

As Amended by Senate Committee

Session of 2017

SENATE BILL No. 138

By Committee on Ways and Means

2-1

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; earnings
3 limitation; exemptions; amending K.S.A. 2016 Supp. 46-2201, 74-4914
4 and 74-4937 and repealing the existing sections; also repealing K.S.A.
5 2016 Supp. 74-4914f.
6

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

8 Section 1. K.S.A. 2016 Supp. 46-2201 is hereby amended to read as
9 follows: 46-2201. (a) There is hereby created the joint committee on
10 pensions, investments and benefits which shall be composed of five
11 senators and eight members of the house of representatives. The five
12 senate members shall be the chairperson of the standing committee on
13 ways and means of the senate, or a member of such committee appointed
14 by the chairperson, two members appointed by the president and two
15 members appointed by the minority leader. The eight representative
16 members shall be the chairperson of the standing committee on
17 appropriations of the house of representatives, or a member of such
18 committee appointed by the chairperson, four members appointed by the
19 speaker and three members appointed by the minority leader.

20 (b) All members of the joint committee on pensions, investments and
21 benefits shall serve for terms ending on the first day of the regular
22 legislative session in odd-numbered years. On and after the first day of the
23 regular legislative session in odd-numbered years, the chairperson shall be
24 one of the representative members of the joint committee selected by the
25 speaker and the vice-chairperson shall be one of the senate members
26 selected by the president and on and after the first day of the regular
27 legislative session in even-numbered years, the chairperson shall be one of
28 the senate members of the joint committee selected by the president and
29 the vice-chairperson shall be one of the representative members of the
30 joint committee selected by the speaker. The chairperson and vice-
31 chairperson of the joint committee shall serve in such capacities until the
32 first day of the regular legislative session in the ensuing year. The vice-
33 chairperson shall exercise all of the powers of the chairperson in the
34 absence of the chairperson.

35 (c) The joint committee on pensions, investments and benefits shall
36 meet at any time and at any place within the state on call of the

1 chairperson. Members of the joint committee shall receive compensation
2 and travel expenses and subsistence expenses or allowances as provided in
3 K.S.A. 75-3212, and amendments thereto, when attending meetings of
4 such committee authorized by the legislative coordinating council.

5 (d) In accordance with K.S.A. 46-1204, and amendments thereto, the
6 legislative coordinating council may provide for such professional services
7 as may be requested by the joint committee on pensions, investments and
8 benefits.

9 (e) The joint committee on pensions, investments and benefits may
10 introduce such legislation as deemed necessary in performing such
11 committee's functions.

12 (f) The joint committee on pensions, investments and benefits shall:

13 (1) Monitor, review and make recommendations regarding
14 investment policies and objectives formulated by the board of trustees of
15 the Kansas public employees retirement system;

16 (2) review and make recommendations relating to benefits for
17 members under the Kansas public employees retirement system;

18 (3) consider and make recommendations to the standing committee of
19 the senate specified by the president of the senate relating to the
20 confirmation of members of the board of trustees of the Kansas public
21 employees retirement system appointed pursuant to K.S.A. 74-4905, and
22 amendments thereto. The information provided by the Kansas bureau of
23 investigation or other criminal justice agency pursuant to K.S.A. 74-
24 4905(h), and amendments thereto, relating to the confirmation of members
25 of the board to the standing committee of the senate specified by the
26 president shall be forwarded by the Kansas bureau of investigation or such
27 other criminal justice agency to such joint committee for such joint
28 committee's consideration and other than conviction data, shall be
29 confidential and shall not be disclosed except to members and employees
30 of the joint committee as necessary to determine qualifications of such
31 member. The committee, in accordance with K.S.A. 75-4319, and
32 amendments thereto, shall recess for a closed or executive meeting to
33 receive and discuss information received by the committee pursuant to this
34 subsection;

35 (4) review and make recommendations relating to the inclusion of
36 city and county correctional officers as eligible members of the Kansas
37 police and firemen's retirement system; and

38 (5) review reports regarding working after retirement exceptions
39 pursuant to K.S.A. 74-4914 ~~and 74-4937~~, and amendments thereto. The
40 joint committee may appoint a subcommittee to carry out the provisions of
41 this subsection.

42 Sec. 2. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as
43 follows: 74-4914. (1) The normal retirement date for a member of the

1 system shall be the first day of the month coinciding with or following
2 termination of employment with any participating employer not followed
3 by employment with any participating employer within 60 days, **or 180**
4 **days as provided in subsection (10)**, and without any prearranged
5 agreement for employment with any participating employer, and the
6 attainment of age 65 or, commencing July 1, 1993, age 62 with the
7 completion of 10 years of credited service or the first day of the month
8 coinciding with or following the date that the total of the number of years
9 of credited service and the number of years of attained age of the member
10 is equal to or more than 85. In no event shall a normal retirement date for a
11 member be before six months after the entry date of the participating
12 employer by whom such member is employed. A member may retire on
13 the normal retirement date or on the first day of any month thereafter upon
14 the filing with the office of the retirement system of an application in such
15 form and manner as the board shall prescribe. Such application shall
16 contain a certification by the member that the member will not be
17 employed with any participating employer within 60 days, **or 180 days as**
18 **provided in subsection (10)**, of retirement and the member has not entered
19 into a prearranged agreement for employment with any participating
20 employer. Nothing herein shall prevent any person, member or retirant
21 from being employed, appointed or elected as an employee, appointee,
22 officer or member of the legislature. Elected officers may retire from the
23 system on any date on or after the attainment of the normal retirement
24 date, but no retirement benefits payable under this act shall be paid until
25 the member has terminated such member's office.

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

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

34 (4) Any member may retire before such member's normal retirement
35 date on the first day of any month coinciding with or following
36 termination of employment with any participating employer not followed
37 by employment with any participating employer within 60 days, **or 180**
38 **days as provided in subsection (10)**, and the attainment of age 55 with the
39 completion of 10 years of credited service, but in no event before six
40 months after the entry date, upon the filing with the office of the retirement
41 system of an application for retirement in such form and manner as the
42 board shall prescribe. The member's application for retirement shall
43 contain a certification by the member that the member will not be

1 employed with any participating employer within 60 days, **or 180 days as**
2 **provided in subsection (10)**, of retirement and the member has not entered
3 into a prearranged agreement for employment with any participating
4 employer.

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

1 or employment of a retirant by a third-party entity shall not apply to any
2 contract for services entered into prior to April 1, 2009, between a
3 participating employer and third-party entity as described in this
4 subsection. Any retirant employed by a participating employer or a third-
5 party entity as provided in this subsection shall not make contributions nor
6 receive 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 may be
9 needed by the executive director to carry out the provisions of this act. The
10 provisions of this subsection shall not apply to retirants employed as
11 ~~substitute teachers or~~ officers, employees or appointees of the legislature.
12 The provisions of this subsection shall not apply to members of the
13 legislature prior to January 8, 2000. The provisions of this subsection shall
14 not apply to any other elected officials prior to the term of office of such
15 elected official which commences on or after July 1, 2000. The provisions
16 of this subsection shall apply to any other elected official, except an
17 elected city or county officer as further provided in this subsection, on and
18 after the term of office of such other elected official which commences on
19 or after July 1, 2000. Notwithstanding any provisions of law to the
20 contrary, when an elected city or county officer is retired under the
21 provisions of subsection (1) or (4) of this section and is paid an amount of
22 compensation of \$25,000 or more in any one calendar year between July 1,
23 2016, and July 1, 2020, such officer may receive such officer's salary, and
24 still be entitled to receive such officer's retirement benefit pursuant to the
25 provisions of K.S.A. 74-4915 et seq., and amendments thereto. Except as
26 otherwise provided, commencing January 8, 2001, the provisions of this
27 subsection shall apply to members of the legislature. For determination of
28 the amount of compensation paid pursuant to this subsection, for members
29 of the legislature, compensation shall include any amount paid as provided
30 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,
31 or pursuant to K.S.A. 46-137b, and amendments thereto, ***to the extent that***
32 ***any such amount paid is included in federal adjusted gross income and***
33 ***subject to federal income taxation.*** Notwithstanding any provision of law
34 to the contrary, when a member of the legislature is paid an amount of
35 compensation of \$20,000 or more in any one calendar year, the member
36 may continue to receive any amount provided in K.S.A. 46-137a(b) and
37 (d), and amendments thereto, and still be entitled to receive such member's
38 retirement benefit. Commencing July 1, 2005, the provisions of this
39 subsection shall not apply to retirants who either retired under the
40 provisions of subsection (1), or, if they retired under the provisions of
41 subsection (4), were retired more than 30 days prior to the effective date of
42 this act and are licensed professional nurses or licensed practical nurses
43 employed by the state of Kansas in an institution as defined in K.S.A. 76-

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

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

15 (7) (a) Except as provided in K.S.A. 74-4937(3), ~~(4), or (5)~~, and
16 amendments thereto, **subsection (10)** and the provisions of this subsection,
17 commencing July 1, 2016, and ending July 1, 2020, any retirant who is
18 employed or appointed in or to any position by a participating employer or
19 a third-party entity who contracts services with a participating employer to
20 fill a position, without any prearranged agreement with such participating
21 employer and not prior to 60 days after such retirant's retirement date, shall
22 not receive any retirement benefit for any month in any calendar year in
23 which the retirant receives compensation in an amount equal to \$25,000 or
24 more, pursuant to this subsection. The provisions of this subsection shall
25 apply to members of the legislature.

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

28 (i) Licensed professional nurses or licensed practical nurses employed
29 by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or
30 38-2302(~~†~~)(k), and amendments thereto, the Kansas soldiers' home or the
31 Kansas veterans' home. The participating employer of such retirant shall
32 pay to the system the actuarially determined employer contribution based
33 on the retirant's compensation and the statutorily prescribed employee
34 contribution during any such period of employment;

35 (ii) employed by a school district in a position as provided in K.S.A.
36 74-4937(3), ~~(4) or (5)~~, and amendments thereto. ~~Any retirant employed by~~
37 ~~a school district in a position under K.S.A. 74-4937(3), (4) or (5), and~~
38 ~~amendments thereto, shall be subject to the provisions of subsection (7)(h)~~
39 ~~which relate to a limitation on the total term of employment with any~~
40 ~~participating employer in which a retirant may receive such retirant's full~~
41 ~~retirement benefit;~~

42 (iii) certified law enforcement officers employed by the law
43 enforcement training center. Such law enforcement officers shall receive

1 their benefits notwithstanding this subsection. The law enforcement
2 training center shall pay to the system the ~~actuarial~~ *actuarially* determined
3 employer contribution and the statutorily prescribed employee contribution
4 based on the retirant's compensation during any such period of
5 employment;

6 (iv) members of the Kansas police and firemen's retirement system
7 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members
8 of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
9 amendments thereto;

10 (v) employed as ~~substitute teachers or~~ officers, employees or
11 appointees of the legislature;

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

15 (vii) employed by, or have accepted employment from, a participating
16 employer prior to May 1, 2015. Any break in continuous employment by a
17 retirant or move to a different position by a retirant during the effective
18 period of this subsection shall be deemed new employment and shall
19 subject the retirant to the provisions of this subsection.

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

35 (d) ~~A participating employer may employ a retirant without regard to~~
36 ~~the compensation limitation in this subsection for a period of one calendar~~
37 ~~year or one school year, as the case may be, if the following requirements~~
38 ~~are met:~~

39 (i) ~~The employer certifies to the board that the position being filled~~
40 ~~has been vacated due to an unexpected emergency or the employer has~~
41 ~~been unsuccessful in filling the position;~~

42 (ii) ~~the employer pays to the system a 30% employer contribution~~
43 ~~based on the retirant's compensation during any such period of~~

1 employment. On or before July 1, 2019, and at least every three years
2 thereafter, the board, in consultation with the system's consulting actuary,
3 shall evaluate the plan's experience with employment of such retirants and
4 the corresponding employer contribution rate to assess whether the
5 employer contribution rate can be expected to fund adverse experience or
6 higher liabilities accruing under the system in connection with
7 employment of such retirants, to the extent that such liability can be
8 ascertained or estimated. Based on this evaluation of the plan's experience,
9 the board may certify to the division of the budget, in the case of the state,
10 and to the agent for each other participating employer, a new rate if needed
11 to more fully fund such adverse experience or additional liabilities, but
12 such rate shall not be less than 30%; and

13 (iii) ~~the employer maintains documentation of its efforts to fill the~~
14 ~~position with a non-retirant and provides such documentation to the joint~~
15 ~~committee on pensions, investments and benefits upon request of the~~
16 ~~committee.~~

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

31 (i) ~~No applications were submitted for the position;~~

32 (ii) ~~if applications were submitted, none of the applicants met the~~
33 ~~reference screening criteria of the employer; or~~

34 (iii) ~~if applications were submitted, none of the applicants possessed~~
35 ~~the appropriate licensure, certification or other necessary credentials for~~
36 ~~the position.~~

37 (f) ~~On July 1, 2021, and at least every five years thereafter, the joint~~
38 ~~committee on pensions, investments and benefits shall study the issue of~~
39 ~~whether the compensation limitation prescribed in this subsection should~~
40 ~~be adjusted. The committee shall consider the effect of inflation and data~~
41 ~~on member retirement benefits and active employee compensation.~~

42 (g) (e) ~~Nothing in this subsection shall be construed to create any~~
43 ~~right, or to authorize the creation of any right, which is not subject to~~

1 amendment or nullification by act of the legislature.

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

12 (8) If determined by the retirement system that a retirant entered into
13 a prearranged agreement for employment with a participating employer
14 prior to such retirant's retirement and prior to the end of the subsequent 60-
15 day waiting period, ***or the 180-day waiting period under subsection (10)***,
16 the monthly retirement benefit of such retirant shall be suspended during
17 the period that begins on the month in which the retirant is re-employed
18 and ends six months after the retirant's termination of such employment.
19 The retirant shall repay to the retirement system all monthly retirement
20 benefits paid to the retirant by the retirement system that the retirant
21 received after such employment began. The participating employer which
22 hired such retirant shall be required to pay to the system any fees, fines,
23 penalties or any other cost imposed by the internal revenue service and
24 indemnify the system for any cost incurred by the system to defend any
25 action brought by the internal revenue service based on in-service
26 distributions which are a result of any determined prearranged agreement
27 and for any cost incurred by the system to collect any monthly retirement
28 benefit required to be repaid by such retirant pursuant to this subsection.

29 (9) For the purposes of this section a prearranged agreement for
30 employment may be determined by whether the facts and circumstances of
31 the situation indicate that the employer and employee reasonably
32 anticipated that further services would be performed after the employee's
33 retirement.

34 ***(10) (a) Notwithstanding the provisions of subsection (5) or (7) to***
35 ***the contrary, for any retirant whose retirement date is on or after***
36 ***January 1, 2018, who is retired more than 60 days, if such retirant's age***
37 ***on the date of retirement is age 62 or older, or is retired more than 180***
38 ***days, if such retirant's age on the date of retirement is less than age 62,***
39 ***and who is subsequently hired in a covered position, as defined in K.S.A.***
40 ***2016 Supp. 74-49,202, and amendments thereto, such retirant shall not***
41 ***be subject to an earnings limitation that when met or exceeded requires***
42 ***that the retirant not receive a retirement benefit for any month for which***
43 ***such retirant serves in such covered position. The participating employer***

1 *of such retirant shall pay to the system a 30% employer contribution*
2 *based on the retirant's compensation during any such period of*
3 *employment, except that for retirants who are members of the legislature*
4 *or other elected officials, the participating employer shall pay to the*
5 *system the statutorily prescribed employer contribution rate.*

6 *(b) Notwithstanding the provisions of subsection (5) or (7) to the*
7 *contrary, for any retirant whose retirement date is on or after January 1,*
8 *2018, who is retired more than 60 days, if such retirant's age on the date*
9 *of retirement is age 62 or older, or is retired more than 180 days, if such*
10 *retirant's age on the date of retirement is less than age 62, and who is*
11 *subsequently hired in a non-covered position, such retirant shall not be*
12 *subject to an earnings limitation that when met or exceeded requires*
13 *that the retirant not receive a retirement benefit for any month for which*
14 *such retirant serves in such non-covered position. No employer*
15 *contribution shall be paid to the system on compensation paid to a*
16 *retirant hired in a non-covered position.*

17 *(c) The participating employer shall enroll all retirants and report*
18 *to the system when compensation is paid to a retirant as provided in this*
19 *subsection. Such report shall contain a certification by the appointing*
20 *authority of the participating employer that any hired retirant has not*
21 *been employed by the participating employer within 60 days of such*
22 *retirant's retirement in the case of a retirant whose age on the date of*
23 *retirement is age 62 or older, or within 180 days of such retirant's*
24 *retirement in the case of a retirant whose age on the date of retirement is*
25 *less than age 62, and that there was no prearranged agreement for*
26 *employment between the participating employer and the hired retirant.*
27 *Upon request of the executive director of the system, the participating*
28 *employer shall provide such information as may be needed by the*
29 *executive director to carry out the provisions of this subsection. No*
30 *retirant shall make contributions to the system or receive credit for*
31 *service while employed under the provisions of this subsection.*

32 *(d) Nothing in this subsection shall be construed to create any*
33 *right, or to authorize the creation of any right, that is not subject to*
34 *amendment or nullification by act of the legislature.*

35 Sec. 3. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as
36 follows: 74-4937. (1) The normal retirement date of a member of the
37 system who is in school employment and who is subject to K.S.A. 74-
38 4940, and amendments thereto, shall be the first day of the month
39 coinciding with or following termination of employment not followed by
40 employment with any participating employer within 60 days, **or 180 days**
41 **as provided in K.S.A. 74-4914(10), and amendments thereto**, and without
42 any prearranged agreement for employment with any participating
43 employer, and the attainment of age 65 or, commencing July 1, 1986, age

1 65 or age 60 with the completion of 35 years of credited service or at any
2 age with the completion of 40 years of credited service, or commencing
3 July 1, 1993, any alternative normal retirement date already prescribed by
4 law or age 62 with the completion of 10 years of credited service or the
5 first day of the month coinciding with or following the date that the total
6 of the number of years of credited service and the number of years of
7 attained age of the member is equal to or more than 85. Each member
8 upon giving prior notice to the appointing authority and the retirement
9 system may retire on the normal retirement date or the first day of any
10 month thereafter. Such member's application for retirement shall contain a
11 certification by the member that the member will not be employed with
12 any participating employer within 60 days, **or 180 days as provided in**
13 ***K.S.A. 74-4914(10), and amendments thereto***, of retirement and the
14 member has not entered into a prearranged agreement for employment
15 with any participating employer.

16 (2) Any member who is in school employment and who is subject to
17 K.S.A. 74-4940, and amendments thereto, may retire before such
18 member's normal retirement date on the first day of the month coinciding
19 with or following termination of employment not followed by employment
20 with any participating employer within 60 days, **or 180 days as provided**
21 ***in K.S.A. 74-4914(10), and amendments thereto***, and the attainment of
22 age 55 with the completion of 10 years of credited service, upon the filing
23 with the office of the retirement system of an application for retirement in
24 such form and manner as the board shall prescribe. The member's
25 application for retirement shall contain a certification by the member that
26 the member will not be employed with any participating employer within
27 60 days, **or 180 days as provided in K.S.A. 74-4914(10), and**
28 ***amendments thereto***, of retirement and the member has not entered into a
29 prearranged agreement for employment with any participating employer.

30 (3) ~~Before July 1, 2020,~~ The provisions of K.S.A. 74-4914(5) *or* (7),
31 and amendments thereto, which relate to an earnings limitation which
32 when met or exceeded requires that the retirant not receive a retirement
33 benefit for any month for which such retirant serves in a position as
34 described herein shall not apply to retirants *who retired on or after July 1,*
35 *2009, and* who either retired under the provisions of K.S.A. 74-4914(l),
36 and amendments thereto, related to normal retirement, or, if they retired
37 under the provisions of K.S.A. 74-4914(4), and amendments thereto,
38 related to early retirement, were retired more than 60 days prior to ~~May 28,~~
39 ~~2009~~ *July 1, 2017,* and are subsequently hired in a position that requires a
40 license under K.S.A. 72-1388, and amendments thereto, or other provision
41 of law. ~~The provisions of this subsection shall only apply to retirants who~~
42 ~~retired prior to May 1, 2015.~~ The provisions of this subsection do not
43 apply to retirants who retired under K.S.A. 74-4914(4), and amendments

1 thereto, which relates to early retirement prior to age 62. Except as
2 otherwise provided, when a retirant is employed by the same school
3 district or a different school district with which such retirant was employed
4 during the final two years of such retirant's participation or employed by a
5 third-party entity who contracts services with a school district to fill a
6 position as described in this subsection, the participating employer of such
7 retirant shall pay to the system the actuarially determined employer
8 contribution based on the retirant's compensation during any such period
9 of employment plus 8%. The participating employer shall enroll all
10 retirants and report to the system when compensation is paid to a retirant
11 as provided in this subsection. Such notice shall contain a certification by
12 the appointing authority of the participating employer that any hired
13 retirant has not been employed by the participating employer within 60
14 days of such retirant's retirement and that there was no prearranged
15 agreement for employment between the participating employer and the
16 hired retirant. Upon request of the executive director of the system, the
17 participating employer shall provide such information as may be needed
18 by the executive director to carry out the provisions of this subsection. ~~The~~
19 ~~provisions of this subsection shall not apply to retirants employed as~~
20 ~~substitute teachers.~~ The provisions of K.S.A. 74-4914(5), and amendments
21 thereto, shall be applicable to retirants employed as described in this
22 subsection, except as specifically provided in this subsection. Nothing in
23 this subsection shall be construed to create any right, or to authorize the
24 creation of any right, which is not subject to amendment or nullification by
25 act of the legislature. ~~The provisions of this subsection shall expire on June~~
26 ~~30, 2020. After such date the Kansas public employees retirement system~~
27 ~~and its actuary shall report the experience to the joint committee on~~
28 ~~pensions, investments and benefits.~~

29 ~~(4) (a) On and after July 1, 2016, a school district may hire a retired~~
30 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~
31 ~~72-962, and amendments thereto, if such retirant is hired not prior to 60~~
32 ~~days after such retirant's retirement date without any prearrangement with~~
33 ~~such school district in the manner prescribed in this subsection. The~~
34 ~~participating employer shall enroll all retirants and report to the system~~
35 ~~when compensation is paid to a retirant as provided in this subsection.~~
36 ~~Such notice shall contain a certification by the appointing authority of the~~
37 ~~participating employer that any hired retirant has not been employed by~~
38 ~~the participating employer within 60 days of such retirant's retirement and~~
39 ~~that there was no prearranged agreement for employment between the~~
40 ~~participating employer and the hired retirant. Upon request of the~~
41 ~~executive director of the system, the participating employer shall provide~~
42 ~~such information as may be needed by the executive director to carry out~~
43 ~~the provisions of this subsection.~~

1 ~~(b) A retirant hired under the provisions of this subsection may~~
2 ~~continue to receive such retirant's full retirement benefit for a period not to~~
3 ~~exceed three school years or 36 months, whichever is less, and shall not be~~
4 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~
5 ~~which relate to a compensation limitation which when met or exceeded~~
6 ~~requires that the retirant not receive a retirement benefit for any month for~~
7 ~~which such retirant serves in a position as described herein. Such retirant~~
8 ~~may be employed by such employer for some or all of a school year, and~~
9 ~~in subsequent school years if the employer is unable to permanently fill the~~
10 ~~position with active members, so long as the retirant's total term of~~
11 ~~employment with all employers under this subsection does not exceed 36~~
12 ~~months or three school years, whichever is less. After such period, the~~
13 ~~retirant shall be subject to the provisions of K.S.A. 74-4914(7), and~~
14 ~~amendments thereto, which relate to a compensation limitation which~~
15 ~~when met or exceeded requires that the retirant not receive a retirement~~
16 ~~benefit for any month for which such retirant serves in a position as~~
17 ~~described herein. The participating employer of such retirant shall pay to~~
18 ~~the system a 30% employer contribution based on the retirant's~~
19 ~~compensation during any such period of employment. On or before July 1,~~
20 ~~2019, and at least every three years thereafter, the board, in consultation~~
21 ~~with the system's consulting actuary, shall evaluate the plan's experience~~
22 ~~with employment of such retirants and the corresponding employer~~
23 ~~contribution rate to assess whether the employer contribution rate can be~~
24 ~~expected to fund adverse experience or higher liabilities accruing under~~
25 ~~the system in connection with employment of such retirants, to the extent~~
26 ~~that such liability can be ascertained or estimated. Based on this evaluation~~
27 ~~of the plan's experience, the board may certify to the division of the~~
28 ~~budget, in the case of the state, and to the agent for each other participating~~
29 ~~employer, a new rate if needed to more fully fund such adverse experience~~
30 ~~or additional liabilities, but such rate shall not be less than 30%. The~~
31 ~~provisions of this subsection shall not apply to retirants employed as~~
32 ~~substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments~~
33 ~~thereto, shall be applicable to retirants employed as special teachers,~~
34 ~~except as specifically provided in this subsection.~~

35 ~~(c) Each school district that uses the provisions of this subsection to~~
36 ~~hire retirants shall maintain documentation describing their recruiting~~
37 ~~efforts to obtain non-retirant employees to fill the special teacher positions.~~
38 ~~Upon request of the joint committee on pensions, investments and~~
39 ~~benefits, an employer shall provide such documentation to the committee.~~
40 ~~If the committee finds that an employer has not made sufficient efforts to~~
41 ~~hire a non-retirant for the position or if the committee finds evidence of~~
42 ~~prearrangement in violation of this section, the three-year exemption~~
43 ~~provided pursuant to this subsection may be revoked. The committee shall~~

1 notify the executive director of the system that a retiree's exemption has
2 been revoked within 30 days of making such a determination.

3 ~~(d) An employer may submit a written assurance protocol to the~~
4 ~~system to make a one-time extension to the exception provided for in this~~
5 ~~subsection by one year. Such written assurance protocol shall be signed by~~
6 ~~the superintendent and the board president of the school district. Such~~
7 ~~written assurance protocol shall state that the position was advertised on~~
8 ~~multiple platforms for a minimum of 30 calendar days and that at least one~~
9 ~~of the following conditions occurred:~~

10 ~~(i) No applications were submitted for the position;~~

11 ~~(ii) if applications were submitted, none of the applicants met the~~
12 ~~reference screening criteria of the employer; or~~

13 ~~(iii) if applications were submitted, none of the applicants possessed~~
14 ~~an appropriate teaching license for the state of Kansas or possessed the~~
15 ~~appropriate credentials to receive any type of teaching license from the~~
16 ~~state of Kansas.~~

17 ~~(e) Nothing in this subsection shall be construed to create any right,~~
18 ~~or to authorize the creation of any right, which is not subject to~~
19 ~~amendment or nullification by act of the legislature.~~

20 ~~(f) The provisions of this subsection shall expire on July 1, 2020.~~

21 ~~(5) (a) On and after July 1, 2016, a school district may hire a retired~~
22 ~~licensed professional to fill a non-special teacher position if such retiree is~~
23 ~~hired not prior to 60 days after such retiree's retirement date without any~~
24 ~~prearrangement with such school district, and if such school district hires a~~
25 ~~retiree for a hard-to-fill position in the manner prescribed in this~~
26 ~~subsection. The participating employer shall enroll all retirees and report~~
27 ~~to the system when compensation is paid to a retiree as provided in this~~
28 ~~subsection. Such notice shall contain a certification by the appointing~~
29 ~~authority of the participating employer that any hired retiree has not been~~
30 ~~employed by the participating employer within 60 days of such retiree's~~
31 ~~retirement and that there was no prearranged agreement for employment~~
32 ~~between the participating employer and the hired retiree. Upon request of~~
33 ~~the executive director of the system, the participating employer shall~~
34 ~~provide such information as may be needed by the executive director to~~
35 ~~carry out the provisions of this subsection.~~

36 ~~(b) The state board of education shall annually certify the top five~~
37 ~~types of licensed positions that are hard to fill. A school district may hire a~~
38 ~~retiree to fill a hard-to-fill position for some or all of a school year and in~~
39 ~~subsequent school years if the employer is unable to permanently fill the~~
40 ~~position with an active member. A retiree first hired under the provisions~~
41 ~~of this subsection may be retained by an employer even if such retiree's~~
42 ~~type of position is no longer one of the five types of positions certified by~~
43 ~~the state board of education. A retiree hired under the provisions of this~~

1 subsection may continue to receive such retirant's full retirement benefit
2 for a period not to exceed three school years or 36 months, whichever is
3 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and
4 amendments thereto, which relate to a compensation limitation which
5 when met or exceeded requires that the retirant not receive a retirement
6 benefit for any month for which such retirant serves in a position as
7 described herein. Such retirant may be employed by such employer for
8 some or all of a school year, and in subsequent school years if the
9 employer is unable to permanently fill the position with active members,
10 so long as the retirant's total term of employment with all employers under
11 this subsection does not exceed 36 months or three school years,
12 whichever is less. After such period, the retirant shall be subject to the
13 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to
14 a compensation limitation which when met or exceeded requires that the
15 retirant not receive a retirement benefit for any month for which such
16 retirant serves in a position as described herein. The participating
17 employer of such retirant shall pay to the system a 30% employer
18 contribution based on the retirant's compensation during any such period
19 of employment. On or before July 1, 2019, and at least every three years
20 thereafter, the board, in consultation with the system's consulting actuary,
21 shall evaluate the plan's experience with employment of such retirants and
22 the corresponding employer contribution rate to assess whether the
23 employer contribution rate can be expected to fund adverse experience or
24 higher liabilities accruing under the system in connection with
25 employment of such retirants, to the extent that such liability can be
26 ascertained or estimated. Based on this evaluation of the plan's experience,
27 the board may certify to the division of the budget, in the case of the state,
28 and to the agent for each other participating employer, a new rate if needed
29 to more fully fund such adverse experience or additional liabilities, but
30 such rate shall not be less than 30%. The provisions of this subsection shall
31 not apply to retirants employed as substitute teachers. The provisions of
32 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
33 retirants employed as described in this subsection, except as specifically
34 provided in this subsection.

35 (e) Each school district that uses the provisions of this subsection to
36 hire retirants for hard-to-fill positions shall maintain documentation
37 describing their recruiting efforts to obtain non-retirant employees to fill
38 the hard-to-fill positions. Upon request of the joint committee on pensions,
39 investments and benefits, a school district shall provide such
40 documentation to the committee. If the committee finds that a school
41 district has not made sufficient efforts to hire a non-retirant for the position
42 or if the committee finds evidence of prearrangement in violation of this
43 section, the three-year exemption provided pursuant to this subsection may

1 be revoked. The committee shall notify the executive director of the
2 system that a retirant's exemption has been revoked within 30 days of
3 making such a determination.

4 (d) ~~An employer may submit a written assurance protocol to the~~
5 ~~system to make a one-time extension to the exception provided for in this~~
6 ~~subsection by one year. Such written assurance protocol shall be signed by~~
7 ~~the superintendent and the board president of the school district. Such~~
8 ~~written assurance protocol shall state that the position was advertised on~~
9 ~~multiple platforms for a minimum of 30 calendar days and that at least one~~
10 ~~of the following conditions occurred:~~

11 (i) ~~No applications were submitted for the position;~~

12 (ii) ~~if applications were submitted, none of the applicants met the~~
13 ~~reference screening criteria of the employer; or~~

14 (iii) ~~if applications were submitted, none of the applicants possessed~~
15 ~~an appropriate teaching license for the state of Kansas or possessed the~~
16 ~~appropriate credentials to receive any type of teaching license from the~~
17 ~~state of Kansas.~~

18 (e) ~~Nothing in this subsection shall be construed to create any right,~~
19 ~~or to authorize the creation of any right, which is not subject to~~
20 ~~amendment or nullification by act of the legislature.~~

21 (f) ~~The provisions of this subsection shall expire on July 1, 2020.~~

22 (6)(4) ~~The provisions of K.S.A. 74-4914(8), and amendments thereto,~~
23 ~~shall apply to retirants under the provisions of this section.~~

24 (7) ~~Any retirant hired by any participating employer under the~~
25 ~~provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and~~
26 ~~amendments thereto, may continue to receive such retirant's full retirement~~
27 ~~benefit so long as, commencing July 1, 2016, such retirant's total term of~~
28 ~~employment with all participating employers under one or more of such~~
29 ~~provisions does not exceed 48 months or four school years, whichever is~~
30 ~~less. After such period, such retirant shall not receive any retirement~~
31 ~~benefit for any month in any calendar year in which such retirant receives~~
32 ~~compensation in an amount equal to \$25,000 or more in such calendar~~
33 ~~year.~~

34 (8)(5) ~~For the purposes of this section a prearranged agreement for~~
35 ~~employment may be determined by whether the facts and circumstances of~~
36 ~~the situation indicate that the employer and employee reasonably~~
37 ~~anticipated that further services would be performed after the employee's~~
38 ~~retirement.~~

39 Sec. 4. ~~K.S.A. 2016 Supp. 46-2201, 74-4914, 74-4914f and 74-4937~~
40 ~~are hereby repealed.~~

41 Sec. 5. ~~This act shall take effect and be in force from and after its~~
42 ~~publication in the statute book.~~