

**HOUSE BILL No. 2452**

By Committee on Financial Institutions and Pensions

1-16

1 AN ACT concerning retirement and pensions; relating to the Kansas police  
2 and firemen's retirement system; providing certain spousal and  
3 children's benefits for death resulting from service-connected disability;  
4 amending K.S.A. 74-4960a and repealing the existing section.  
5

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

7 Section 1. K.S.A. 74-4960a is hereby amended to read as follows: 74-  
8 4960a. (1) If any active contributing member who is appointed or  
9 employed on or after July 1, 1989, or who makes an election pursuant to  
10 K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions  
11 of this act becomes disabled as defined in subsection (2), such member  
12 shall receive a monthly benefit equal to 50% of the member's final average  
13 salary at the time such member was disabled payable in monthly  
14 installments, accruing from the first day upon which the member ceases to  
15 draw compensation, if a report of the disability in such form and manner  
16 as the board shall prescribe is filed in the office of the executive director of  
17 the board within 220 days after the date of the commencement of such  
18 disability and if an application for such benefit in such form and manner as  
19 the board shall prescribe is filed in the office of the executive director of  
20 the board within two years of the date of the commencement of such  
21 disability, except that the board may waive such two-year requirement, if  
22 the board is presented with evidence that clearly warrants such a waiver.

23 (2) For the purposes of this section, "disabled" means total inability to  
24 perform permanently the duties of the position of policeman or fireman.

25 (3) In the event a member who is disabled and entitled to such  
26 benefits as provided in subsection (1) dies after the date of such disability,  
27 the following benefits shall be payable:

28 (i) (a) *On and after July 1, 2019*, pursuant to the provisions of K.S.A.  
29 74-49,128, and amendments thereto, *if the member's death is not service-*  
30 *connected as defined in K.S.A. 74-4952(10), and amendments thereto*, to  
31 the member's spouse, if lawfully wedded to the member at the time of the  
32 member's death, and if no benefits are payable under ~~subsection (3) of~~  
33 K.S.A. 74-4958a(3), and amendments thereto, a lump-sum benefit equal to  
34 50% of the member's final average salary at the time such member was  
35 disabled.

36 (ii) (b) To the member's spouse, if lawfully wedded to the member at

1 the time of the member's death, an annual benefit equal to 50% of the  
2 member's benefit payable in monthly installments, to accrue from the first  
3 day of the month following the member's date of death and ending on the  
4 last day of the month in which the spouse dies. Commencing on the  
5 effective date of this act, any surviving spouse, who was receiving benefits  
6 pursuant to this section and who had such benefits terminated by reason of  
7 such spouse's remarriage, shall be entitled to once again receive benefits  
8 pursuant to this section, except that such surviving spouse shall not be  
9 entitled to recover any benefits not received after the termination of  
10 benefits by reason of such surviving spouse's remarriage but before the  
11 effective date of this act. If there is no surviving spouse, or if after the  
12 death of the spouse there remain one or more children under the age of 18  
13 years or one or more children under the age of 23 years who is a full-time  
14 student as provided in K.S.A. 74-49,117, and amendments thereto, the  
15 spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-  
16 49,123, and amendments thereto, in equal shares to such children and each  
17 child's share shall end on the last day of the month in which such child  
18 attains the age of 18 years or dies, whichever occurs earlier or in which  
19 such child attains the age of 23 years, if such child is a full-time student as  
20 provided in K.S.A. 74-49,117, and amendments thereto. Commencing on  
21 the effective date of this act, any child who was receiving benefits  
22 pursuant to this section and who had such benefits terminated by reason of  
23 such child's marriage, shall be entitled to once again receive benefits  
24 pursuant to this section subject to the limitations contained in this section,  
25 except that such child shall not be entitled to recover any benefits not  
26 received after the termination of benefits by reason of such child's  
27 marriage but before the effective date of this act.

28 *(c) On and after July 1, 2019, pursuant to the provisions of K.S.A.*  
29 *74-49,128, and amendments thereto, if the member's death is service-*  
30 *connected as defined in K.S.A. 74-4952(10), and amendments thereto, to*  
31 *the member's spouse, if lawfully wedded to the member at the time of the*  
32 *member's death, and if no benefits are payable under K.S.A. 74-4958a(3),*  
33 *and amendments thereto, a spouse's benefit equal to 50% of the member's*  
34 *final average salary or, if the member has no dependents as outlined in*  
35 *subsection (3)(b), the retirement benefit the member would have been*  
36 *entitled to as provided under K.S.A. 74-4958a, and amendments thereto,*  
37 *had the member retired, whichever is greater. Such benefit shall accrue*  
38 *from the day upon which the member ceases to draw compensation.*

39 *(d) Except as otherwise provided by this subsection, each of the*  
40 *member's children under the age of 18 years or each of the member's*  
41 *children under the age of 23 years who is a full-time student as provided*  
42 *in K.S.A. 74-49,117, and amendments thereto, shall receive an annual*  
43 *benefit equal to 10% of the member's final average salary. Such benefit*

1 shall accrue from the day upon which the member ceases to draw  
2 compensation and shall end on the last day of the month in which each  
3 such child shall attain the age of 18 years or die, whichever occurs earlier  
4 or in which each such child attains the age of 23 years, if such child is a  
5 full-time student as provided in K.S.A. 74-49,117, and amendments  
6 thereto.

7 (e) In no case shall the total of the benefits payable under subsection  
8 (3)(c) and (d) be in excess of 75% of the member's final average salary.

9 (4) Any member who was employed for compensation by an  
10 employer other than the member's participating employer and whose  
11 disability was incurred in the course of such other employment shall not be  
12 eligible for any of the benefits provided in subsection (1) or (3).

13 (5) If a member becomes totally and permanently disabled and no  
14 benefits are payable under subsection (1), the sum of the member's  
15 accumulated contributions shall be paid to the member.

16 (6) Any member receiving benefits under this section shall submit to  
17 medical examination, not more frequent than annually, by one or more  
18 physicians or any other practitioners of the healing arts holding a valid  
19 license issued by the state board of healing arts to practice a branch of the  
20 healing arts, as the board of trustees may direct. If upon such medical  
21 examination, the examiner's report to the board states that the member is  
22 physically able and capable of resuming employment with the same or a  
23 different participating employer, the disability benefits shall terminate. A  
24 member who has been receiving benefits under the provisions of this  
25 section and who returns to employment, as defined in ~~subsection (4) of~~  
26 K.S.A. 74-4952(4), and amendments thereto, of a participating employer  
27 shall immediately commence accruing service credit which shall be added  
28 to that which has been accrued by virtue of previous service.

29 (7) Any member who has been receiving benefits under the  
30 provisions of this section for a period of five years shall be deemed  
31 permanent and shall not be subject to further medical examinations, except  
32 that if the board of trustees shall have reasonable grounds to question  
33 whether the member remains totally and permanently disabled, a further  
34 medical examination or examinations may be required.

35 (8) Refusal or neglect to submit to examination as provided in  
36 subsection (6) shall be sufficient cause for suspending or discontinuing  
37 benefit payments under this section and if such refusal or neglect shall  
38 continue for a period of one year, the member's rights in and to all benefits  
39 under this system may be revoked by the board.

40 (9) In the event that a member becomes disabled and is eligible for  
41 benefits provided in this section, such member shall be given participating  
42 service credit for the entire period of such disability.

43 (10) Any benefits provided pursuant to this section and any

1 participating service credit given pursuant to subsection (9) shall terminate  
2 upon the earliest date such member is eligible for retirement upon  
3 attainment of the normal retirement date as provided in K.S.A. 74-4964a,  
4 and amendments thereto.

5 (11) Any member who has received benefits under the provisions of  
6 this section for a period of five years or more immediately preceding  
7 retirement shall have such member's final average salary adjusted upon  
8 retirement by the actuarial salary assumption rates in existence during such  
9 period. Effective July 1, 1993, each member's current annual rate shall be  
10 adjusted upon retirement by 5% for each year of disability after July 1,  
11 1993, but before July 1, 1998. Effective July 1, 1998, such member's  
12 current annual rate shall be adjusted upon retirement by an amount equal  
13 to the lesser of: ~~(1)~~ (a) The percentage increase in the consumer price  
14 index for all urban consumers as published by the bureau of labor statistics  
15 of the United States department of labor minus one percent; or ~~(2)~~ (b) four  
16 percent per annum, measured from the member's last day on the payroll to  
17 the month that is two months prior to the month of retirement, for each  
18 year of disability after July 1, 1998.

19 (12) All payments due under this section to a minor shall be made to  
20 a legally appointed conservator of such minor.

21 (13) The provisions of this section shall be effective on and after July  
22 1, 1989 and shall apply only to members who were appointed or employed  
23 prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-  
24 4955a, and amendments thereto; and persons appointed or employed on or  
25 after July 1, 1989.

26 (14) Any member who has been receiving benefits under the  
27 provisions of this section and who returns to employment with the same or  
28 different participating employer in the system shall no longer be deemed  
29 disabled under the provisions of this section.

30 (15) Upon the death of a member who has been receiving benefits  
31 under the provisions of this section, if no further benefits are payable, the  
32 excess, if any, of the member's accumulated contributions over the sum of  
33 all benefits paid shall be paid to the member's beneficiary.

34 Sec. 2. K.S.A. 74-4960a is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the statute book.