

SENATE BILL No. 375

AN ACT concerning state educational institutions and other state agencies and employees; relating to certain employee benefits; relating to admission to such institutions; relating to certain commissions; amending K.S.A. 44-576, 72-116, 72-60b02 and 75-5543 and K.S.A. 2005 Supp. 74-4902, 74-4925, 74-4927 and 76-729 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 74-4925h.

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

Section 1. K.S.A. 44-576 is hereby amended to read as follows: 44-576. (a) For each payroll period, each state agency shall certify with each payroll, the amount of each self-insurance assessment for such state agency, not in conflict with appropriations therefor. The director of accounts and reports shall transfer the amount of each self-insurance assessment for such state agency to the credit of the state workers compensation self-insurance fund.

(b) Each July 1, the secretary of administration shall determine a self-insurance assessment rate for each state agency based upon the accidental injury and occupational disease experience of the state agency and the liability of the state workers compensation self-insurance fund as provided in subsection (c) of K.S.A. 44-575, and amendments thereto. Such rate shall be expressed as a percentage. The secretary of administration shall utilize actuarial and other professional assistance in determining self-insurance assessment rates under this section. On or before each July 30, the secretary of administration shall notify each state agency of such agency's projected self-insurance assessment rate for the next fiscal year and such agency's actual self-insurance assessment rate for the current fiscal year.

(c) The amount of the self-insurance assessment for each state agency shall be determined by multiplying the total payroll for each payroll period of such state agency by such agency's self-insurance rate assessment for the fiscal year. *For purposes of this section, total payroll shall not include any payments made by the state board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto.*

Sec. 2. K.S.A. 2005 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. Designations 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 es-

tate 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. *For purposes of this subsection and application to the provisions of subsection (4) of K.S.A. 74-4927, and amendments thereto, “compensation” shall not include any payments made by the state board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, 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 tem-

porary 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 par-

ticipating 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) “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;

(33) “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;

(34) “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

(35) “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. 2005 Supp. 74-4925 is hereby amended to read as follows: 74-4925. (1) The state board of regents shall:

(a) Sponsor and maintain a retirement plan under section 403(b) of the federal internal revenue code for all members of the faculty and other persons who are employed by the state board of regents or by educational institutions under the board’s management and who are in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, for their service rendered after December 31, 1961, including effective on the first day of the first payroll period commencing with or following July 1, 1994, county extension agents employed by Kansas state university under K.S.A. 2-615, and amendments thereto, except not including: (i) Health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935, and amendments thereto; (ii) cooperative extension service employees covered by a federal retirement plan; ~~or~~ (iii) student employees; *or (iv) university support staff, as defined by K.S.A. 2005 Supp. 76-715a, and amendments thereto.* An eligible employee who is employed after December 31, 1961, shall participate in such retirement plan when the employee has completed one year of service with the state board of regents or an educational institution under its management, except that: (i) A newly employed eligible employee shall begin participation in the plan immediately, if at the time of the commencement of employment, the eligible employee is covered as a result of employment with an institution of higher education located in the United States, by a retirement plan or program to which employer contributions have been made and benefits accrued for at least one year within the five-year period immediately preceding employment with the state board of regents or with an educational institution under its management; and (ii) all service while in a position eligible for benefits under any state of Kansas retirement plan with respect to which the employee’s participation is mandatory, including service during such plan’s waiting period, shall be credited toward the year of service requirement, and an eligible employee who has at least one year in a position eligible for benefits under such retirement plan shall be immediately eligible to participate in the state board of regents retirement plan, except that this one-year period must be completed within the five-year period immediately preceding employment with the state board of regents or with an educational institution under the board’s management. For purposes of the immediately preceding clauses (i) and (ii), no period of employment as a student employee, seasonal or temporary employee or employee who works less than half-time shall count toward satisfaction of the year of service requirement. The state board of regents may exclude from eligibility under this subsection any persons employed in such temporary or part-time positions as the board designates;

(b) require such members of the faculty and others described in subsection (1)(a) who are eligible to participate in the retirement plan of the state board of regents, as provided in subsection (1)(a), to contribute an

amount to such plan equal to 5.5% of such member's compensation, such contributions to be made through payroll deductions and on a pretax basis;

(c) contribute an amount to the retirement plan of the state board of regents, as provided in subsection (1)(a), equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the total amount of the compensation on which such members of the faculty and other persons described in subsection (1)(a) contribute during such period for which the contribution of the state board of regents is made; and

(d) make the contributions required under subsections (1)(b) and (1)(c) in accordance with section 403(b) of the federal internal revenue code and all other applicable sections of the federal internal revenue code and the applicable regulations thereunder.

(2) For the purposes of this section the state board of regents may contract with:

(a) Any life insurance company authorized to do business in this state; or

(b) a bank or approved non-bank trustee or custodian under section 401(f) of the federal internal revenue code, the assets of which are invested in regulated investment company stock.

(3) (a) Such member of the faculty or other person described in subsection (1)(a) shall also be a member of the Kansas public employees retirement system, but only for the purpose of granting retirement benefits based on prior service only which was rendered prior to January 1, 1962, which shall be credited to the member as provided in subsection (1) of K.S.A. 74-4913 and amendments thereto, except that such member of the faculty or other person described in subsection (1)(a) who was employed prior to July 1, 1962, who has not yet retired and who is employed on July 1, 1988, on an academic year contract, shall receive credit for 12 months of prior service for each nine months of prior service for which such member or person was employed on an academic year contract prior to July 1, 1962. For the purpose of determining eligibility for a vested benefit, service by such a member of the faculty or other person after December 31, 1961, shall be construed to be credited service under subsection (2) of K.S.A. 74-4917 and amendments thereto.

(b) Any member of the faculty or other person described in subsection (1)(a) who retires after 10 years of continuous service immediately preceding retirement shall be granted a retirement benefit based on prior service only which was rendered prior to January 1, 1962. Application for such benefit shall be in such form and manner as prescribed by the board of trustees of the Kansas public employees retirement system.

(4) Any employee who becomes eligible to participate in the retirement plan of the state board of regents, as provided in subsection (1)(a), after a reclassification or transfer from a position covered by the Kansas public employees retirement system, and who has accrued benefits under the Kansas public employees retirement system, may file a one-time, irrevocable written election to continue participation in the Kansas public employees retirement system. Failure to file such written election shall be presumed to be an election not to continue participation in the Kansas public employees retirement system and to become a participant in the retirement plan of the state board of regents. Any participant in the retirement plan of the state board of regents who is reclassified or transferred to a position for the state board of regents or an educational institution under its management that qualifies for participation in the Kansas public employees retirement system in accordance with subsection (5) of K.S.A. 74-4911, and amendments thereto, may file a one-time irrevocable written election to continue participation in the retirement plan of the state board of regents. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents under this section and to become a member of the Kansas public employees retirement system under subsection (5) of K.S.A. 74-4911, and amendments thereto. Such election shall be filed prior to the first day of the first complete payroll period after the effective date of such reclassification or transfer, and shall be effective on the first day of the first complete payroll period after the effective date of such reclassification or transfer. Such election shall be irrevocable.

(5) A participant in the retirement plan of the state board of regents, as provided in subsection (1)(a), who takes a leave of absence and accepts

a position in the executive branch of government of the state of Kansas may file a one-time, irrevocable written election to continue participation in such retirement plan. Such election shall be filed prior to the first day of the first complete payroll period after commencement of service for the executive branch of government, and shall be effective as of the effective date of such employment. Failure to file such a written election shall be presumed to be an election not to continue participation in the retirement plan of the state board of regents. The state board of regents shall contribute an amount to the retirement plan on behalf of an eligible employee who has made such an election equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, of the employee's compensation from the state for providing such services.

(6) A participant in the retirement plan of the state board of regents, as provided in subsection (1)(a), who takes a leave of absence and is elected or appointed as a member of the legislature of the state of Kansas may file a one-time, irrevocable written election to continue participation in such retirement plan for purposes of subsection (1)(c) only. Such election shall be filed prior to the first day of the first complete payroll period after commencement of service for the legislature or, for any employee who is a member of the legislature on January 8, 2001, prior to the first day of the first complete payroll period after July 1, 2001. Elections shall be effective as of the effective date of such employment, except that for any employee who files an election as provided in this subsection and who was a member of the legislature on January 8, 2001, such election shall be effective on January 8, 2001. Failure to file such a written election shall be presumed to be an election not to continue participation in the retirement plan of the state board of regents. The state board of regents shall contribute an amount to the retirement plan on behalf of an eligible employee who has made such an election equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, of the compensation of such employee in effect on the date immediately preceding such leave of absence. Any employee who makes an election as provided under this subsection shall be eligible for the insured death benefit and insured disability benefit in the same manner as provided under the provisions of K.S.A. 74-4927a, and amendments thereto. The provisions of this subsection are intended to further the public policy of encouraging persons to serve in elective office.

(7) The state board of regents shall adopt uniform rules, regulations and policies applicable to members of the faculty and other persons described in subsection (1)(a), for the purposes of administering the provisions of this section and the retirement plan of the state board of regents, as provided in subsection (1)(a). All actions undertaken by the state board of regents and agreements entered into pursuant to this section prior to the effective date are hereby authorized, confirmed and validated.

Sec. 4. K.S.A. 75-5543 is hereby amended to read as follows: 75-5543. (a) Commencing with the first payroll period chargeable to funds appropriated for the fiscal year beginning on July 1, 1994, and for each payroll period thereafter, each state agency shall certify with each payroll, the amount of each leave payment reserve assessment for such state agency, not in conflict with appropriations therefor. The director of accounts and reports shall transfer the amount of each leave payment reserve assessment for such state agency to the credit of the state leave payment reserve fund.

(b) For fiscal years beginning July 1, 1994, and each July 1 thereafter, the secretary of administration shall determine annually the rate of the leave payment reserve assessment for all state agencies based upon the experience of all state agencies. Such rate shall be expressed as a percentage and shall be the same for all state agencies. The secretary of administration may utilize actuarial and other professional assistance in determining the rate of the leave payment reserve assessment under this section. On or before July 15, 1994, and each July 15 thereafter, the director of the budget shall notify each state agency of the rate of the leave payment reserve assessment for the next fiscal year. The secretary of administration may adjust the rate of the leave payment reserve assessment during a fiscal year as necessary to pay projected expenditures as they become due.

(c) The amount of the leave payment reserve assessment for each

state agency shall be determined by multiplying the total gross wages for each employee for each payroll period of such state agency, by the rate of the leave payment reserve assessment for the fiscal year.

(d) As used in this section “gross wages” means all compensation for services, including commissions, bonuses, back pay and the value of all remuneration including benefits paid in any medium other than cash. *For purposes of this section, “gross wages” shall not include any payments made by the state board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto.*

Sec. 5. K.S.A. 2005 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 be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66 $\frac{2}{3}$ % of the member’s annual rate of compensation on the date such disability commenced. 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, and (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, 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. *However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member’s employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member’s monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, “maximum monthly compensation” means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate 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. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment *other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan*, 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. 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) 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, for the period commencing July 1, 2005, and ending June 30, 2006, 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 .8% 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. For the period commencing July 1, 2006, and all periods thereafter, 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 1.0% 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 for employees and spouses and dependents of employees. 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, 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 or July 1 next following application.

(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.

New Sec. 6. (a) As used in this section:

(1) "State board" means the state board of regents.

(2) "State educational institution" has the meaning ascribed thereto in K.S.A. 76-711, and amendments thereto.

(3) "Leave time" means vacation leave and discretionary day leave.

(b) The state board may adopt a policy which authorizes state educational institutions to provide leave time to the classified employees of any such institution in an amount not to exceed the amount of leave time provided to unclassified employees of such institution.

(c) Subject to the policy of the state board adopted pursuant to this section, each state educational institution may provide leave time to classified employees of such institution. The amount of leave time may vary from the amount of leave time provided to classified employees of state agencies that are not state educational institutions.

(d) The state board shall adopt any rules and regulations necessary to implement the provisions of this act.

Sec. 7. K.S.A. 2005 Supp. 76-729 is hereby amended to read as follows: 76-729. (a) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 12 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

- (1) Persons who are employees of a state educational institution;
- (2) persons who are in military service;
- (3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);
- (4) persons having special domestic relations circumstances;
- (5) persons who have lost their resident status within six months of enrollment;
- (6) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;
- (7) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection; ~~and~~
- (8) persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse; *and*
- (9) *persons who have retired or have been honorably discharged from military service, had a permanent change of station order for active duty in Kansas during such military service and live in Kansas at the time of enrollment.*

(c) (1) The state board of regents shall authorize the following class of persons to pay an amount equal to resident fees: Any dependent or spouse of a person in military service who is reassigned from Kansas to another duty station so long as such dependent or spouse continues to reside in Kansas.

(2) So long as a person remains continuously enrolled, exclusive of summer sessions, a person who qualifies to pay resident fees by virtue of being a spouse or dependent of a person in military service shall not lose such status because of a divorce or the death of a spouse.

(d) As used in this section:

(1) “Parents” means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) “Guardian” has the meaning ascribed thereto by K.S.A. 59-3051, and amendments thereto.

(3) “Custodian” means a person, agency or association granted legal custody of a minor under the Kansas code for care of children.

(4) “Domiciliary resident” means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) “Full-time employment” means employment requiring at least 1,500 hours of work per year.

(6) “Dependent” means: (A) A birth child, adopted child or stepchild; or

(B) any child other than the foregoing who is actually dependent in whole or in part on the person in military service and who is related to such individual by marriage or consanguinity.

(7) “Military service” means any active service in any armed service of the United States and any active state or federal service in the Kansas army or air national guard.

Sec. 8. K.S.A. 72-116 is hereby amended to read as follows: 72-116.

(a) Any person who ~~completes a four-year course of study in~~ *graduates from any high school accredited by the state board of education and who meets the admission requirements established by the state board of regents pursuant to K.S.A. 76-717, and amendments thereto, shall be entitled to admission to the freshman class of the state educational institutions which are under the control and supervision of the state board of regents upon presenting a statement containing a transcript of the high school record of the person signed by the principal of the school or superintendent of the school district and certifying that the person has satisfactorily completed the course requirements of the state board of education necessary for graduation from high school.*

(b) *Any person who is a resident of the state of Kansas, who graduates from an accredited high school located outside the state of Kansas and who meets the admission requirements established by the state board of regents pursuant to K.S.A. 76-717, and amendments thereto, for persons who have graduated from an accredited Kansas high school shall be entitled to admission to the freshman class of the state educational institutions which are under the control and supervision of the state board of regents upon presenting a statement containing a transcript of the high school record of the person signed by the principal of the school or superintendent of the school district and certifying that the person has satisfactorily completed the course requirements necessary for graduation from high school.*

Sec. 9. K.S.A. 72-60b02 is hereby amended to read as follows: 72-60b02. The members of the midwestern higher education commission representing the state of Kansas shall be the following: (a) The governor or a designee of the governor; (b) two members of the legislature appointed by the legislative coordinating council so that one is a member of the senate and one is a member of the house of representatives and such members are not members of the same political party; and (c) two members of the state board of regents selected by the state board or, at the discretion of the state board, designees thereof. One such member shall be representative of the four-year institutions of higher education and one such member shall be representative of the two-year institutions of higher education. The term of the member serving under subpart (a) shall expire concurrently with the term of the governor. The terms of members serving under subpart (b) shall expire concurrently with their terms as state officers or two years after the date of their appointment to membership on the commission, whichever occurs sooner, *except that legislative members serving on the commission’s executive committee may serve up to one additional two-year term while serving on such executive committee.* The term of each member serving under subpart (c), if such member is a state officer, shall expire concurrently with such member’s term as a state officer or four years after the date of appointment to membership on the commission, whichever occurs sooner. If such member is not a state officer, the term of such member shall expire four years after the date of appointment to membership on the commission. All

vacancies in the membership of the commission shall be filled in the same manner as originally filled, except that vacancies created for reasons other than expiration of terms of office shall be filled for the unexpired terms.

Sec. 10. K.S.A. 44-576, 72-116, 72-60b02 and 75-5543 and K.S.A. 2005 Supp. 74-4902, 74-4925, 74-4925h, 74-4927 and 76-729 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

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.