MEMORANDUM

To: House Committee on Financial Institutions and Pensions

From: Alan D. Conroy, Executive Director ADC.

Date: February 1, 2017

Subject: HB 2005: Regents Working After Retirement Exemption

Current Law

Under K.S.A; 74-4925, the Board of Regents maintains a mandatory retirement plan for most benefits-eligible, unclassified staff of Regents institutions. The retirement plan is established under section 403(b) of the Internal Revenue Code. However, the Regents institutions are also affiliated with KPERS and maintain KPERS-covered positions.

Since the Regents institutions are affiliated with KPERS, any KPERS retirees returning to work at a Regent's institution are subject to working after retirement restrictions under current law, even if the position is covered by the Regent's retirement plan.

The Joint Committee on Pensions, Investments, and Benefits considered this issue at their meeting in September 2016. The Joint Committee recommended introduction of legislation to exempt KPERS retirees who are hired into positions that are covered by the Regents retirement plan from working after retirement rules. That recommendation is contained in HB 2005, which amends K.S.A. 74-4914 to establish a new exemption for these KPERS retirees.

Projected Costs

Based on data provided by the Board of Regents in September 2016, the scope of the exemption in 2017 HB 2005 is expected to be relatively limited. As of August 29, 2016, Board of Regents reported that a total of 140 KPERS retirees were working in positions covered by the Regents Mandatory Retirement Plan, of which 114 were grandfathered at that time (and therefore not subject to working after retirement rules). To the extent that the policy in HB 2005 incentivizes KPERS members to retire younger at a rate that is different from the actuarial assumptions, there will be an actuarial cost. The ability to retire and begin drawing a KPERS pension while returning to work and earning a new benefit under the Kansas Board of Regents' plan would provide such an incentive. Although it is not possible to calculate what that cost would be, it is not expected to be material given the number of KPERS retirees currently working in positions covered by the Regents plan.

KPERS

It should be noted that KP&F retirees and Judges retirees are not subject to working after retirement rules if they return to work in a KPERS-covered position. The exemption in HB 2005 for KPERS retirees employed in Regents retirement plan-covered positions could be seen as similar in nature to KP&F or Judges retirees serving in KPERS-covered positions, so long as the KPERS retirees are hired into KBOR-covered positions that are different from their KPERS-covered employment prior to retirement. For example, it is our understanding that an experienced teacher or administrator who retires from KPERS may subsequently be hired by a Board of Regents institution to teach or serve in their school of education. However, to the extent Regents institutions have the ability to convert a KPERS-covered position at a Regents institution to a position covered by the Regents plan and fill it with a KPERS retiree (particularly a retiree who held that position or one similar to it before retirement), the exemption in HB 2005 creates a potential for adverse actuarial effects and prohibited prearrangements.

HB 2005 would require some modification to the information technology system to reflect the new exemption, but it is anticipated these costs can be funded within existing resources.

I would be happy to respond to any questions the Committee may have.