

SENATE BILL No. 520

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; employer contributions; beneficiaries; investments; affiliation and membership; amending K.S.A. 74-4921, 74-4957 and 74-4967 and K.S.A. 2003 Supp. 20-2605, 74-4902, 74-4920 and 74-4927 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 20-2605 is hereby amended to read as follows: 20-2605. (a) The board shall select and employ or retain a qualified actuary who shall serve at its pleasure as its technical advisor on matters regarding operation of the retirement system for judges. The actuary shall:

(1) As soon after the effective date as practicable and once every three years thereafter, make a general investigation of the actuarial experience under the retirement system for judges including mortality, retirement, employment turnover and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; make a valuation of the liabilities and reserves of the retirement system for judges, and a determination of the contributions required by the retirement system for judges to discharge its liabilities and recommend to the board rates of employer contributions required to establish and maintain the retirement system for judges on an actuarial reserve basis.

(2) Perform such other duties as may be assigned by the board.

(b) Upon the basis of the actuarial valuation and appraisal and upon the recommendation of the actuary, the board shall certify, on or before July 15 of each year, to the division of budget an actuarially determined estimate of the rate of contribution which will be required, together with all judges' contributions and other assets of the retirement system for judges to pay all liabilities which shall exist or accrue under the retirement system for judges, including amortization of the unfunded accrued liability ~~over a period of 40 years commencing on July 1, 1993 as determined by the board.~~ The rate of contribution for the state determined under this section shall not include the costs of administration of the system.

(c) 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 the retirement system for judges as certified by the board and shall present the same to the legislature for allowance and appropriation.

(d) 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 reflected in the employer contribution rate in the fiscal year immediately following such enactment.

Sec. 2. K.S.A. 2003 Supp. 74-4902 is hereby amended to read as follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amendments thereto, unless otherwise provided or the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;

(2) "acts" means the provisions of articles 49 and 49a of the Kansas Statutes Annotated and amendments thereto;

(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion;

(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;

(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;

(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) "beneficiary" means, *subject to the provisions of K.S.A. 74-4927, and amendments thereto*, any natural person or persons or estate named by a member to receive any benefits as provided for by this act. Desig-

nations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at time of member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection.

(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) "compensation" means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that (A) any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member, (B) any increase in compensation for any member due to a reclassification or reallocation of such member's position or a reassignment of such member's job classification to a higher range or level and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 *et seq.* and amendments thereto, shall be included in the amount of compensation of such member used in determining such member's final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer's fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer's fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "compensation" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto;

(10) "credited service" means the sum of participating service and prior service and in no event shall credited service include any service which is credited under another retirement plan authorized under any law of this state;

(11) "dependent" means a parent or child of a member who is dependent upon the member for at least ½ of such parent or child's support;

(12) "effective date" means the date upon which the system becomes effective by operation of law;

(13) "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned or any noncommercial public television or radio station located in this state which receives state funds allocated by the Kansas public broadcasting commission whose employees are covered by social security. If a class or several classes of employees of any above defined employer are not covered by social security, such employer shall

be deemed an eligible employer only with respect to such class or those classes of employees who are covered by social security;

(14) “employee” means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, and any such officer or employee who is concurrently employed performing similar or related tasks by two or more participating employers, who each remit employer and employee contributions on behalf of such officer or employee to the system, and whose combined employment is not seasonal or temporary, and whose combined employment requires at least 1,000 hours of work per year, but not including: (A) Any employee who is a contributing member of the United States civil service retirement system; (B) any employee who is a contributing member of the federal employees retirement system; (C) any employee who is a leased employee as provided in section 414 of the federal internal revenue code of a participating employer; and (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto, except that no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913 and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system. Employees shall include any member of a board of county commissioners of any county and any council member or commissioner of a city whose compensation is equal to or exceeds \$5,000 per year;

(15) “entry date” means the date as of which an eligible employer joins the system. The first entry date pursuant to this act is January 1, 1962;

(16) “executive director” means the managing officer of the system employed by the board under this act;

(17) “final average salary” means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member’s final average salary shall be computed by multiplying such member’s highest monthly salary received in that year by 12; in the case of a member who became a member under subsection (3) of K.S.A. 74-4925 and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931 and amendments thereto and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if

the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, whose date of membership in the system is prior to July 1, 1993, and any member who is in such member's membership waiting period on July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as provided in subsection (2) of K.S.A. 74-4919h and amendments thereto which is completed within five years of retirement. For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system. In the case of any former member who was eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto prior to July 1, 1998, for the purpose of calculating final average salary of such member, such member's final average salary shall be based on such member's salary while a member of the system or while eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto, whichever is greater;

(18) "fiscal year" means, for the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund" means the fund created by this act for payment of expenses and benefits under the system and referred to as the fund;

(20) "leave of absence" means a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one year;

(21) "member" means an eligible employee who is in the system and is making the required employee contributions; any former employee who has made the required contributions to the system and has not received a refund if such member is within five years of termination of employment with a participating employer; or any former employee who has made the required contributions to the system, has not yet received a refund and has been granted a vested benefit;

(22) "military service" means service in the uniformed forces of the United States, for which retirement benefit credit must be given under the provisions of USERRA or service in the armed forces of the United States or in the commissioned corps of the United States public health service, which service is immediately preceded by a period of employment as an employee or by the entering into of an employment contract with a participating employer and is followed by return to employment as an employee with the same or another participating employer within 12 months immediately following discharge from such military service,

except that if the board determines that such return within 12 months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two years from the date of discharge or separation from military service;

(23) “normal retirement date” means the date on or after which a member may retire with full retirement benefits pursuant to K.S.A. 74-4914 and amendments thereto;

(24) “participating employer” means an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) “participating service” means the period of employment after the entry date for which credit is granted a member;

(26) “prior service” means the period of employment of a member prior to the entry date for which credit is granted a member under this act;

(27) “prior service annual salary” means the highest annual salary, not including any amounts received as payment for overtime or as reimbursement for travel or moving expense, received for personal services by the member from the current employer in any one of the three calendar years immediately preceding January 1, 1962, or the entry date of the employer, whichever is later, except that if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying such member’s highest monthly salary received in that year by 12;

(28) “retirant” means a member who has retired under this system;

(29) “retirement benefit” means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant. If there is no surviving spouse, the last warrant shall be payable to the designated beneficiary;

(30) “retirement system” or “system” means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) “social security” means the old age, survivors and disability insurance section of the federal social security act;

(32) “total disability” means a physical or mental disability which prevents the member from engaging, for remuneration or profit, in any occupation for which the member is reasonably suited by education, training or experience;

(33) “trust” means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927 and amendments thereto and payment of the member’s accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust shall be filed with the board. If there is a designated trust at the time of the member’s death, the insured death benefit for the member under K.S.A. 74-4927 and amendments thereto and the member’s accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid to the trust in lieu of the member’s beneficiary. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927 and amendments thereto and the member’s accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid in accordance with the provisions of subsection (7) of this section as in other cases where there is no named beneficiary living at the time of the member’s death and any payments so made shall be a full discharge and release to the system from any further claims;

(34) “salary” means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the

board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code “salary” shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member’s final average salary shall be computed by multiplying such member’s highest monthly salary received in that year by 12;

(35) “federal internal revenue code” means the federal internal revenue code of 1954 or 1986, as in effect on July 1, 2002, and as applicable to a governmental plan; and

(36) “USERRA” means the federal uniformed services employment and reemployment rights act of 1994 as in effect on July 1, 1998.

Sec. 3. K.S.A. 2003 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 over a period of 40 years commencing on July 1, 1993, and the actuarial accrued liability for members of the faculty and other persons who are employed by the state board of regents or by educational institutions under its management assisted by the state board of regents in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto, as provided in this section *as determined by the board*. ~~The actuarial accrued liability for all participating employers other than the state board of regents relating to members of the faculty and other persons described in this section, shall be amortized by annual payments that increase 4% for each year remaining in the amortization period. For all participating employers other than the state board of regents relating to members of the faculty and other persons described in this section, the projected unit credit shall to be used in annual actuarial valuations, commencing with the 1993 valuation, to determine the employer contribution rates that shall be certified by the board. The actuarial accrued liability for members of the faculty and other persons described in this subsection assisted by the state board of regents in the purchase of retirement annuities as provided in K.S.A. 74-4925 and amendments thereto shall be amortized by annual level payments over a period of 11 years commencing July 1, 1993. 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 ~~over a period of 34 years commencing on July 1, 1999, by annual payments that increase 4% for each year remaining in the amortization period as determined by the board.~~ For all participating employers described in this section, the ~~projected unit credit board shall determine the~~ actuarial cost method shall 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 ~~over a period of not to exceed 34 years commencing July 1, 1999,~~ 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. ~~For the fiscal year commencing in calendar year 1993, the employer rate of contribution for the state of Kansas and for participating employers under K.S.A. 74-4931 and amendments thereto shall be 3.1% of the amount of compensation upon which members contribute during the period. For the fiscal year commencing in calendar year 1994, the employer rate of contribution for the state of Kansas and for participating employers under K.S.A. 74-4931 and amendments thereto shall be 3.2% of the amount of compensation upon which members contribute during the period. For the fiscal year commencing in calendar year 1994, the employer rate of contribution for participating~~

~~employers other than the state of Kansas shall be 2.2% of the amount of compensation upon which members contribute during the period. Except as specifically provided in this section, for the fiscal year commencing in calendar year 1995, the rate of contribution certified to a participating employer shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.1% of the amount of compensation upon which members contribute during the period.~~

(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 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)~~ (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)~~ (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)~~ (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 ~~years~~ 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) There shall be an employer rate of contribution certified to the state of Kansas ~~and. There shall be a separate employer rate of contribution certified to 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 other than the state of Kansas.~~

(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 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 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 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.

(11) 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.

(12) 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.

(13) 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. 4. K.S.A. 74-4921 is hereby amended to read as follows: 74-4921. (1) There is hereby created in the state treasury the Kansas public employees retirement fund. All employee and employer contributions shall be deposited in the state treasury to be credited to the Kansas public employees retirement fund. The fund is a trust fund and shall be used solely for the exclusive purpose of providing benefits to members and member beneficiaries and defraying reasonable expenses of administering the fund. Investment income of the fund shall be added or credited to the fund as provided by law. All benefits payable under the system, refund of contributions and overpayments, purchases or investments under the law and expenses in connection with the system unless otherwise provided by law shall be paid from the fund. The director of accounts and reports is authorized to draw warrants on the state treasurer and against such fund upon the filing in the director's office of proper vouchers executed by the chairperson or the executive director of the board. As an alternative, payments from the fund may be made by credits to the accounts of recipients of payments in banks, savings and loan associations and credit unions. A payment shall be so made only upon the written authorization and direction of the recipient of payment and upon receipt of such authorization such payments shall be made in accordance therewith. Orders for payment of such claims may be contained on (a) a letter, memorandum, telegram, computer printout or similar writing, or (b) any form of communication, other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(2) The board shall have the responsibility for the management of the fund and shall discharge the board's duties with respect to the fund solely in the interests of the members and beneficiaries of the system for the exclusive purpose of providing benefits to members and such member's beneficiaries and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire,

retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(3) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to members and member beneficiaries, as provided by law and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(4) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(5) Notwithstanding subsection (4): (a) Total investments in common stock may be made in the amount of up to 60% of the total book value of the fund;

(b) the board may invest or reinvest moneys of the fund in alternative investments if the following conditions are satisfied:

(i) The total of ~~such the annual alternative investments investment~~ does not exceed more than ~~5%~~ 1% of the total ~~market value of~~ investment assets of the fund. ~~If the total of such alternative investments exceeds more than 5% of the total investment assets of the fund on the effective date of this act, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total of such alternative investments is less the 5% of the total investment assets of the fund subject to the 5% limitation contained in this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings in any alternative investment held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 5% limitation contained in this section shall not have been violated if the total of such alternative investments exceeds 5% of the total investment assets of the fund as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments, however, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total of such alternative investments is less than 5% of the total investment assets of the fund subject to the 5% limitation contained in this subsection as measured from the end of the preceding calendar year;~~

(ii) if in addition to the system, there are at least two other sophisticated investors, as defined by section 301 of the securities and exchange act of 1933;

(iii) the system's share in any individual alternative investment is limited to an investment representing not more than 20% of any such individual alternative investment;

(iv) the system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of alternative investment;

(v) the alternative investment is consistent with the system's investment policies and objectives as provided in subsection (6);

(vi) the individual alternative investment does not exceed more than 2.5% of the total alternative investments made under this subsection. If the alternative investment is made pursuant to participation by the system in a multi-investor pool, the 2.5% limitation contained in this subsection is applied to the underlying individual assets of such pool and not to investment in the pool itself. The total of such alternative investments made pursuant to participation by the system in any one individual multi-investor pool shall not exceed more than 20% of the total of alternative investments made by the system pursuant to this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings

in any alternative investments made pursuant to participation by the system in any one individual multi-investor pool held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 20% limitation contained in this subsection shall not have been violated if the total of such investment in any one individual multi-investor pool exceeds 20% of the total alternative investments of the fund as a result of market forces acting to increase the value of such a multi-investor pool relative to the rest of the system's alternative investments; however, the board shall not invest or reinvest any moneys of the fund in any such individual multi-investor pool until the value of such individual multi-investor pool is less than 20% of the total alternative investments of the fund;

(vii) the board has received and considered the investment manager's due diligence findings submitted to the board as required by subsection (6)(c); and

(viii) prior to the time the alternative investment is made, the system has in place procedures and systems to ensure that the investment is properly monitored and investment performance is accurately measured.

For purposes of this act, "alternative investment" means nontraditional investments outside the established nationally recognized public stock exchanges and government securities market. Alternative investments shall include, but not be limited to, private placements, venture capital, partnerships, limited partnerships and leveraged buyout partnerships; and

(c) except as otherwise provided, the board may invest or reinvest moneys of the fund in real estate investments if the following conditions are satisfied:

(i) The system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of real estate investment;

(ii) the real estate investment is consistent with the system's investment policies and objectives as provided in subsection (6); and

(iii) the ~~board system~~ has received and considered the investment manager's due diligence findings ~~submitted to the board as required by subsection (6)(c).~~

(6) Subject to the objective set forth in subsection (3) and the standards set forth in subsections (4) and (5) the board shall formulate policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall include:

(a) Specific asset allocation standards and objectives;

(b) establishment of criteria for evaluating the risk versus the potential return on a particular investment;

(c) a requirement that all investment managers submit such manager's due diligence findings on each investment to the board or investment advisory committee for approval or rejection prior to making any alternative investment;

(d) a requirement that all investment managers shall immediately report all instances of default on investments to the board and provide the board with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment; and

(e) establishment of criteria that would be used as a guideline for determining when no additional add-on investments or reinvestments would be made and when the investment would be liquidated.

The board shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(7) The board may enter into contracts with one or more persons whom the board determines to be qualified, whereby the persons undertake to perform the functions specified in subsection (2) to the extent provided in the contract. Performance of functions under contract so entered into shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts and shall be based on specific contractual fee arrangements. The system shall not pay or reimburse any expenses of persons contracted with pursuant to this subsection, except that after approval of the board, the system may pay approved investment related expenses subject to provisions of appropriation acts. The board shall require that a person contracted with to obtain commercial insurance which

provides for errors and omissions coverage for such person in an amount to be specified by the board, provided that such coverage shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board shall require a person contracted with to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state. Such persons contracted with the board pursuant to this subsection and any persons contracted with such persons to perform the functions specified in subsection (2) shall be deemed to be agents of the board and the system in the performance of contractual obligations.

(8) (a) In the acquisition or disposition of securities, the board may rely on the written legal opinion of a reputable bond attorney or attorneys, the written opinion of the attorney of the investment counselor or managers, or the written opinion of the attorney general certifying the legality of the securities.

(b) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(9) (a) Except as provided in subsection (7) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by the banks or trust companies shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts.

(b) The state treasurer and the board shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and pay same when so collected into the fund.

(c) The principal and interest or other income or the proceeds of sale of securities as provided in clause (a) of this subsection (9) shall be reported to the state treasurer and the board and credited to the fund.

(10) The board shall with the advice of the director of accounts and reports establish the requirements and procedure for reporting any and all activity relating to investment functions provided for in this act in order to prepare a record monthly of the investment income and changes made during the preceding month. The record will reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the fund.

(11) The board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of the fund in relation to the objective set forth in subsection (3), the standard set forth in subsection (4) and other criteria as may be appropriate, and recommendations relating to the fund investment policies and practices and to specific investments of the fund as are considered necessary or desirable. The board shall include in its annual report to the governor as provided in K.S.A. 74-4907, and amendments thereto, a report or a summary thereof covering the investments of the fund.

(12) (a) An annual financial-compliance audit of the system, including any performance audit subjects which are directed to be included in such annual audit by the legislative post audit committee, performance audits of the system as prescribed under the Kansas governmental operations law, and such other audits as are directed by the legislative post audit committee under the Kansas legislative post audit act shall be conducted. The annual financial-compliance audit shall include, but not be limited to, a review of alternative investments of the system with any estimates of permanent impairments to the value of such alternative investments reported by the system pursuant to K.S.A. 74-4907, and amendments thereto.

(b) In accordance with this subsection (12), the annual financial-compliance audit may include one or more performance audit subjects as directed by the legislative post audit committee. In considering perform-

ance audit subjects to be included in any financial-compliance audit conducted pursuant to this subsection (12), the legislative post audit committee shall consider recommendations and requests for performance audits, relating to the system or the management thereof, by the joint committee on pensions, investments and benefits or by any other committee or individual member of the legislature. Commencing with the financial-compliance audit for the fiscal year ending June 30, 1998, the legislative post audit committee shall specify if one or more performance audit subjects shall be included in the financial-compliance audit conducted pursuant to this subsection (12), in addition to such other subjects as may be directed to be included in the financial-compliance audit by the legislative post audit committee. Except as otherwise determined by the legislative post audit committee pursuant to this subsection (12), commencing with the financial-compliance audit for the fiscal year ending June 30, 1998, one or more performance audit subjects specified by the legislative post audit committee shall be included at least once every two fiscal years in a financial-compliance audit conducted pursuant to this subsection (12). The legislative post audit committee may direct that one or more performance audit subjects are to be included in a financial-compliance audit conducted pursuant to this subsection (12) not more than once during a specific period of three fiscal years, in lieu of once every two fiscal years.

(c) The auditor to conduct the financial-compliance audit required pursuant to this subsection (12) shall be specified in accordance with K.S.A. 46-1122, and amendments thereto. If the legislative post audit committee specifies under such statute that a firm, as defined by K.S.A. 46-1112, and amendments thereto, is to perform all or part of the audit work of such audit, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits required pursuant to this subsection (12) shall be conducted in accordance with generally accepted governmental auditing standards. The financial-compliance audit required pursuant to this subsection (12) shall be conducted as soon after the close of the fiscal year as practicable, but shall be completed no later than six months after the close of the fiscal year. The post auditor shall annually compute the reasonably anticipated cost of providing the financial-compliance audit pursuant to this subsection (12), subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the system shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of the financial-compliance audit pursuant to this subsection (12) shall be a transaction between the legislative post auditor and the system and shall be settled in accordance with the provisions of K.S.A. 75-5516, and amendments thereto.

(d) Any internal assessment or examination of alternative investments of the system performed by any person or entity employed or retained by the board which evaluates or monitors the performance of alternative investments shall be reported to the legislative post auditor so that such report may be reviewed in accordance with the annual financial-compliance audits conducted pursuant to this subsection (12).

Sec. 5. K.S.A. 2003 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall not be payable until the member has been prevented from carrying out each and every duty pertaining to the member's employment as a result of sickness or injury for a period of 180 days and the annual benefit shall not exceed an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced and shall be payable in equal monthly installments. In the event that a member's compensation is not fixed at an annual rate but on an hourly, weekly, biweekly, monthly or any other basis than annual, the board shall prescribe by rule and regulation a formula for establishing a reasonable rate of annual compensation to be used in determining the amount of the death or long-term disability benefit for such member. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive

such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, upon the date that such member attains age 70, or upon the date of such member's retirement, whichever first occurs, (iii) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 70, the date that such member has received such benefit for a period of 12 months or upon the date of such member's retirement, whichever first occurs, and (iv) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 75, the date that such member has received such benefit for a period of six months or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916 and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. Such long-term disability payments shall accrue from the later of the 181st day of total disability or the first day upon which the member ceases to draw compensation from the employer. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. In no case shall a member who is entitled to receive long-term disability benefits receive less than \$50 per month. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) On and after April 30, 1981, the board may provide under the plan for the continuation of long-term disability benefit payments to any former member who forfeits the entitlement to continued service credit under the retirement system or continued assistance in the purchase of retirement annuities under K.S.A. 74-4925 and amendments thereto and to continued long-term disability benefit payments and continued death benefit coverage, by reason of the member's withdrawal of contributions from the retirement system or the repurchase of retirement annuities which were purchased with assistance received under K.S.A. 74-4925 and amendments thereto. Such long-term disability benefit payments may be continued until such individual dies, attains age 65 or is no longer disabled, whichever occurs first.

(E) Any visually impaired person who is in training at and employed

by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902 and amendments thereto except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of

such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .6% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2000, and ending on December 31, 2001, for the period commencing July 1, 2002, and ending December 31, 2002, or for the period commencing April 1, 2003, and ending on June 30, 2004.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920 and amendments thereto shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, ~~on and after January 1, 1989~~, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue

such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 next following application. ~~Such optional death benefit plan shall not be available for employees of employers specified under this subsection until after July 1, 1988.~~

(8) *For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.*

Sec. 6. K.S.A. 74-4957 is hereby amended to read as follows: 74-4957. (1) The normal retirement date for a member of the system who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days, and the attainment of age 55 and the completion of 20 years of credited service *or the completion of 32 years of credited service regardless of the age of the member.* Any member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) *Early retirement.* Any member who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section and K.S.A. 74-4955a, 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a and amendments thereto, the normal retirement date for any member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive, or 14-10a01 to 14-10a15, inclusive, and amendments thereto, shall be the first day of the month coinciding with or following the attainment of age 50 and the completion of 25 years of credited service.

(4) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(5) If a retirant who retired on or after July 1, 1994, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more in any one

such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act.

Sec. 7. K.S.A. 74-4967 is hereby amended to read as follows: 74-4967. (1) 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 participating employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such participating 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 uniform for all participating employers, and shall be comprised of a rate for benefits accruing after June 30, 1993, and a rate for amortization of the additional liability for benefits provided by this act which is attributable to service rendered before July 1, 1993. Such additional liability shall be amortized ~~over a period of 40 years commencing on July 1, 1993, by annual payments that increase 4% for each year remaining in the amortization period as determined by the board.~~ The employer's rate of contribution determined under this section shall not include the costs of administration of the system.

(2) The board shall determine for each employer separately an amount sufficient to amortize ~~over a period of not to exceed 40 years~~ all liabilities for past 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 participating employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that participating employer to pay all of the liabilities for such past service costs. Such rate shall be termed the employer's prior service contribution. The board may enter into agreements with any participating employer which has employees or retirants under the special pension systems established under K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, for the purpose of scheduling the payment of such past service costs in an orderly manner which will tend to stabilize the annual total financial burden on such employers in meeting their present and future obligations under this system and such special systems, but in no event shall the annual prior service contribution be less than the interest cost on the total of such past service liability.

(3) Each participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligations 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 employer 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 by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located in such 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.

(5) 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.

(6) The rate of contribution certified to each participating employer as provided in this section shall apply during the fiscal year of such participating employer which begins in the second calendar year following the year of the actuarial valuation, but the rate of contribution during the first year following the employer's entry date shall be equal to 16% of the amount of compensation on which members contribute during the year.

(7) 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 20 days after the end of the period covered by the remittance or within 25 days after forms or written instructions from the system were mailed by the system to such employer, whichever is later. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection (7) 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.

(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, shall be reflected in the employer contribution rate in the fiscal year immediately following such enactment.

New Sec. 8. Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, any employer contributions remitted in accordance with the provisions of K.S.A. 20-2605, 74-4920, 74-4939 and 74-4967, and amendments thereto, for the purpose of paying the actuarial cost of the provisions of K.S.A. 74-49,109 *et seq.*, and amendments thereto, shall be deposited in the K DFA series 2003H bond debt service fund, which is hereby created in the state treasury. Such fund shall be administered by the Kansas public employees retirement system. The executive director of the Kansas public employees retirement system shall certify to the director of accounts and reports an amount to reimburse the state general fund for bond debt service payments authorized pursuant to law for each fiscal year commencing in fiscal year 2005, and ending in fiscal year 2014. The director of accounts and reports shall transfer such amount certified as provided by this section to the state general fund not later than June 30 of each such fiscal year.

New Sec. 9. On and after the effective date of this act for each fiscal year commencing with fiscal year 2005, notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto or any other statute, all moneys appropriated for the department of education from the state general fund commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by appropriation act of the legislature, in the KPERS — employer contributions account and all moneys appropriated for the department of education from the state general fund or any special revenue fund for each fiscal year commencing with fiscal year 2005, and each ensuing fiscal year thereafter, by any such appropriation act in that account or any other account for payment of employer contributions for school districts, shall be distributed by the department of education to school districts in accordance with this section. Notwithstanding the provisions of K.S.A. 74-4939, and amendments thereto, the department of education shall disburse to each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto an amount certified by the board of trustees of the Kansas public employees retirement system which is equal to the participating employer's obligation of such school district to the system in accordance with policies and procedures which are hereby authorized and directed to be adopted by the department of education for the purposes of this section and in accordance with any requirements prescribed by the board of trustees of the Kansas public employees retirement system. Upon receipt of each such disbursement of moneys, the school district shall deposit the entire amount thereof into a special retirement contributions fund of the school

district, which shall be established by the school district in accordance with such policies and procedures and which shall be used for the sole purpose of receiving such disbursements from the department of education and making the remittances to the system in accordance with this section and such policies and procedures. Upon receipt of each such disbursement of moneys from the department of education, the school district shall remit, in accordance with the provisions of such policies and procedures and in the manner and on the date or dates prescribed by the board of trustees of the Kansas public employees retirement system, an equal amount to the Kansas public employees retirement system from the special retirement contributions fund of the school district to satisfy such school district's obligation as a participating employer. Notwithstanding the provisions of K.S.A. 74-4939 and amendments thereto, each school district that is an eligible employer as specified in subsection (1) of K.S.A. 74-4931 and amendments thereto shall show within the budget of such school district all amounts received from disbursements into the special retirement contributions fund of such school district. Notwithstanding the provisions of any other statute, no official action of the school board of such school district shall be required to approve a remittance to the system in accordance with this section and such policies and procedures. All remittances of moneys to the system by a school district in accordance with this subsection and such policies and procedures shall be deemed to be expenditures of the school district.

New Sec. 10. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971 and amendments thereto, on or after the effective date of this act, the Kansas highway patrol shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto pursuant to the provisions of this act for membership in the system of members of the capitol area security patrol who have successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto. For purposes of such affiliation for membership in the system of members of the capitol area security patrol, the Kansas highway patrol shall be considered a new participating employer. The Kansas highway patrol shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954 and amendments thereto, to be effective on July 1 next following application. The Kansas highway patrol shall affiliate for membership in the system of such members of the capitol area security patrol for participating service credit.

(2) The Kansas highway patrol shall appropriate and pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the Kansas highway patrol shall be as provided in subsection (1) of K.S.A. 74-4967 and amendments thereto.

(b) (1) Each such member of the capitol area security patrol employed by the Kansas highway patrol on the date of affiliation, may become a member of the Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the Kansas highway patrol as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the Kansas highway patrol as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the capitol area security patrol who is on an authorized leave of absence or is in the military service on the entry date of the Kansas highway patrol as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the Kansas highway patrol, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such

election, whether to become a member or not to become a member, shall be irrevocable.

(c) Every such person who is employed as a member of the capitol area security patrol on or after the entry date of the Kansas highway patrol into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the Kansas highway patrol affiliates as provided in this act and each such member of the capitol area security patrol who elects to become a member as provided in this act, the Kansas highway patrol and each such member shall be subject to the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto as applicable.

(e) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 *et seq.*, and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and fireman's retirement system.

New Sec. 11. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971 and amendments thereto, on or after the effective date of this act, the Kansas highway patrol shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto pursuant to the provisions of this act for membership in the system of members of the motor carriers inspection staff of the Kansas highway patrol who have successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto. For purposes of such affiliation for membership in the system of such members, the Kansas highway patrol shall be considered a new participating employer. The Kansas highway patrol shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954 and amendments thereto, to be effective on July 1 next following application. The Kansas highway patrol shall affiliate for membership in the system of such members for participating service credit.

(2) The Kansas highway patrol shall appropriate and pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the Kansas highway patrol shall be as provided in subsection (1) of K.S.A. 74-4967 and amendments thereto.

(b) (1) Each such member of the motor carriers inspection staff employed by the Kansas highway patrol on the date of affiliation, may become a member of the Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the Kansas highway patrol as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the Kansas highway patrol as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the motor carriers inspection staff of the Kansas highway patrol who is on an authorized leave of absence or is in the military service on the entry date of the Kansas highway patrol as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the Kansas highway patrol, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not

to become a member of the system. Such election, whether to become a member or not to become a member, shall be irrevocable.

(c) Every such person who is employed as a member of the motor carriers inspection staff of the Kansas highway patrol on or after the entry date of the Kansas highway patrol into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the Kansas highway patrol affiliates as provided in this act and each such member of the motor carriers inspection staff of the Kansas highway patrol who elects to become a member as provided in this act, the Kansas highway patrol and each such member shall be subject to the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto as applicable.

(e) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 *et seq.*, and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and fireman's retirement system.

Sec. 12. K.S.A. 74-4921, 74-4957 and 74-4967 and K.S.A. 2003 Supp. 20-2605, 74-4902, 74-4920 and 74-4927 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.