AN ACT concerning retirement and benefits; relating to the Kansas public
employees retirement system and systems thereunder; employer
affiliation, participation by certain employees and contribution rate;
applicability of certain federal internal revenue code provisions;
amending K.S.A. 74-4910 and K.S.A. 2011 Supp. 74-4920 and 74-
49,123 and repealing the existing sections.

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

Section 1. K.S.A. 74-4910 is hereby amended to read as follows: 74-
4910. (1) An eligible employer may join the system on January 1 of any
year. Application for affiliation shall be in the form of a resolution
approved by the governing or legislative body of the eligible employer or
by any other body or officer authorized by law or recognized by the board
to approve the action. Such application may be for participation with
regard to: (a) All employees who are employed by the participating
employer on or after the employer's entry date; (b) all employees
employed by the participating employer immediately prior to and on the
employer's entry date; or (c) all individuals which are referred to in
subsections (1)(a) and (1)(b). The application shall include a statement of
the group or groups to be covered. Any such application, upon approval by
the board of trustees, shall be irrevocable, except that extension of
coverage to any of the employee groups referred to in subsections (1)(a) or
(1)(b) not covered in the employer's initial application may be obtained by
supplemental application to the board, in such form as may be provided by
the board, with such coverage to be effective on January 1 of any
succeeding year. No city or township shall become a participating
employer except by the adoption of a resolution therefor, which shall be
published once in the official city or township newspaper or, if there is
none, in a newspaper of general circulation in the city or county. No such
resolution shall take effect until 60 days after its final publication. If
within 60 days of its final publication a petition signed by electors equal in
number to not less than 10% of the electors who voted at the last preceding
regular election in the township, in the case of townships, the last regular
city election in the city, in the case of cities is filed in the office of the
clerk of such city, or township demanding that such resolution be
submitted to a vote of the electors, the resolution shall not take effect until
submitted to a referendum and approved by a majority of the electors voting thereon. A \( \frac{2}{3} \) vote of the members-elect of the governing body shall be necessary for the affiliation of any eligible employer other than a city or township. An application for affiliation with the system shall be filed with the board not later than 30 days prior to the date participation is to begin, except as such time limit may be extended by the board. Upon the filing of a certified copy of such resolutions with the board an election pursuant to this section shall be irrevocable, and the employer shall become a participating employer on January 1 of the year immediately following the filing of such election with the board.

(2) The state of Kansas in its capacity as an eligible employer, shall become, by operation of law, a participating employer on the first entry date. The Kansas turnpike authority shall not become a participating employer nor shall its officers or employees be covered by the retirement system until such time as its governing body by a \( \frac{2}{3} \) vote of the members of such governing body adopts a resolution for affiliation and files the same in the same manner and on the same conditions as in the case of an eligible employer other than a city or township.

(3) If a participating employer is paying or has paid the salary or other compensation of the judge, clerk or any other employee, whether elective or appointive, such judge, clerk or other employee of such court or courts, whether elective or appointive, shall be deemed an employee of the participating employer. Such employee shall be governed by the provisions governing other eligible employees of such participating employer. Any participating employer which has not heretofore included such employees as eligible employees under the retirement system shall on the first day of the month coinciding with or following the effective date of this act include such employees if otherwise eligible as eligible employees under the retirement system. Such employees, whether elective or appointive, if employed on the employer's entry date may elect to pay forthwith the employee contributions from the employer's entry date and thereby be governed by the provisions governing other employees employed by the participating employer on entry date except that no such employee shall be considered to be a new employee on the first day of the month coinciding with or following the effective date of this act and commence making employee contributions in compliance with other provisions governing the retirement system and the participating employer shall make the employer contributions in accordance with the alternative elected by the employee and other provisions governing the retirement system.

(4) Any employer whose employees are covered by social security and who otherwise do not meet the provisions of subsection (13) of K.S.A. 74-4902, and amendments thereto, may elect to affiliate under this section
upon meeting the definition of a governmental entity or instrumentality as determined by the system. If, subsequent to such determination, the United States internal revenue service determines that such employer does not meet the definition of a governmental entity or instrumentality, such affiliation shall be null and void and all employee accrued rights associated with such affiliation shall be null and void and the system shall refund such amounts presently credited to each employee's account and an equivalent amount to the employer for each employee. The provisions of this subsection shall apply to current and future participating employers.

(5) For affiliations on and after January 1, 1999, any eligible employer, prior to the filing of an application for affiliation under this system, shall request the board of trustees to submit a proposal for such affiliation including an estimate of the employer's contribution rate necessary to comply with the actuarial standard of this system. Such eligible employer shall furnish all necessary data from which such proposal is prepared, and shall pay all costs involved.

Sec. 2. K.S.A. 2011 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto, and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such
additional liability shall be amortized as determined by the board. For all
participating employers described in this section, the board shall determine
the actuarial cost method to be used in annual actuarial valuations to
determine the employer contribution rates that shall be certified by the
board.
   (ii) The board shall determine for each such employer separately an
amount sufficient to amortize all liabilities for prior service costs which
shall have accrued at the time of entry into the system. On the basis of
such determination the board shall annually certify to each such employer
separately an actuarially determined estimate of the rate of contribution
which shall be required to be paid by that employer to pay all of the
liabilities for such prior service costs. Such rate shall be termed the
employer's prior service contribution.
   (2) The division of the budget and the governor shall include in the
budget and in the budget request for appropriations for personal services
the sum required to satisfy the state's obligation under this act as certified
by the board and shall present the same to the legislature for allowance and
appropriation.
   (3) Each other participating employer shall appropriate and pay to the
system a sum sufficient to satisfy the obligation under this act as certified
by the board.
   (4) Each participating employer is hereby authorized to pay the
employer's contribution from the same fund that the compensation for
which such contribution is made is paid from or from any other funds
available to it for such purpose. Each political subdivision, other than an
instrumentality of the state, which is by law authorized to levy taxes for
other purposes, may levy annually at the time of its levy of taxes, a tax
which may be in addition to all other taxes authorized by law for the
purpose of making its contributions under this act and, in the case of cities
and counties, to pay a portion of the principal and interest on bonds issued
under the authority of K.S.A. 12-1774, and amendments thereto, by cities
located in the county, which tax, together with any other fund available,
shall be sufficient to enable it to make such contribution. In lieu of levying
the tax authorized in this subsection, any taxing subdivision may pay such
costs from any employee benefits contribution fund established pursuant to
K.S.A. 12-16,102, and amendments thereto. Each participating employer
which is not by law authorized to levy taxes as described above, but which
prepares a budget for its expenses for the ensuing year and presents the
same to a governing body which is authorized by law to levy taxes as
described above, may include in its budget an amount sufficient to make
its contributions under this act which may be in addition to all other taxes
authorized by law. Such governing body to which the budget is submitted
for approval, may levy a tax sufficient to allow the participating employer
to make its contributions under this act, which tax, together with any other
fund available, shall be sufficient to enable the participating employer to
make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as
provided in this section shall apply during the fiscal year of the
participating employer which begins in the second calendar year following
the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years
commencing in calendar year 1996 and in each subsequent calendar year,
the rate of contribution certified to the state of Kansas shall in no event
exceed the state's contribution rate for the immediately preceding fiscal
year by more than 0.2% of the amount of compensation upon which
members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal
years commencing in the following calendar years, the rate of contribution
certified to the state of Kansas and to the participating employers under
K.S.A. 74-4931, and amendments thereto, shall in no event exceed the
state's contribution rate for the immediately preceding fiscal year by more
than the following amounts expressed as a percentage of compensation
upon which members contribute during the period: (A) For the fiscal year
commencing in calendar year 2005, an amount not to exceed more than
0.4% of the amount of the immediately preceding fiscal year; (B) for the
fiscal year commencing in calendar year 2006, an amount not to exceed
more than 0.5% of the amount of the immediately preceding fiscal year;
and (C) for the fiscal year commencing in calendar year 2007 and in each
subsequent calendar year, an amount not to exceed more than 0.6% of the
amount of the immediately preceding fiscal year.

(iii) Except as specifically provided in this section, for fiscal years
commencing in calendar year 1997 and in each subsequent calendar year,
the rate of contribution certified to participating employers other than the
state of Kansas shall in no event exceed such participating employer's
contribution rate for the immediately preceding fiscal year by more than
0.15% of the amount of compensation upon which members contribute
during the period.

(iv) Except as specifically provided in this subsection, for the fiscal
years commencing in the following calendar years, the rate of contribution
certified to participating employers other than the state of Kansas shall in
no event exceed the contribution rate for such employers for the
immediately preceding fiscal year by more than the following amounts
expressed as a percentage of compensation upon which members
contribute during the period: (A) For the fiscal year commencing in
calendar year 2006, an amount not to exceed more than 0.4% of the
amount of the immediately preceding fiscal year; (B) for the fiscal year
commencing in calendar year 2007, an amount not to exceed more than
0.5% of the amount of the immediately preceding fiscal year; and (C) for
the fiscal year commencing in calendar year 2008 and in each subsequent
calendar year, an amount not to exceed more than 0.6% of the amount of
the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate
employer rate of contribution calculated for the state of Kansas, a separate
employer rate of contribution calculated for participating employers under
K.S.A. 74-4931, and amendments thereto, a combined employer rate of
contribution calculated for the state of Kansas and participating employers
under K.S.A. 74-4931, and amendments thereto, and a separate employer
rate of contribution calculated for all other participating employers.

(vi) There shall be a combined employer rate of contribution certified
to the state of Kansas and participating employers under K.S.A. 74-4931,
and amendments thereto. There shall be a separate employer rate of
contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the
state of Kansas and participating employers under K.S.A. 74-4931, and
amendments thereto, is greater than the separate employer rate of
contribution for the state of Kansas, the difference in the two rates applied
to the actual payroll of the state of Kansas for the applicable fiscal year
shall be calculated. This amount shall be certified by the board for deposit
as additional employer contributions to the retirement benefit
accumulation reserve for the participating employers under K.S.A. 74-
4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of
the Kansas legislature will be included in the June 30, 1994, actuarial
valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i, and
amendments thereto, will be included in the June 30, 1998, actuarial
valuation in determining contribution rates for participating employers.
The actuarial accrued liability incurred for the provisions of K.S.A. 74-
4950i, and amendments thereto, shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any
legislation enacted by the Kansas legislature, except the actuarial cost of
K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the
employer contribution rates certified for the employer contribution rate in
the fiscal year immediately following such enactment.

(9) Notwithstanding the provisions of subsection (8), the actuarial
cost of the provisions of K.S.A. 74-49,109 et seq., and amendments
thereto, shall be first reflected in employer contribution rates effective with
the first day of the first payroll period for the fiscal year 2005. The
actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109
et seq., and amendments thereto, shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2011 Supp. 74-49,114b, and amendments thereto, for retirants other than local retirants as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2011 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2011 Supp. 74-49,114c, and amendments thereto, for retirants other than local retirants as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2011 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912, and amendments thereto, at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

(16) (15) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(17) (16) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the
remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204, and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

Sec. 3. K.S.A. 2011 Supp. 74-49,123 is hereby amended to read as follows: 74-49,123. (a) This section applies to the Kansas public employees retirement system and to all other public retirement plans administered by the board of trustees.

   (b) As used in this section:

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

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

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

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

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

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

   (A) Benefits must begin by the required beginning date, which is
the later of April 1 of the calendar year following the calendar year in which the member reaches 70\(\frac{1}{2}\) years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which such member reaches 70\(\frac{1}{2}\) years of age or April 1 of the calendar year following the calendar year in which such member terminates employment, whichever is later, the board will begin distributing the benefit as required by this section.

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

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

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

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

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

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

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

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

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

(5) The board or its designee may not:

(A) Determine eligibility for benefits;

(B) Compute rates of contribution; or

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

(4) of the federal internal revenue code.

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

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

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

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

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

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

(i) The requirements of section 415(b) of the federal internal revenue code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes
of such section; or
(ii) the requirements of section 415(c) of the federal internal revenue code are met, determined by treating all such contributions as annual additions for purposes of such section. For purposes of applying subparagraph (i) a retirement plan shall not fail to meet the reduced limit under section 415(b)(2)(C) of the federal internal revenue code solely by reason of this paragraph (C), and for purposes of applying subparagraph (ii), a retirement plan shall not fail to meet the percentage limitation under section 415(c)(1)(B) of the federal internal revenue code solely by reason of this paragraph.
(iii) For purposes of this paragraph, the term "permissive service credit" means service credit:
(a) Specifically recognized by a retirement plan's law for purposes of calculating a member's benefit under that retirement plan;
(b) which such member has not received under a retirement plan; and
(c) which such member may receive under a retirement plan's law only by making a voluntary additional contribution, in an amount determined under the retirement plan's law and procedures established by the board, which does not exceed the amount necessary to fund the benefit attributable to such service credit.
(iv) A retirement plan shall fail to meet the requirements of this paragraph if the retirement plan's law specifically provides for a purchase of nonqualified service purchase, and if:
(a) More than five years of nonqualified service credit are taken into account for purposes of this paragraph; or
(b) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under a retirement plan. For purposes of this paragraph, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means the same as provided in section 415(n)(3)(C) of the federal internal revenue code.
(v) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal internal revenue code applies, without regard to whether the transfer is made between plans maintained by the same employer:
(a) The limitations of subparagraph (iv) shall not apply in determining whether the transfer is for the purchase of permissive service credit; and
(b) the distribution rules applicable under federal law to a retirement plan shall apply to such amounts and any benefits
attributable to such amounts.

(vi) For an eligible member, the limitation of section 415(c)(1) of the federal internal revenue code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the statute as in effect on August 5, 1997. For purposes of this subparagraph, an eligible member is an individual who first became a member in the retirement plan before January 1, 1998.

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

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

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

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

(i) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For limitation years beginning after December 30, 2000, compensation shall also include any elective amounts that are not includable in the gross income of the employee by reason of section 132(f)(4) of the federal internal revenue code.

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

(iii) For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of 2½ two and a half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

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

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

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

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

(v) An employee who is in qualified military service, within the
meaning of section 414(u)(1) of the federal internal revenue code, shall be
treated as receiving compensation from the employer during such period
of qualified military service equal to: (a) The compensation the
employee would have received during such period if the employee were
not in qualified military service, determined based on the rate of pay the
employee would have received from the employer but for the absence
during the period of qualified military service; or (b) if the
compensation the employee would have received during such period was
not reasonably certain, the employee's average compensation from the
employer during the twelve-month period immediately preceding the
qualified military service, or if shorter, the period of employment
immediately preceding the qualified military service.
(iv)(vi) Back pay, within the meaning of treasury regulation
section 1.415(c)-2(g)(8), shall be treated as compensation for the
limitation year to which the back pay relates to the extent the back
pay represents wages and compensation that would otherwise be
included under this definition.
(7) On and after January 1, 2009, for purposes of applying the
limits under section 415(b) of the federal internal revenue code, the
following shall apply:
(A) A member's applicable limit shall be applied to the member's
annual benefit in the first limitation year without regard to any
automatic cost-of-living increases;
(B) to the extent the member's annual benefit equals or exceeds
such limit, the member shall no longer be eligible for cost-of-living
increases until such time as the benefit plus the accumulated increases
are less than such limit;
(C) thereafter, in any subsequent limitation year, the member's
annual benefit including any automatic cost-of-living increase
applicable shall be tested under the then applicable benefit limit
including any adjustment to the dollar limit under section 415(b)(1)
(A) or 415(d) of the federal internal revenue code and the regulations
thereunder; and
(D) in no event shall a member's annual benefit payable from a
retirement plan in any limitation year be greater than the limit
applicable at the annuity starting date, as increased in subsequent
years pursuant to section 415(d) of the federal internal revenue code
and the regulations thereunder. If the form of benefit without regard
to the automatic benefit increase feature is not a straight life annuity,
then the preceding sentence is applied by reducing the limit under
section 415(b) of the federal internal revenue code applicable at the
annuity starting date to an actuarially equivalent amount determined
using the assumptions specified in treasury regulation section
1.415(b)-1(c)(2)(ii) that take into account the death benefits under the
form of benefit. This subsection applies to distributions made on and
after January 1, 1993. A distributee may elect to have any portion of
an eligible rollover distribution paid directly to an eligible retirement
plan specified by the distributee in a transfer made from the
retirement system.

(i) An eligible rollover distribution is any distribution of all or
any portion of the balance to the credit of the distributee, except that
an eligible rollover distribution does not include: (a) Any distribution
that is one of a series of substantially equal periodic payments, not less
frequently than annually, made for the life or the life expectancy of the
distributee or the joint lives or joint life expectancies of the distributee
and the distributee's designated beneficiary or for a specified period of
10 years or more; (b) any distribution to the extent such distribution is
required under section 401(a)(9) of the federal internal revenue code;
(c) the portion of any distribution that is not includable in gross
income; and (d) any other distribution that is reasonably expected to
total less than $200 during the year. Effective January 1, 2002, a
portion of a distribution shall not fail to be an eligible rollover
distribution merely because the portion consists of after-tax employee
contributions that are not includable in gross income. However, such
portion may be transferred only to an individual retirement account
or annuity described in section 408(a) or (b) of the federal internal
revenue code, or to a qualified defined contribution plan described in
section 401(a) of the federal internal revenue code or to a qualified
plan described in section 403(a) of the federal internal revenue code,
that agrees to separately account for amounts so transferred and earnings
on such amounts, including separately accounting for the portion of the
distribution that is includable in gross income and the portion of the
distribution that is not so includible.

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

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

(b) an individual retirement annuity described in section 408(b)
    of the federal internal revenue code;
(c) an annuity plan described in section 403(a) of the federal internal revenue code;

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

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the federal internal revenue code;

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

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

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

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

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

(8) Notwithstanding any law to the contrary, the board may accept a direct or indirect eligible rollover distributions for the purpose of the purchase of service credit. In addition, the board may accept a direct trustee to trustee transfer from a deferred compensation plan under section 457(b) of the federal internal revenue code or a tax sheltered annuity under section 403(b) of the federal internal revenue code for: (A) The purchase of permissive service credit, as defined under section 415(n)(3)(A) of the federal internal revenue code; or (B) a repayment to which section 415 of the federal internal revenue code does not apply pursuant to section
1 415(k)(3) of the federal internal revenue code. Any such transfer shall
2 be allowed as provided in this subsection to the extent permitted by
3 law, subject to any conditions, proofs or acceptance established or
4 required by the board or the board's designee.
5  (9) Where required by the act, an employer shall pick up and pay
6 contributions that would otherwise be payable by members of a
7 retirement plan in accordance with section 414(h)(2) of the federal
8 internal revenue code as follows:
9  (A) The contributions, although designated as employee
10 contributions, are being paid by the employer in lieu of contributions
11 by the employee;
12  (B) the employee must not have been given the option of receiving
13 the amounts directly instead of having them paid to the retirement
14 plan; and
15  (C) the pickup shall apply to amounts that a member elects to
16 contribute to receive credit for prior or participating service if the
17 election is irrevocable and applies to amounts contributed before
18 retirement.
19  (10) (A) Notwithstanding any provision of this plan to the
20 contrary, contributions, benefits and service credit with respect to
21 qualified military service will be provided in accordance with section
22 414(u) of the federal internal revenue code and the uniformed services
24  (B) Effective with respect to deaths occurring on or after January 1,
25 2007, while a member is performing qualified military service, as defined
26 in chapter 43 of title 38, United States code, to the extent required by
27 section 401(a)(37) of the federal internal revenue code, survivors of a
28 member in the system, are entitled to any additional benefits that the
29 system would provide if the member had resumed employment and then
30 died, such as accelerated vesting or survivor benefits that are contingent
31 on the member's death while employed. A deceased member's period of
32 qualified military service must be counted for vesting purposes.
33  (C) Effective with respect to deaths or disabilities, or both, occurring
34 on or after January 1, 2007, while a member is performing qualified
35 military service, as defined in chapter 43 of title 38, United States code, to
36 the extent permitted by section 414(u)(9) of the federal internal revenue
37 code, for the benefit accrual purposes and in the case of death, for vesting
38 purposes, the member will be treated as having earned years of service for
39 the period of qualified military service, having returned to employment on
40 the day before the death or disability, or both, and then having terminated
41 on the date of death or disability. This provision shall be applied to all
42 similarly situated individuals in a reasonably equivalent manner.
43  (D) Beginning January 1, 2009, to the extent required by section
414(u)(12) of the federal internal revenue code, an individual receiving
differential wage payments, as defined under section 3401(h)(2) of the
federal internal revenue code, from an employer shall be treated as
employed by that employer, and the differential wage payment shall be
treated as compensation for purposes of applying the limits on annual
additions under section 415(c) of the federal internal revenue code. This
provision shall be applied to all similarly situated individuals in a
reasonably equivalent manner.

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

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

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

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

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

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

(B) the applicable interest factor is 8% per year.

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

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

(B) The applicable interest factor is 8% per year.

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

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

(B) the applicable interest factor is 8% per year.

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

Sec. 3. K.S.A. 74-4910 and K.S.A. 2011 Supp. 74-4920 and 74-
49,123 are hereby repealed.
Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.