

As Amended by House Committee

As Amended by Senate Committee

Session of 2017

SENATE BILL No. 205

By Committee on Ways and Means

2-20

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; participating
3 service credit; **providing certain death benefits to surviving spouses;**
4 **exempting state board of regents retirement plan members from**
5 **certain employment after retirement provisions; determining**
6 **actuarial equivalent or actuarial computation interest factor;**
7 amending K.S.A. 74-4913 ~~and~~, 74-4956 and 74-4959 and K.S.A. 2016
8 **Supp. 74-4914 and 74-49,123** and repealing the existing sections; also
9 **repealing K.S.A. 2016 Supp. 74-4914f.**

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 74-4913 is hereby amended to read as follows: 74-
13 4913. (1) Prior service shall be credited as follows:

14 (a) A member shall receive full credit for continuous employment
15 prior to the entry date with such member's employer on the entry date. If
16 the employee was also employed on March 15 of the year immediately
17 preceding the entry date of that employer, then all such previous
18 employment, whether or not continuous, shall be credited; otherwise no
19 credit shall be granted for employment prior to a break in continuous
20 employment. Any member or retirant who was employed by any
21 participating employer on March 15 of the year immediately preceding the
22 entry date of that employer, may apply to the board on such forms as it
23 may prescribe for prior service credit with a participating employer other
24 than the member's entry date employer. Upon receipt of written
25 verification of such employment from the participating employer, the
26 board shall grant such additional prior service credit and with respect to a
27 retirant, shall adjust the amount of the retirement benefit accordingly
28 commencing with the next monthly benefit payment due following receipt
29 of the written verification, except that such retirant shall not be entitled to
30 any retroactive adjustment in the amount of such retirement benefit as a
31 result of the board granting such additional prior service credit. In the case
32 of any person other than a retirant receiving a retirement benefit, such
33 person may make application for an adjustment in the benefit amount in
34 the same manner as a member or retirant, and in such case the adjustment

1 in the benefit amount shall be determined by the board upon the advice of
2 the actuary, and shall commence with the next monthly benefit payment
3 due following receipt of the written verification;

4 (b) leaves of absence and military service shall not be counted as
5 breaks in continuous employment; however, military service which is
6 immediately preceded and followed by employment with a participating
7 employer shall be credited, except that after July 1, 1974, not more than
8 five years' credit for military service shall be granted hereunder to the
9 extent required under USERRA, but leaves of absence shall not be
10 credited;

11 (c) any member who was employed in the Kansas state employment
12 service, now a section of the Kansas division of employment security,
13 during any of the time the Kansas state employment service was loaned by
14 the state to the federal government (January 1, 1942, for the duration of the
15 emergency period of world war II, which service was returned to the state
16 by the federal government effective November 16, 1946) shall be entitled
17 to prior service credit for the time so employed during the period stated for
18 any service rendered under the jurisdiction of the United States
19 employment service for the federal government in like manner as if the
20 employment service had remained under the jurisdiction of the state of
21 Kansas;

22 (d) any member who is not otherwise eligible for service credit as
23 provided for in subsection (1)(a) may be granted credit for the service
24 upon the attainment of 38 quarters of participating service;

25 (e) any member who was employed by the university of Wichita prior
26 to July 1, 1964, shall be entitled to prior service credit for such time of
27 employment under the Kansas public employees retirement system, when
28 such employment is not the basis for other pension rights.

29 (2) Participating service shall be credited as follows: (a) A member
30 shall receive credit for participating service with a participating employer
31 in accordance with the rules and regulations established by the board of
32 trustees, ~~except that. Any period of time~~ **member employed as a fireman**
33 **or policeman, as described in K.S.A. 74-4952(11) and (12), who is away**
34 **from work or normal duties while in a paid status authorized and**
35 **approved by a participating employer on and after July 1, 2014, including,**
36 **without limitation, any administrative leave with pay and any paid**
37 **vacation leave, sick leave, personal leave, worker's compensation leave,**
38 **light duty or temporary duty assignment, shall constitute participating**
39 **service and any member shall receive full credit for such participating**
40 **service with a participating employer for any such period of time away**
41 **from work or normal duties. If the member does not return to work for**
42 **the participating employer in the same or a similar position at the**
43 **conclusion of such leave, except for reasons of death or disability, the**

1 *period of the leave shall be removed from service credit, and the*
2 *employer and employee contributions for such period of leave shall be*
3 *reimbursed by the system to the employee and the employer unless*
4 *otherwise provided herein. In the case of a decision to voluntarily*
5 *terminate employment, the period of leave exceeding 365 days shall be*
6 *removed from service credit, and the employer and employee*
7 *contributions for such period of leave shall be reimbursed by the system*
8 *to the employee and the employer. However, no more than one calendar*
9 *quarter of participating service shall be credited for any employment*
10 *within any one calendar quarter;*

11 (b) leaves of absence and military service shall not count as a break in
12 continuous employment. In the case of a leave of absence, the member
13 shall leave such member's accumulated contribution on deposit with the
14 fund; however, the period of military service shall be credited, except that
15 after July 1, 1974, not more than five years' credit for military service shall
16 be granted hereunder to the extent required under USERRA, but leaves of
17 absence shall not be credited. Employees who enter the military service
18 from their employment after the employer's entry date and who have not
19 completed one year of service at the time of their entry into the military
20 service, shall not become members of the retirement system until they
21 return to the employment of that or another participating employer. In the
22 case of such employee whose combined public employment and military
23 service does not equal one year at the time of such employee's return to
24 employment, the date of membership shall be the first day of the payroll
25 period coinciding with or following the completion of one combined
26 public employment and military year of service. Such service shall be
27 granted in accordance with this section;

28 (c) a period of retirement under the system or a period of total
29 disability, immediately followed by employment with a participating
30 employer, shall not count as a break in continuous employment, except
31 that such periods while not employed shall not be credited as participating
32 service;

33 (d) termination of employment, followed by employment with a
34 participating employer within five years after such termination, does not
35 constitute a break in continuous employment if such person has not
36 withdrawn such person's accumulated contribution. Such period while not
37 employed shall not be credited as participating service.

38 (3) In determining the number of years of credited prior service or
39 participating service a fractional year of six months or more shall be
40 considered as one year and a fractional year of less than six months shall
41 be disregarded.

42 Sec. 2. K.S.A. 74-4956 is hereby amended to read as follows: 74-
43 4956. (1) Prior service shall be credited as follows:

1 (a) Each member shall receive:

2 (i) Full credit for all employment, whether or not continuous, as
3 either a policeman or fireman prior to the entry date with such member's
4 employer who is such member's employer on the entry date;

5 (ii) full credit for all employment, whether or not continuous, as
6 either a police or fireman prior to the entry date of such police or firemen's
7 employer, with a participating employer, if such member has at least 20
8 years of credited service; and

9 (iii) for all continuous employment with the same employer other
10 than either as policeman or fireman, immediately preceding such service
11 as a policeman or fireman, one month of credit for each two months of
12 service. Any member or retirant who has been credited with prior service
13 as provided in this section may apply to the board on such forms as the
14 board prescribes for prior service credit with a participating employer
15 under the Kansas police and firemen's retirement system other than such
16 member's entry date employer. Each member shall receive full credit for
17 all employment as either a policeman or fireman with such other
18 participating employers and shall receive one month of credit for each two
19 months of continuous service with other participating employers for
20 continuous employment preceding service as a policeman or fireman.
21 Upon receipt of written verification of such employment from such other
22 participating employer, the board may grant such additional prior service
23 credit. With respect to a retirant, the board shall adjust the amount of the
24 retirement benefit accordingly commencing with the next monthly benefit
25 payment due following receipt of written verification. In the case of any
26 person other than a retirant receiving a retirement benefit, such person may
27 make application for an adjustment in the benefit amount in the same
28 manner as a member or retirant, and in such case the adjustment in the
29 benefit amount shall be determined by the board upon the advice of the
30 actuary, and shall commence with the next monthly benefit payment due
31 following receipt of written verification, except that no additional prior
32 service credit shall be granted for any service with another participating
33 employer for which benefits are being received or will be received. A
34 retirant or any other person receiving a retirement benefit shall not be
35 entitled to any retroactive adjustment in the amount of retirement benefit
36 as a result of the board granting such additional prior service credit.

37 If a member was employed as a fireman, other than as a volunteer
38 fireman, by a township which is annexed by a participating employer the
39 member's retirement benefits and death and disability benefits shall be
40 computed on the basis of credited service. Continuous service as a fireman
41 with a township prior to annexation by a member, who became a member
42 immediately following the annexation, shall be considered credited
43 service.

1 No such service shall be considered credited service for the purpose of
2 computing years of service if such fireman is receiving or will become
3 eligible to receive benefits as a result of such service with the township.

4 (b) Leaves of absence and military service shall not be counted as
5 breaks in continuous employment; however, military service which is
6 preceded within 30 days and followed by employment with a participating
7 employer shall be credited, except that after July 1, 1974, not more than
8 five years credit for military service shall be granted hereunder to the
9 extent required by the provisions of USERRA, but leaves of absence shall
10 not be credited.

11 (2) Participating service shall be credited as follows: (a) A member
12 shall receive credit for participating service with a participating employer
13 in accordance with the rules and regulations established by the board. *Any*
14 *period of time away from work or normal duties while in a paid status*
15 *authorized and approved by a participating employer on and after July 1,*
16 *2014, including, without limitation, any administrative leave with pay and*
17 *any paid vacation leave, sick leave, personal leave, worker's*
18 *compensation leave, light duty or temporary duty assignment, shall*
19 *constitute participating service and any member shall receive full credit*
20 *for such participating service with a participating employer for any such*
21 *period of time away from work or normal duties. **If the member does not***
22 *return to work for the participating employer in the same or a similar*
23 *position at the conclusion of such leave, except for reasons of death or*
24 *disability, the period of the leave shall be removed from service credit,*
25 *and the employer and employee contributions for such period of leave*
26 *shall be reimbursed by the system to the employee and the employer*
27 *unless otherwise provided herein. In the case of a decision to voluntarily*
28 *terminate employment, the period of leave exceeding 365 days shall be*
29 *removed from service credit, and the employer and employee*
30 *contributions for such period of leave shall be reimbursed by the system*
31 *to the employee and the employer.* No more than one calendar quarter of
32 participating service shall be credited for employment within any one
33 calendar quarter.

34 (b) Leaves of absence shall not be counted as a termination of
35 employment provided the member leaves such member's accumulated
36 contributions on deposit with the system and returns to employment with
37 the employer granting such leave; however, the period of leave of absence
38 shall not be credited service.

39 (c) To the extent required under the provisions of USERRA, military
40 service shall not count as a break in continuous employment.

41 (d) Termination of employment with a participating employer
42 followed by employment with the same or another participating employer
43 within two years shall not constitute a termination of membership

1 provided the member leaves such member's accumulated contributions on
2 deposit with the system; however, the period while not employed shall not
3 be credited.

4 (3) In determining the number of years of credited service for
5 calculation of retirement benefits a fractional year of six months or more
6 of credited service shall be considered as one year and a fractional year of
7 less than six months of credited service shall be disregarded.

8 **Sec. 3. K.S.A. 74-4959 is hereby amended to read as follows: 74-**
9 **4959. (1) Upon the death from service-connected causes as defined in**
10 **this act, of an active contributing member prior to retirement, the**
11 **following benefits shall be payable if a report of the event, in a form**
12 **acceptable to the board, is filed in the office of the executive director**
13 **of the board within 200 days after the date of the act of duty causing**
14 **such death and an application for such benefits, in such form and**
15 **manner as prescribed by the board, is filed in the office of the**
16 **executive director of the board within two years of the date of death,**
17 **but the board may waive such time limits for a reasonable period if in**
18 **the judgment of the board the failure to meet these limits was due to**
19 **lack of knowledge or incapacity:**

20 (a) **To the member's spouse, if lawfully wedded to the member at**
21 **the time of the member's death, an annual spouse's benefit equal to**
22 **50% of the member's final average salary; or, for deaths occurring on or**
23 **after July 1, 2016, the greater of: (i) 50% of the member's final average**
24 **salary; or (ii) the amount that would have been paid had the member**
25 **elected the option provided for in K.S.A. 74-4964(5)(B), and amendments**
26 **thereto, and retired as of the first day of the month coinciding with or**
27 **following the date of death, ~~which~~. Such spouse's benefit shall accrue**
28 **from the first day of the month coinciding with or following the**
29 **member's death and shall end on the first day of the month in which**
30 **the spouse's death occurs. Commencing on the effective date of this**
31 **act, any surviving spouse, who was receiving benefits pursuant to this**
32 **section and who had such benefits terminated by reason of such**
33 **spouse's remarriage, shall be entitled to once again receive benefits**
34 **pursuant to this section, except that such surviving spouse shall not be**
35 **entitled to recover any benefits not received after the termination of**
36 **benefits by reason of such surviving spouse's remarriage but before**
37 **the effective date of this act.**

38 (b) **Subject to the provisions of K.S.A. 74-49,123, and**
39 **amendments thereto, to the member's children under the age of 18**
40 **years or under the age of 23 years, if such children are full-time**
41 **students as provided in K.S.A. 74-49,117, and amendments thereto, an**
42 **annual children's benefit equal to 10% of the member's final average**
43 **salary for each such child, which shall accrue from the first day of the**

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

22 (c) In no case shall benefits payable under the provisions of
23 paragraphs (a) and (b) of this subsection (1) ~~and (b) exceed 75%~~ 90%
24 of the member's final average salary.

25 (2) Pursuant to the provisions of K.S.A. 74-49,128, and
26 amendments thereto, upon the death from causes not service-
27 connected of an active contributing member prior to retirement, the
28 member's spouse, if lawfully wedded to the member at the time of the
29 member's death, shall receive immediately a lump-sum benefit equal
30 to 100% of the member's final average salary and shall be entitled to
31 receive an annual death benefit equal to the member's retirement
32 benefit calculated as if the member had retired on the member's
33 normal retirement date, but based upon the member's final average
34 salary and years of credited service on the date of death but not to
35 ~~exceed the amount of the annual spouse's benefit provided in paragraph (a)~~
36 ~~of subsection (1) an amount equal to 50% of the member's final average~~
37 ~~salary.~~ An application for such benefits in such form and manner as
38 prescribed by the board must be filed in the office of the executive
39 director of the board within two years of the date of death, but the
40 board may waive such time limit for a reasonable period if in the
41 judgment of the board the failure to meet this limit was due to the lack
42 of knowledge or incapacity. On and after July 1, 1993, the annual
43 spouse's benefit under this subsection (2) shall accrue from the first

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

28 (3) Upon the death of a member prior to retirement, if no benefits
29 are payable under the provisions of subsection (1) or (2), the sum of
30 the following shall be paid to the member's beneficiary: (a) The
31 member's accumulated contributions; and (b) a lump sum death
32 benefit equal to 100% of the member's current annual salary reduced
33 by the sum of the member's accumulated contributions paid as
34 provided by this section.

35 (4) All payments due under this section to a minor shall be made
36 to a legally appointed conservator of such minor as provided in
37 subsection ~~(7)~~ of K.S.A. 74-4902~~(7)~~, and amendments thereto.

38 Sec. 4. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as
39 follows: 74-4914. (1) The normal retirement date for a member of the
40 system shall be the first day of the month coinciding with or following
41 termination of employment with any participating employer not
42 followed by employment with any participating employer within 60
43 days and without any prearranged agreement for employment with

1 any participating employer, and the attainment of age 65 or,
2 commencing July 1, 1993, age 62 with the completion of 10 years of
3 credited service or the first day of the month coinciding with or
4 following the date that the total of the number of years of credited
5 service and the number of years of attained age of the member is
6 equal to or more than 85. In no event shall a normal retirement date
7 for a member be before six months after the entry date of the
8 participating employer by whom such member is employed. A
9 member may retire on the normal retirement date or on the first day
10 of any month thereafter upon the filing with the office of the
11 retirement system of an application in such form and manner as the
12 board shall prescribe. Such application shall contain a certification by
13 the member that the member will not be employed with any
14 participating employer within 60 days of retirement and the member
15 has not entered into a prearranged agreement for employment with
16 any participating employer. Nothing herein shall prevent any person,
17 member or retirant from being employed, appointed or elected as an
18 employee, appointee, officer or member of the legislature. Elected
19 officers may retire from the system on any date on or after the
20 attainment of the normal retirement date, but no retirement benefits
21 payable under this act shall be paid until the member has terminated
22 such member's office.

23 (2) No retirant shall make contributions to the system or receive
24 service credit for any service after the date of retirement.

25 (3) Any member who is an employee of an affiliating employer
26 pursuant to K.S.A. 74-4954b, and amendments thereto, and has not
27 withdrawn such member's accumulated contributions from the
28 Kansas police and firemen's retirement system may retire before such
29 member's normal retirement date on the first day of any month
30 coinciding with or following the attainment of age 55.

31 (4) Any member may retire before such member's normal
32 retirement date on the first day of any month coinciding with or
33 following termination of employment with any participating employer
34 not followed by employment with any participating employer within
35 60 days and the attainment of age 55 with the completion of 10 years
36 of credited service, but in no event before six months after the entry
37 date, upon the filing with the office of the retirement system of an
38 application for retirement in such form and manner as the board shall
39 prescribe. The member's application for retirement shall contain a
40 certification by the member that the member will not be employed
41 with any participating employer within 60 days of retirement and the
42 member has not entered into a prearranged agreement for
43 employment with any participating employer.

1 (5) Except as provided in subsection (7), on or after July 1, 2006,
2 for any retirant who is first employed or appointed in or to any
3 position or office by a participating employer other than a
4 participating employer for which such retirant was employed or
5 appointed during the final two years of such retirant's participation,
6 and, on or after April 1, 2009, for any retirant who is employed by a
7 third-party entity who contracts services with a participating
8 employer other than a participating employer for which such retirant
9 was employed or appointed during the final two years of such
10 retirant's participation to fill a position covered under K.S.A. 72-
11 5410(a), and amendments thereto, with such retirant, such
12 participating employer shall pay to the system the actuarially
13 determined employer contribution and the statutorily prescribed
14 employee contribution based on the retirant's compensation during
15 any such period of employment or appointment. If a retirant is
16 employed or appointed in or to any position or office for which
17 compensation for service is paid in an amount equal to \$20,000 or
18 more in any one such calendar year, or \$25,000 or more in any one
19 calendar year between July 1, 2016, and July 1, 2020, by any
20 participating employer for which such retirant was employed or
21 appointed during the final two years of such retirant's participation,
22 and, on or after April 1, 2009, by any third-party entity who contracts
23 services to fill a position covered under K.S.A. 72-5410(a), and
24 amendments thereto, with such retirant with a participating employer
25 for which such retirant was employed or appointed during the final
26 two years of such retirant's participation, such retirant shall not
27 receive any retirement benefit for any month for which such retirant
28 serves in such position or office. The participating employer who
29 employs such retirant whether by contract directly with the retirant or
30 through an arrangement with a third-party entity shall report to the
31 system within 30 days of when the compensation paid to the retirant is
32 equal to or exceeds any limitation provided by this section. Any
33 participating employer who contracts services with any such third-
34 party entity to fill a position covered under K.S.A. 72-5410(a), and
35 amendments thereto, shall include in such contract a provision or
36 condition which requires the third-party entity to provide the
37 participating employer with the necessary compensation paid
38 information related to any such position filled by the third-party
39 entity with a retirant to enable the participating employer to comply
40 with provisions of this subsection relating to the payment of
41 contributions and reporting requirements. The provisions and
42 requirements provided for in amendments made in this act which
43 relate to positions filled with a retirant or employment of a retirant by

1 a third-party entity shall not apply to any contract for services entered
2 into prior to April 1, 2009, between a participating employer and
3 third-party entity as described in this subsection. Any retirant
4 employed by a participating employer or a third-party entity as
5 provided in this subsection shall not make contributions nor receive
6 additional credit under such system for such service except as
7 provided by this section. Upon request of the executive director of the
8 system, the secretary of revenue shall provide such information as
9 may be needed by the executive director to carry out the provisions of
10 this act. The provisions of this subsection shall not apply to retirants
11 employed as substitute teachers or officers, employees or appointees of
12 the legislature. The provisions of this subsection shall not apply to
13 members of the legislature prior to January 8, 2000. The provisions of
14 this subsection shall not apply to any other elected officials prior to the
15 term of office of such elected official which commences on or after
16 July 1, 2000. The provisions of this subsection shall apply to any other
17 elected official, except an elected city or county officer as further
18 provided in this subsection, on and after the term of office of such
19 other elected official which commences on or after July 1, 2000.
20 Notwithstanding any provisions of law to the contrary, when an
21 elected city or county officer is retired under the provisions of
22 subsection (1) or (4) of this section and is paid an amount of
23 compensation of \$25,000 or more in any one calendar year between
24 July 1, 2016, and July 1, 2020, such officer may receive such officer's
25 salary, and still be entitled to receive such officer's retirement benefit
26 pursuant to the provisions of K.S.A. 74-4915 et seq., and amendments
27 thereto. Except as otherwise provided, commencing January 8, 2001,
28 the provisions of this subsection shall apply to members of the
29 legislature. For determination of the amount of compensation paid
30 pursuant to this subsection, for members of the legislature,
31 compensation shall include any amount paid as provided pursuant to
32 K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or
33 pursuant to K.S.A. 46-137b, and amendments thereto.
34 Notwithstanding any provision of law to the contrary, when a member
35 of the legislature is paid an amount of compensation of \$20,000 or
36 more in any one calendar year, the member may continue to receive
37 any amount provided in K.S.A. 46-137a(b) and (d), and amendments
38 thereto, and still be entitled to receive such member's retirement
39 benefit. Commencing July 1, 2005, the provisions of this subsection
40 shall not apply to retirants who either retired under the provisions of
41 subsection (1), or, if they retired under the provisions of subsection (4),
42 were retired more than 30 days prior to the effective date of this act
43 and are licensed professional nurses or licensed practical nurses

1 employed by the state of Kansas in an institution as defined in K.S.A.
2 76-12a01(b) or K.S.A. 38-2302(~~f~~)(k), and amendments thereto, the
3 Kansas soldiers' home or the Kansas veterans' home. Nothing in this
4 subsection shall be construed to create any right, or to authorize the
5 creation of any right, which is not subject to amendment or
6 nullification by act of the legislature. The participating employer of
7 such retirant shall pay to the system the actuarially determined
8 employer contribution based on the retirant's compensation during
9 any such period of employment.

10 (6) For purposes of this section, any employee of a local
11 governmental unit which has its own pension plan who becomes an
12 employee of a participating employer as a result of a merger or
13 consolidation of services provided by local governmental units, which
14 occurred on January 1, 1994, may count service with such local
15 governmental unit in determining whether such employee has met the
16 years of credited service requirements contained in this section.

17 (7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and
18 amendments thereto, and the provisions of this subsection,
19 commencing July 1, 2016, and ending July 1, 2020, any retirant who is
20 employed or appointed in or to any position by a participating
21 employer or a third-party entity who contracts services with a
22 participating employer to fill a position, without any prearranged
23 agreement with such participating employer and not prior to 60 days
24 after such retirant's retirement date, shall not receive any retirement
25 benefit for any month in any calendar year in which the retirant
26 receives compensation in an amount equal to \$25,000 or more,
27 pursuant to this subsection. The provisions of this subsection shall
28 apply to members of the legislature.

29 (b) The provisions of this subsection shall not apply, except as
30 specifically provided in this subsection, to retirants~~that~~ who are:

31 (i) Licensed professional nurses or licensed practical nurses
32 employed by the state of Kansas in an institution as defined in K.S.A.
33 76-12a01(b) or 38-2302(~~f~~)(k), and amendments thereto, the Kansas
34 soldiers' home or the Kansas veterans' home. The participating
35 employer of such retirant shall pay to the system the actuarially
36 determined employer contribution based on the retirant's
37 compensation and the statutorily prescribed employee contribution
38 during any such period of employment;

39 (ii) employed by a school district in a position as provided in
40 K.S.A. 74-4937(3), (4) or (5), and amendments thereto. Any retirant
41 employed by a school district in a position under K.S.A. 74-4937(3),
42 (4) or (5), and amendments thereto, shall be subject to the provisions
43 of subsection (7)(h) which relate to a limitation on the total term of

1 employment with any participating employer in which a retirant may
2 receive such retirant's full retirement benefit;

3 (iii) certified law enforcement officers employed by the law
4 enforcement training center. Such law enforcement officers shall
5 receive their benefits notwithstanding this subsection. The law
6 enforcement training center shall pay to the system the ~~actuarial~~
7 *actuarially* determined employer contribution and the statutorily
8 prescribed employee contribution based on the retirant's
9 compensation during any such period of employment;

10 (iv) members of the Kansas police and firemen's retirement
11 system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, ~~or~~
12 members of the retirement system for judges pursuant to K.S.A. 20-
13 2601 et seq., and amendments thereto, *or members of the state board of*
14 *regents retirement plan pursuant to K.S.A. 74-4925 et seq., and*
15 *amendments thereto*;

16 (v) employed as substitute teachers or officers, employees or
17 appointees of the legislature;

18 (vi) a poll worker hired to work an election day for a county
19 election officer responsible for conducting all official elections held in
20 the county; and

21 (vii) employed by, or have accepted employment from, a
22 participating employer prior to May 1, 2015. Any break in continuous
23 employment by a retirant or move to a different position by a retirant
24 during the effective period of this subsection shall be deemed new
25 employment and shall subject the retirant to the provisions of this
26 subsection.

27 (c) The participating employer shall enroll all retirants and
28 report to the system when compensation is paid to a retirant as
29 provided in this subsection. Such report shall contain a certification
30 by the appointing authority of the participating employer that any
31 hired retirant has not been employed by the participating employer
32 within 60 days of such retirant's retirement and that there was no
33 prearranged agreement for employment between the participating
34 employer and the hired retirant. Upon request of the executive
35 director of the system, the participating employer shall provide such
36 information as may be needed by the executive director to carry out
37 the provisions of this subsection. Any participating employer who
38 hires a retirant covered by this subsection shall pay to the system the
39 statutorily prescribed employer contribution rate for such retirant,
40 without regard to whether the retirant is receiving benefits. No
41 retirant shall receive credit for service while employed under the
42 provisions of this subsection.

43 (d) A participating employer may employ a retirant without

1 regard to the compensation limitation in this subsection for a period of
2 one calendar year or one school year, as the case may be, if the
3 following requirements are met:

4 (i) The employer certifies to the board that the position being
5 filled has been vacated due to an unexpected emergency or the
6 employer has been unsuccessful in filling the position;

7 (ii) the employer pays to the system a 30% employer contribution
8 based on the retirant's compensation during any such period of
9 employment. On or before July 1, 2019, and at least every three years
10 thereafter, the board, in consultation with the system's consulting
11 actuary, shall evaluate the plan's experience with employment of such
12 retirants and the corresponding employer contribution rate to assess
13 whether the employer contribution rate can be expected to fund
14 adverse experience or higher liabilities accruing under the system in
15 connection with employment of such retirants, to the extent that such
16 liability can be ascertained or estimated. Based on this evaluation of
17 the plan's experience, the board may certify to the division of the
18 budget, in the case of the state, and to the agent for each other
19 participating employer, a new rate if needed to more fully fund such
20 adverse experience or additional liabilities, but such rate shall not be
21 less than 30%; and

22 (iii) the employer maintains documentation of its efforts to fill the
23 position with a non-retirant and provides such documentation to the
24 joint committee on pensions, investments and benefits upon request of
25 the committee.

26 (e) An employer may submit a written assurance protocol to the
27 system to extend the exception provided for in subsection (7)(d) by
28 one-year increments for a total extension not to exceed three years. A
29 written assurance protocol shall be submitted to the system for each
30 one-year increment extension. If a school district submits a written
31 assurance protocol, such written assurance protocol shall be signed by
32 the superintendent and the board president of such school district. If a
33 municipality, as defined in K.S.A. 75-1117, and amendments thereto,
34 other than a school district, submits a written assurance protocol, such
35 written assurance protocol shall be signed by the governing body or
36 such governing body's designee for such municipality. Such written
37 assurance protocol shall state that the position was advertised on
38 multiple platforms for a minimum of 30 calendar days and that at
39 least one of the following conditions occurred:

40 (i) No applications were submitted for the position;

41 (ii) if applications were submitted, none of the applicants met the
42 reference screening criteria of the employer; or

43 (iii) if applications were submitted, none of the applicants

1 possessed the appropriate licensure, certification or other necessary
2 credentials for the position.

3 (f) On July 1, 2021, and at least every five years thereafter, the
4 joint committee on pensions, investments and benefits shall study the
5 issue of whether the compensation limitation prescribed in this
6 subsection should be adjusted. The committee shall consider the effect
7 of inflation and data on member retirement benefits and active
8 employee compensation.

9 (g) Nothing in this subsection shall be construed to create any
10 right, or to authorize the creation of any right, which is not subject to
11 amendment or nullification by act of the legislature.

12 (h) Any retirant hired by any participating employer under the
13 provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and
14 amendments thereto, may continue to receive such retirant's full
15 retirement benefit so long as, commencing July 1, 2016, such retirant's
16 total term of employment with all participating employers under one
17 or more of such provisions does not exceed 48 months or four school
18 years, whichever is less. After such period, such retirant shall not
19 receive any retirement benefit for any month in any calendar year in
20 which such retirant receives compensation in an amount equal to
21 \$25,000 or more in such calendar year.

22 (8) If determined by the retirement system that a retirant entered
23 into a prearranged agreement for employment with a participating
24 employer prior to such retirant's retirement and prior to the end of
25 the subsequent 60-day waiting period, the monthly retirement benefit
26 of such retirant shall be suspended during the period that begins on
27 the month in which the retirant is re-employed and ends six months
28 after the retirant's termination of such employment. The retirant shall
29 repay to the retirement system all monthly retirement benefits paid to
30 the retirant by the retirement system that the retirant received after
31 such employment began. The participating employer which hired such
32 retirant shall be required to pay to the system any fees, fines, penalties
33 or any other cost imposed by the internal revenue service and
34 indemnify the system for any cost incurred by the system to defend
35 any action brought by the internal revenue service based on in-service
36 distributions which are a result of any determined prearranged
37 agreement and for any cost incurred by the system to collect any
38 monthly retirement benefit required to be repaid by such retirant
39 pursuant to this subsection.

40 (9) For the purposes of this section a prearranged agreement for
41 employment may be determined by whether the facts and
42 circumstances of the situation indicate that the employer and
43 employee reasonably anticipated that further services would be

1 performed after the employee's retirement.

2 Sec. 5. K.S.A. 2016 Supp. 74-49,123 is hereby amended to read as
3 follows: 74-49,123. (a) This section applies to the Kansas public
4 employees retirement system and to all other public retirement plans
5 administered by the board of trustees.

6 (b) As used in this section:

7 (1) "Federal internal revenue code" means the federal internal
8 revenue code of 1954 or 1986, as amended and as applicable to a
9 governmental plan as in effect on July 1, 2008; and

10 (2) "retirement plan" includes the Kansas public employees
11 retirement system and all other Kansas public retirement plans and
12 benefit structures, which are administered by the board.

13 (c) In addition to the federal internal revenue code provisions
14 otherwise noted in each retirement plan's law, and in order to satisfy
15 the applicable requirements under the federal internal revenue code,
16 the retirement plans shall be subject to the following provisions,
17 notwithstanding any other provision of the retirement plan's law:

18 (1) The board shall distribute the corpus and income of the
19 retirement plan to the members and their beneficiaries in accordance
20 with the retirement plan's law. At no time prior to the satisfaction of
21 all liabilities with respect to members and their beneficiaries shall any
22 part of the corpus and income be used for, or diverted to, purposes
23 other than the exclusive benefit of the members and their
24 beneficiaries.

25 (2) Forfeitures arising from severance of employment, death or
26 for any other reason may not be applied to increase the benefits any
27 member would otherwise receive under the retirement plan's law.
28 However, forfeitures may be used to reduce an employer's
29 contribution.

30 (3) All benefits paid from the retirement plan shall be distributed
31 in accordance with a good faith interpretation of the requirements of
32 section 401(a)(9) of the federal internal revenue code and the
33 regulations under that section. Notwithstanding any other provision of
34 these rules and regulations, effective on and after January 1, 2003, the
35 retirement plan is subject to the following provisions:

36 (A) Benefits must begin by the required beginning date, which is
37 the later of April 1 of the calendar year following the calendar year in
38 which the member reaches 70½ years of age or April 1 of the calendar
39 year following the calendar year in which the member terminates
40 employment. If a member fails to apply for retirement benefits by
41 April 1 of the calendar year following the calendar year in which such
42 member reaches 70½ years of age or April 1 of the calendar year
43 following the calendar year in which such member terminates

1 employment, whichever is later, the board will begin distributing the
2 benefit as required by this section.

3 (B) The member's entire interest must be distributed over the
4 member's life or the lives of the member and a designated beneficiary,
5 or over a period not extending beyond the life expectancy of the
6 member or of the member and a designated beneficiary. Death
7 benefits must be distributed in accordance with section 401(a)(9)
8 of the federal internal revenue code, including the incidental death
9 benefit requirement in section 401(a)(9)(G) of the federal internal
10 revenue code, and the regulations implementing that section.

11 (C) The life expectancy of a member, the member's spouse or the
12 member's beneficiary may not be recalculated after the initial
13 determination for purposes of determining benefits.

14 (D) If a member dies after the required distribution of benefits
15 has begun, the remaining portion of the member's interest must be
16 distributed at least as rapidly as under the method of distribution
17 before the member's death and no longer than the remaining period
18 over which distributions commenced.

19 (E) If a member dies before required distribution of the
20 member's benefits has begun, the member's entire interest must be
21 either:

22 (i) In accordance with federal regulations, distributed over the
23 life or life expectancy of the designated beneficiary, with the
24 distributions beginning no later than December 31 of the calendar
25 year immediately following the calendar year of the member's death;
26 or

27 (ii) distributed by December 31 of the calendar year containing
28 the fifth anniversary of the member's death.

29 (F) The amount of an annuity paid to a member's beneficiary
30 may not exceed the maximum determined under the incidental death
31 benefit requirement of the federal internal revenue code.

32 (G) The death and disability benefits provided by a retirement
33 plan are limited by the incidental benefit rule set forth in section
34 401(a)(9)(G) of the federal internal revenue code and treasury
35 regulation 1.401-1(b)(1)(i).

36 (4) Distributions from the retirement plans may be made only
37 upon retirement, separation from service, disability or death.

38 (5) The board or its designee may not:

39 (A) Determine eligibility for benefits;

40 (B) compute rates of contribution; or

41 (C) compute benefits of members or beneficiaries, in a manner
42 that discriminates in favor of members who are considered officers,
43 supervisors or highly compensated, as prohibited under section 401(a)

1 (4) of the federal internal revenue code.

2 (6) Subject to the provisions of this subsection, benefits paid
3 from, and employee contributions made to, the retirement plans shall
4 not exceed the maximum benefits and the maximum annual additions,
5 respectively, permissible under section 415 of the federal internal
6 revenue code.

7 (A) Before January 1, 1995, a member may not receive an annual
8 benefit that exceeds the limits specified in section 415(b) of the federal
9 internal revenue code, subject to the applicable adjustments in that
10 section. Beginning January 1, 1995, a participant may not receive an
11 annual benefit that exceeds the dollar amount specified in section
12 415(b)(1)(A) of the federal internal revenue code, subject to the
13 applicable adjustments in section 415 of the federal internal revenue
14 code.

15 (B) Notwithstanding any other provision of law to the contrary,
16 the board may modify a request by a participant to make a
17 contribution to the retirement plans if the amount of the contribution
18 would exceed the limits under section 415(c) or 415(n) of the federal
19 internal revenue code subject to the following:

20 (i) Where the retirement plan's law requires a lump-sum
21 payment, for the purchase of service credit, the board may establish a
22 periodic payment plan in order to avoid a contribution in excess of the
23 limits under section 415(c) or 415(n) of the federal internal revenue
24 code.

25 (ii) If the board's option under ~~subdivision~~ *clause* (i) will not avoid
26 a contribution in excess of the limits under section 415(c) or 415(n) of
27 the federal internal revenue code, the board shall reduce or deny the
28 contribution.

29 (C) Effective for permissive service credit contributions made in
30 limitation years beginning after December 31, 1997, if an active
31 member makes one or more contributions to purchase permissive
32 service credit under a retirement plan, then the requirements of this
33 section shall be treated as met only if:

34 (i) The requirements of section 415(b) of the federal internal
35 revenue code are met, determined by treating the accrued benefit
36 derived from all such contributions as an annual benefit for purposes
37 of such section; or

38 (ii) the requirements of section 415(c) of the federal internal
39 revenue code are met, determined by treating all such contributions as
40 annual additions for purposes of such section. For purposes of
41 ~~applying subparagraph~~ *clause* (i) a retirement plan shall not fail to meet
42 the reduced limit under section 415(b)(2)(C) of the federal internal
43 revenue code solely by reason of this ~~paragraph~~ *subparagraph* (C), and

1 for purposes of applying ~~subparagraph~~ *clause* (ii), a retirement plan
2 shall not fail to meet the percentage limitation under section 415(c)(1)
3 (B) of the federal internal revenue code solely by reason of this
4 paragraph.

5 (iii) For purposes of this ~~paragraph~~ *clause*, the term "permissive
6 service credit" means service credit:

7 (a) Specifically recognized by a retirement plan's law for
8 purposes of calculating a member's benefit under that retirement
9 plan;

10 (b) which such member has not received under a retirement plan;
11 and

12 (c) which such member may receive under a retirement plan's
13 law only by making a voluntary additional contribution, in an amount
14 determined under the retirement plan's law and procedures
15 established by the board, which does not exceed the amount necessary
16 to fund the benefit attributable to such service credit.

17 (iv) A retirement plan shall fail to meet the requirements of this
18 ~~paragraph~~ *clause* if the retirement plan's law specifically provides for a
19 purchase of nonqualified service purchase, and if:

20 (a) More than five years of nonqualified service credit are taken
21 into account for purposes of this ~~paragraph~~ *subclause*; or

22 (b) any nonqualified service credit is taken into account under
23 this ~~paragraph~~ *subclause* before the member has at least five years of
24 participation under a retirement plan. For purposes of this ~~paragraph~~
25 *subclause*, effective for permissive service credit contributions made in
26 limitation years beginning after December 31, 1997, the term
27 "nonqualified service credit" means the same as provided in section
28 415(n)(3)(C) of the federal internal revenue code.

29 (v) In the case of a trustee-to-trustee transfer after December 31,
30 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal
31 internal revenue code applies, without regard to whether the transfer
32 is made between plans maintained by the same employer:

33 (a) The limitations of ~~subparagraph~~ *clause* (iv) shall not apply in
34 determining whether the transfer is for the purchase of permissive
35 service credit; and

36 (b) the distribution rules applicable under federal law to a
37 retirement plan shall apply to such amounts and any benefits
38 attributable to such amounts.

39 (vi) For an eligible member, the limitation of section 415(c)(1) of
40 the federal internal revenue code shall not be applied to reduce the
41 amount of permissive service credit which may be purchased to an
42 amount less than the amount which was allowed to be purchased
43 under the terms of the statute as in effect on August 5, 1997. For

1 purposes of this ~~subparagraph~~ clause, an eligible member is an
2 individual who first became a member in the retirement plan before
3 January 1, 1998.

4 (D) Subject to approval by the internal revenue service, the board
5 shall maintain a qualified governmental excess benefit arrangement
6 under section 415(m) of the federal internal revenue code. The board
7 shall establish the necessary and appropriate procedures for the
8 administration of such benefit arrangement under the federal internal
9 revenue code. The amount of any annual benefit that would exceed the
10 limitations imposed by section 415 of the federal internal revenue code
11 shall be paid from this benefit arrangement. The amount of any
12 contribution that would exceed the limitations imposed by section 415
13 of the federal internal revenue code shall be credited to this benefit
14 arrangement. The qualified excess benefit arrangement shall be a
15 separate portion of the retirement plan. The qualified excess benefit
16 arrangement is subject to the following requirements:

17 (i) The benefit arrangement shall be maintained solely for the
18 purpose of providing to participants in the retirement plans that part
19 of the participant's annual benefit otherwise payable under the terms
20 of the act that exceeds the limitations on benefits imposed by section
21 415 of the federal internal revenue code; and

22 (ii) participants do not have an election, directly or indirectly, to
23 defer compensation to the excess benefit arrangement.

24 (E) For purposes of applying these limits only and for no other
25 purpose, the definition of compensation where applicable shall be
26 compensation actually paid or made available during a limitation
27 year, except as noted below and as permitted by treasury regulation
28 section 1.415(c)-2. Specifically, compensation shall be defined as wages
29 within the meaning of section 3401(a) of the federal internal revenue
30 code and all other payments of compensation to an employee by an
31 employer for which the employer is required to furnish the employee a
32 written statement under sections 6041(d), 6051(a)(3) and 6052 of the
33 federal internal revenue code. Compensation shall be determined
34 without regard to any rules under section 3401(a) of the federal
35 internal revenue code that limit the remuneration included in wages
36 based on the nature or location of the employment or the services
37 performed, such as the exception for agricultural labor in section
38 3401(a)(2) of the federal internal revenue code.

39 (i) However, for limitation years beginning after December 31,
40 1997, compensation shall also include amounts that would otherwise
41 be included in compensation but for an election under sections 125(a),
42 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue
43 code. For limitation years beginning after December 30, 2000,

1 compensation shall also include any elective amounts that are not
2 includable in the gross income of the employee by reason of section
3 132(f)(4) of the federal internal revenue code.

4 (ii) The definition of compensation shall exclude employee
5 contributions picked up under section 414(h)(2) of the federal internal
6 revenue code.

7 (iii) For limitation years beginning on and after January 1, 2007,
8 compensation for the limitation year will also include compensation
9 paid by the later of two and a half months after an employee's
10 severance from employment or the end of the limitation year that
11 includes the date of the employee's severance from employment if:

12 (a) The payment is regular compensation for services during the
13 employee's regular working hours or compensation for services
14 outside the employee's regular working hours, such as overtime or
15 shift differential, commissions, bonuses or other similar payments, and
16 absent a severance from employment, the payments would have been
17 paid to the employee while the employee continues in employment
18 with the employer;

19 (b) the payment is for unused accrued bona fide sick, vacation or
20 other leave that the employee would have been able to use if
21 employment had continued; or

22 (c) for limitation years beginning on and after January 1, 2012,
23 the payment is made pursuant to a nonqualified unfunded deferred
24 compensation plan, but only if the payment would have been paid to
25 the member at the same time if the member had continued
26 employment with the employer and only to the extent that the
27 payment is includable in the member's gross income.

28 (iv) Any payments not described in ~~paragraph~~ clause (iii) are not
29 considered compensation if paid after severance from employment,
30 even if they are paid within two and a half months following severance
31 from employment, except for payments to the individual who does not
32 currently perform services for the employer by reason of qualified
33 military service, within the meaning of section 414(u)(1) of the federal
34 internal revenue code, to the extent these payments do not exceed the
35 amounts the individual would have received if the individual had
36 continued to perform services for the employer rather than entering
37 qualified military service.

38 (v) An employee who is in qualified military service, within the
39 meaning of section 414(u)(1) of the federal internal revenue code, shall
40 be treated as receiving compensation from the employer during such
41 period of qualified military service equal to: (a) The compensation the
42 employee would have received during such period if the employee
43 were not in qualified military service, determined based on the rate of

1 pay the employee would have received from the employer but for the
2 absence during the period of qualified military service; or (b) if the
3 compensation the employee would have received during such period
4 was not reasonably certain, the employee's average compensation
5 from the employer during the twelve-month period immediately
6 preceding the qualified military service, or if shorter, the period of
7 employment immediately preceding the qualified military service.

8 (vi) Back pay, within the meaning of treasury regulation section
9 1.415(c)-2(g)(8), shall be treated as compensation for the limitation
10 year to which the back pay relates to the extent the back pay
11 represents wages and compensation that would otherwise be included
12 under this definition.

13 (7) On and after January 1, 2009, for purposes of applying the
14 limits under section 415(b) of the federal internal revenue code, the
15 following shall apply:

16 (A) A member's applicable limit shall be applied to the member's
17 annual benefit in the first limitation year without regard to any
18 automatic cost-of-living increases;

19 (B) to the extent the member's annual benefit equals or exceeds
20 such limit, the member shall no longer be eligible for cost-of-living
21 increases until such time as the benefit plus the accumulated increases
22 are less than such limit;

23 (C) thereafter, in any subsequent limitation year, the member's
24 annual benefit including any automatic cost-of-living increase
25 applicable shall be tested under the then applicable benefit limit
26 including any adjustment to the dollar limit under section 415(b)(1)
27 (A) or 415(d) of the federal internal revenue code and the regulations
28 thereunder; and

29 (D) in no event shall a member's annual benefit payable from a
30 retirement plan in any limitation year be greater than the limit
31 applicable at the annuity starting date, as increased in subsequent
32 years pursuant to section 415(d) of the federal internal revenue code
33 and the regulations thereunder. If the form of benefit without regard
34 to the automatic benefit increase feature is not a straight life annuity,
35 then the preceding sentence is applied by reducing the limit under
36 section 415(b) of the federal internal revenue code applicable at the
37 annuity starting date to an actuarially equivalent amount determined
38 using the assumptions specified in treasury regulation section
39 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the
40 form of benefit. This subsection applies to distributions made on and
41 after January 1, 1993. A distributee may elect to have any portion of
42 an eligible rollover distribution paid directly to an eligible retirement
43 plan specified by the distributee in a transfer made from the

1 retirement system.

2 (i) An eligible rollover distribution is any distribution of all or
3 any portion of the balance to the credit of the distributee, except that
4 an eligible rollover distribution does not include: (a) Any distribution
5 that is one of a series of substantially equal periodic payments, not less
6 frequently than annually, made for the life or the life expectancy of the
7 distributee or the joint lives or joint life expectancies of the distributee
8 and the distributee's designated beneficiary or for a specified period of
9 10 years or more; (b) any distribution to the extent such distribution is
10 required under section 401(a)(9) of the federal internal revenue code;
11 (c) the portion of any distribution that is not includable in gross
12 income; and (d) any other distribution that is reasonably expected to
13 total less than \$200 during the year. Effective January 1, 2002, a
14 portion of a distribution shall not fail to be an eligible rollover
15 distribution merely because the portion consists of after-tax employee
16 contributions that are not includable in gross income. However, such
17 portion may be transferred only to an individual retirement account
18 or annuity described in section 408(a) or (b) of the federal internal
19 revenue code, or to a qualified defined contribution plan described in
20 section 401(a) of the federal internal revenue code or to a qualified
21 plan described in section 403(a) of the federal internal revenue code,
22 that agrees to separately account for amounts so transferred and
23 earnings on such amounts, including separately accounting for the
24 portion of the distribution that is includable in gross income and the
25 portion of the distribution that is not so includable, or on or after
26 January 1, 2007, to a qualified defined benefit plan described in
27 section 401(a) of the federal internal revenue code or to an annuity
28 contract described in section 403(b) of the federal internal revenue
29 code, that agrees to separately account for amounts so transferred and
30 earnings thereon, including separately accounting for the portion of
31 the distribution that is includable in gross income and the portion of
32 the distribution that is not so includable.

33 (ii) An eligible retirement plan is any of the following that accepts
34 the distributee's eligible rollover distribution:

35 (a) An individual retirement account described in section 408(a)
36 of the federal internal revenue code;

37 (b) an individual retirement annuity described in section 408(b)
38 of the federal internal revenue code;

39 (c) an annuity plan described in section 403(a) of the federal
40 internal revenue code;

41 (d) a qualified trust described in section 401(a) of the federal
42 internal revenue code;

43 (e) effective January 1, 2002, an annuity contract described in

1 section 403(b) of the federal internal revenue code;

2 (f) effective January 1, 2002, a plan eligible under section 457(b)
3 of the federal internal revenue code that is maintained by a state,
4 political subdivision of a state or any agency or instrumentality of a
5 state or a political subdivision of a state that agrees to separately
6 account for amounts transferred into the plan from a retirement plan;
7 or

8 (g) effective January 1, 2008, a roth IRA described in section
9 408(A) of the federal internal revenue code.

10 (iii) Effective January 1, 2002, the definition of eligible rollover
11 distribution also includes a distribution to a surviving spouse, or to a
12 spouse or former spouse who is an alternate payee under a domestic
13 relations order, as defined in section 414(p) of the federal internal
14 revenue code.

15 (iv) A distributee includes an employee or former employee. It
16 also includes the employee's or former employee's surviving spouse
17 and the employee's or former employee's spouse or former spouse who
18 is the alternate payee under a qualified domestic relations order, as
19 defined in section 414(p) of the federal internal revenue code. Effective
20 July 1, 2007, a distributee further includes a nonspouse beneficiary
21 who is a designated beneficiary as defined by section 401(a)(9)(E) of
22 the federal internal revenue code. However, a nonspouse beneficiary
23 may rollover the distribution only to an individual retirement account
24 or individual retirement annuity established for the purpose of
25 receiving the distribution and the account or annuity will be treated as
26 an "inherited" individual retirement account or annuity.

27 (v) A direct rollover is a payment by the retirement system to the
28 eligible retirement plan specified by the distributee.

29 (8) Notwithstanding any law to the contrary, the board may
30 accept a direct or indirect eligible rollover distributions for the
31 purpose of the purchase of service credit. In addition, the board may
32 accept a direct trustee to trustee transfer from a deferred
33 compensation plan under section 457(b) of the federal internal
34 revenue code or a tax sheltered annuity under section 403(b) of the
35 federal internal revenue code for: (A) The purchase of permissive
36 service credit, as defined under section 415(n)(3)(A) of the federal
37 internal revenue code; or (B) a repayment to which section 415 of the
38 federal internal revenue code does not apply pursuant to section
39 415(k)(3) of the federal internal revenue code. Any such transfer shall
40 be allowed as provided in this subsection to the extent permitted by
41 law, subject to any conditions, proofs or acceptance established or
42 required by the board or the board's designee.

43 (9) Where required by the act, an employer shall pick up and pay

1 contributions that would otherwise be payable by members of a
2 retirement plan in accordance with section 414(h)(2) of the federal
3 internal revenue code as follows:

4 (A) The contributions, although designated as employee
5 contributions, are being paid by the employer in lieu of contributions
6 by the employee;

7 (B) the employee must not have been given the option of receiving
8 the amounts directly instead of having them paid to the retirement
9 plan; and

10 (C) the pickup shall apply to amounts that a member elects to
11 contribute to receive credit for prior or participating service if the
12 election is irrevocable and applies to amounts contributed before
13 retirement.

14 (10) (A) Notwithstanding any provision of this plan to the
15 contrary, contributions, benefits and service credit with respect to
16 qualified military service will be provided in accordance with section
17 414(u) of the federal internal revenue code and the uniformed services
18 employment and reemployment rights act of 1994.

19 (B) Effective with respect to deaths occurring on or after January
20 1, 2007, while a member is performing qualified military service, as
21 defined in chapter 43 of title 38, United States code, to the extent
22 required by section 401(a)(37) of the federal internal revenue code,
23 survivors of a member in the system, are entitled to any additional
24 benefits that the system would provide if the member had resumed
25 employment and then died, such as accelerated vesting or survivor
26 benefits that are contingent on the member's death while employed. A
27 deceased member's period of qualified military service must be
28 counted for vesting purposes.

29 (C) Effective with respect to deaths or disabilities, or both,
30 occurring on or after January 1, 2007, while a member is performing
31 qualified military service, as defined in chapter 43 of title 38, United
32 States code, to the extent permitted by section 414(u)(9) of the federal
33 internal revenue code, for the benefit accrual purposes and in the case
34 of death, for vesting purposes, the member will be treated as having
35 earned years of service for the period of qualified military service,
36 having returned to employment on the day before the death or
37 disability, or both, and then having terminated on the date of death or
38 disability. This provision shall be applied to all similarly situated
39 individuals in a reasonably equivalent manner.

40 (D) Beginning January 1, 2009, to the extent required by section
41 414(u)(12) of the federal internal revenue code, an individual receiving
42 differential wage payments, as defined under section 3401(h)(2) of the
43 federal internal revenue code, from an employer shall be treated as

1 employed by that employer, and the differential wage payment shall
2 be treated as compensation for purposes of applying the limits on
3 annual additions under section 415(c) of the federal internal revenue
4 code. This provision shall be applied to all similarly situated
5 individuals in a reasonably equivalent manner.

6 (11) Upon the complete or partial termination of a retirement
7 plan, the rights of members to benefits accrued to the date of
8 termination, to the extent funded, or to the amounts in their accounts
9 are nonforfeitable, and amounts in their accounts may be distributed
10 to them.

11 (d) The plan year for the retirement plan begins on July 1.

12 (e) The limitation year for purposes of section 415 of the federal
13 internal revenue code is the calendar year.

14 (f) The board may not engage in a transaction prohibited by
15 section 503(b) of the federal internal revenue code.

16 (g) (1) For purposes of determining an "actuarial equivalent" or
17 of an "actuarial computation" for members hired prior to July 1,
18 2009, the board shall use the following:

19 (A) The applicable mortality table is specified in revenue ruling
20 2001-62 or revenue ruling 2007-67, as applicable; and

21 (B) the applicable interest factor is ~~8% per year~~ *the actuarially*
22 *assumed rate of return established by the board.*

23 (2) For purposes of determining an "actuarial equivalent" or an
24 "actuarial computation" for members hired on or after July 1, 2009,
25 the board shall use the following:

26 (A) The applicable mortality table is the ^{50/50} male/female blend of
27 the RP 2000 health annuitant mortality table, projected to 2025; and

28 (B) the applicable interest factor is ~~8% per year~~ *the actuarially*
29 *assumed rate of return established by the board.*

30 (3) For converting amounts payable under the partial lump sum
31 option, the board shall use the following:

32 (A) The applicable mortality table is a ^{50/50} male/female blend of
33 the 1983 group annuity mortality table; and

34 (B) the applicable interest factor is ~~8% per year~~ *the actuarially*
35 *assumed rate of return established by the board.*

36 (4) For benefit testing under section 415(b) of the federal internal
37 revenue code, the factors required by treasury regulations shall be
38 used. The applicable mortality table is specified in revenue ruling
39 2001-62 for years prior to January 1, 2009, and notice 2008-85 for
40 years after December 31, 2008.

41 Sec. ~~3~~. 6. K.S.A. 74-4913 ~~and~~, 74-4956 and 74-4959 and K.S.A.
42 2016 Supp. 74-4914, 74-4914f and 74-49,123 are hereby repealed.

43 Sec. ~~4~~. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.