in a portfolio designed to replicate the performance of the index selected under paragraph (2)(A). The portfolio shall be designed such that, to the extent practicable, the percentage of the large capitalization stock index investment fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

(3) (A) The board shall select an index that is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the common stock index investment fund.

(B) The small capitalization stock index investment fund shall be invested in a portfolio designed to replicate the performance of the index in paragraph (3)(A). The portfolio shall be designed such that, to the extent practicable, the percentage of the small capitalization stock

index investment fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

(4) (A) The board shall select an index that is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

(B) The international stock index investment fund shall be invested in a portfolio designed to replicate the performance of the index in paragraph (4)(A). The portfolio shall be designed such that, to the extent practicable, the percentage of the international stock index investment fund that is invested in each stock is the same percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

(b) The legislature may from time to time review the suitability and management of investment alternatives established by this section and may change the alternatives to be offered, and expressly reserves the right to do so. The board shall notify affected plan members of potential changes before any changes become effective.

(c) The board shall establish a default investment option for any plan member who does not have an effective investment direction. The board may utilize the government securities investment fund established pursuant to this section as the default investment fund.

(d) Assets within each member's account shall be invested as directed by the member within the investment alternatives established by the board.

(e) A plan member may elect the investment funds and alternatives referred to in this section into which the sums in the member's accounts are to be invested or reinvested. The board shall develop and make available to all plan members an electronic means for investment

allocation elections. Elections to allocate existing account balances among the various investment alternatives referred to in this section shall be permitted on a daily basis. Elections to allocate future contributions among the various investment alternatives referred to in this section shall be permitted on a monthly basis. All investment elections shall be made in 1% increments. The sum of the percentages elected for all investment alternatives shall equal 100%.

Sec. 11. Any time after termination of service, a plan member or the plan member's beneficiary may terminate plan membership by filing a written application with the board and removing the plan member's vested account balance from the plan through any combination of the following payout options, each of which is subject to the provisions of the plan document and the federal internal revenue code and the applicable regulations of the federal internal revenue service:

- (a) A direct rollover to an eligible retirement plan;
- (b) a regular rollover to an eligible retirement plan;
- (c) a lump-sum distribution of the plan member's vested account balance; or
- (d) an optional form of distribution offered by the board under section 12, and amendments thereto.

Sec. 12. (a) Subject to the provisions of the plan document, a plan member, after termination of service, may leave the plan member's vested account balance in the plan, and the plan member is eligible for a distribution as provided in this section.

(b) After termination of service and upon filing a written application with the board, a plan member may select any distribution option provided by the plan document.

(c) A plan member who is less than 70½ years of age who returns to service may not continue to receive a distribution under this section while actively employed in a covered position.

(d) The plan document shall provide that distributions shall comply with the minimum distribution requirements established in the federal internal revenue code and applicable under K.S.A. 74-49,123, and amendments thereto.

(e) The plan document may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with the federal internal revenue code.

Sec. 13. A plan member's beneficiary shall be determined as provided in the defined benefit plan regulations. Upon filing a written application with the board after the death of a plan member, the plan member's beneficiary is entitled to the plan member's vested account balance.

Sec. 14. Before termination of service, a plan member may not receive a refund of any portion of the plan member's vested account balance.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 2, after the semicolon by inserting "enacting the Kansas thrift savings plan act; providing terms, conditions and requirements related thereto; relating to plan document, membership, benefits, contributions, distributions and prospective plan changes by the legislature;"

Senator _____