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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

May 8, 2015

The Honorable Mark Hutton, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 521-E
Topeka, Kansas 66612

Dear Representative Hutton:

SUBJECT: Fiscal Note for HB 2416 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2416 is respectfully submitted to your committee.

Under current law, KPERS members who joined the system or were in their year of waiting on July 1, 1993 can use the higher of two final average salary calculations:

1. The average of the three highest years of annual salary; or

2. The average of the four highest years of annual salary including pay for longevity, holiday leave, compensatory time, and payouts for sick, vacation and annual leave.

Similarly, KP&F members who joined the system on July 1, 1993 can also include sick, vacation and annual leave in the calculation of the final average salary. HB 2416 would remove the use of sick, vacation and annual leave payouts from KPERS and KP&F final average salary calculations. The provision would become effective on and after January 1, 2016.

The bill would also establish a hard cap of 240 hours on the amount of vacation time that could be accrued by any employee of a participating employer. Employees who have over 240 hours of vacation leave as of July 1, 2015 would be paid for all leave hours above the cap. The leave compensation could be a one-time payment or a series of payments over a period not to exceed three years as determined by agreement between the employee and the employer.

Based on actuarial cost studies, KPERS estimates that HB 2416 could reduce the unfunded actuarial liability (UAL) of KPERS by $49.0 million resulting in reductions of employer contribution rates of 0.18 percent for the State Group, 0.04 percent for the School Group, and 0.07 percent for the Local Group. However, only the Local Group would experience a reduction in employer contributions. The estimated State/School Group employer contribution savings would not be realized because the current State/School Group statutory employer contribution rate is below the actuarial required contribution rate. Local Group savings could total approximately $1.2 million in FY 2017. The bill could also reduce the KP&F UAL by an estimated $31.0 million, which would reduce KP&F employer contribution rates by 0.51 percent. It is estimated that the reduction to the employer contribution rate could save approximately $2.7 million in FY 2017. Using figures from the system valuation of December 31, 2013, the cost studies indicate that the number of KPERS members hired before July 1, 1993 were 5,237 from the State Group; 14,192 from the School Group; and 5,274 from the Local Group. For KP&F, there were 1,192 pre-July 1, 1993 members.

KPERS estimates that the cap on vacation leave would not create any additional expenditures for the agency. The State has a 240-hour cap on vacation that is enforced once a year at the last payroll period for the fiscal year. The enforcement of current policy would likely prevent the accumulation of vacation leave over the 240-hour cap and, as a result, the need for payments to employees.

The Department of Administration notes that implementing the 240-hour hard cap of vacation leave would require additional costs to make programming changes to the State Human Resource and Payroll System (SHARP). While, the precise expenditure amount is unknown it is assumed that it would be paid from existing resources. The Department indicates that the bill could result in some employees retiring prior to the change to final average salary calculations. However, because individual retirement decisions can differ, it is difficult to predict how many employees would retire. If the Department hires new employees to replace retiring employees and if the employees' employment periods overlap, the agency could incur additional expenses. Conversely, if the retiring employee is not replaced, the Department could realize savings from staffing efficiencies.

The Department of Administration further indicates that in the event the number of employees who choose to retire as a result of HB 2461 is high, it is possible that the resources in the State Leave Payment Reserve Fund would be insufficient to cover all of the leave payouts. If this occurs, individual agencies would be required to make up the difference from other funding sources. Again, the precise number of pre-1993 members who would retire because of the bill is difficult to predict. According to budget system information, approximately $11.2 million is estimated to be available in the State Leave Payment Reserve Fund.

The Department of Education indicates that since very few school district employees accumulate vacation or annual leave of more than 240 hours, the provisions of the bill capping or limiting leave time would not have a large fiscal effect on school finances.

The Kansas Department of Transportation (KDOT) indicates that there are 207 employees who have sufficient sick leave balances to use toward their KPERS benefit calculation under current law. If all employees chose to retire prior to the effective date of the new final average salary provision, there would be a fiscal effect from the payout for the accumulated sick leave. However, if the total number of statewide employees who retire does not exceed the resources of the State Leave Payment Reserve Fund, KDOT would not incur additional expenses from the payouts.

KDOT also notes that there are 612 employees who have vacation leave over 240 hours. As indicated above, current regulations require employees to use any amount of time over 240 hours before the last payroll period of the fiscal year. Enforcement of current regulations would limit the number of hours that are over the cap on July 1, 2015. As a result, the fiscal effect from possible leave payouts would likely be small.

The Office of Judicial Administration states that there are 217 pre-1993 employees within the Judicial Branch who would be eligible to retire by December 31, 2015. If HB 2461 were to pass, it is possible that these employees could choose to retire. However, because individual retirement decisions are based on a variety of factors, a fiscal effect for the Judicial Branch is difficult to estimate. Like other agencies, the Judicial Branch enforces the 240-hour limit on vacation time accrual; therefore, the new provision regarding the hard cap would not have a fiscal effect.

According to Legislative Administrative Services, legislative agencies are currently exempt from limits on the amount of vacation leave accrued because of the irregular and extended hours staff must work when the Legislature is in session. Employees are able to accrue many hours of compensatory time instead of being provided additional pay for overtime. Employees must use their compensatory time first before using annual leave time when seeking time off from work. Passage of HB 2426 could require legislative agencies to discontinue this practice. Legislative agencies would be required to pay for leave over the 240-hour cap; however, Legislative Administrative Services estimates that there would not be sufficient resources in current legislative agency budgets to absorb the payout of leave overages. Additionally, legislative agencies could need to change to a compensation model that includes the payment of overtime hours. Any fiscal effect associated with HB 2416 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Faith Loretto, KPERS
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