

Journal of the House

SEVENTIETH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Saturday, May 5, 2001, 11:00 a.m.

The House met pursuant to adjournment with Speaker Glasscock in the chair.

The roll was called with 125 members present.

Rep. Aday, Edmonds, Larkin and Spangler were excused on excused absence by the Speaker later in the day.

Prayer by Chaplain Svoboda-Barber:

Holy God

Let us enter this day
remembering that You are greater
than all of this.

That beyond
these bills and
this budget . . .
beyond our long session and
short fuses . . .
beyond all that—
there is infinite peace
there is infinite love.

Holy God

help us to tap into
Your infinite peace
and infinite love,
And give us grace to do
that which has to be done.

I ask these things in Your Name. Amen.

The Pledge of Allegiance was led by Rep. McCreary.

MESSAGES FROM THE SENATE

Announcing passage of **HB 2592**.

Announcing passage of **HB 2065**, as amended; **HB 2507**, as amended.

Also, the Senate adopts conference committee report on **HB 2245**.

The Senate adopts conference committee report on **HB 2266**.

The Senate adopts conference committee report on **HB 2268**.

Also, the Senate adopts conference committee report on **HB 2283**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 321**; **S. Sub. for HB 2017**; **S. Sub. for HB 2034**; **HB 2065**, **HB 2507**, **HB 2245**, **HB 2266**, **HB 2268**; **H. Sub. for SB 9**.

INTRODUCTION OF ORIGINAL MOTIONS

Rep. Weber moved, pursuant to Joint Rule 3(f), that the rules be suspended regarding distribution of copies of the conference committee reports on **H. Sub. for SB 322; HB 2283** to all members of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS OFFERED ON A PREVIOUS DAY

The motion of Rep. Toplikar, in accordance with subsection (b) of House Rule 1309, that **HB 2419** be withdrawn from Committee on Federal and State Affairs and be placed on the calendar under the order of business General Orders, was considered.

Roll call was demanded.

On roll call, the vote was: Yeas 53; Nays 70; Present but not voting: 0; Absent or not voting: 2.

Yeas: Burroughs, Campbell, Cook, Dahl, DiVita, Faber, Feuerborn, Gatewood, Henry, Howell, Huebert, Hutchins, Huy, Kauffman, Larkin, Lightner, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, Phelps, L. Powell, T. Powell, Powers, Pyle, Reardon, Shultz, Spangler, Swenson, Tafanelli, Thimesch, Toplikar, Vickrey, D. Williams, J. Williams, Wilson.

Nays: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Compton, Cox, Crow, Dillmore, Dreher, Edmonds, Findley, Flaharty, Flora, Freeborn, Garner, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Hermes, Holmes, Horst, Huff, Humerickhouse, Johnson, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lloyd, Loganbill, Loyd, Minor, Newton, Nichols, O'Brien, E. Peterson, J. Peterson, Pottorff, Ray, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Sloan, Stone, Storm, Tanner, Toelkes, Tomlinson, Weber, Wells, Welshimer, Wilk, Winn.

Present but not voting: None.

Absent or not voting: DeCastro, Neufeld.

The motion did not prevail.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Neufeld to concur in Senate amendments to **HB 2507**, Rep. Edmonds offered a substitute motion to nonconcur and asked that a conference committee be appointed. The substitute motion prevailed.

Speaker Glasscock thereupon appointed Reps. Edmonds, Huff and Larkin as conferees on the part of the House.

On motion of Rep. Wilk to concur in Senate amendments to **HB 2065**, Rep. Edmonds offered a substitute motion to nonconcur and asked that a conference committee be appointed. The substitute motion prevailed.

Speaker Glasscock thereupon appointed Reps. Wilk, Neufeld and Nichols as conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2017**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

STEPHEN R. MORRIS
DAVID ADKINS
PAUL FELECIANO, JR.
Conferees on part of Senate

KENNY A. WILK
MELVIN J. NEUFELD
ROCKY NICHOLS
Conferees on part of House

On motion of Rep. Wilk, the conference committee report on **S. Sub. for HB 2017** was adopted.

Speaker Glasscock thereupon appointed Reps. Wilk, Neufeld and Nichols as second conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2034**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

KARIN S. BROWNLEE
JIM BARONE
JAY SCOTT EMLER
Conferees on part of Senate

CARL DEAN HOLMES
TOM SLOAN
LAURA MCCLURE
Conferees on part of House

On motion of Rep. Holmes, the conference committee report on **S. Sub. for HB 2034** was adopted.

Speaker Glasscock thereupon appointed Reps. Holmes, Sloan and McClure as second conferees on the part of the House.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Sloan, the House concurred in Senate amendments to **HB 2397**. An act concerning the state corporation commission; relating to intervention by municipalities in certain proceedings.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 121; Nays 4; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Edmonds, Freeborn, Mason, Winn.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 321**, submits the following report:

The House recedes from all of its amendments to the bill;

And your committee on conference recommends the adoption of this report.

KENNY A. WILK
MELVIN J. NEUFELD
ROCKY NICHOLS
Conferees on part of House

STEPHEN R. MORRIS
DAVID ADKINS
PAUL FELECiano, JR.
Conferees on part of Senate

On motion of Rep. Wilk, the conference committee report on **SB 321** was adopted (see further action).

On roll call, the vote was: Yeas 125; Nays 0; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Edmonds, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson, Winn.

Nays: None.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 322**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as House Substitute for Senate Bill No. 322, as follows:

On page 1, after line 16, by inserting the following:

"Section 1. K.S.A. 2000 Supp. 13-14a07 is hereby amended to read as follows: 13-14a07. (a) If any officer or member of a police or fire department, while in the performance of such officer's or member's duties, is killed or dies as a result of an injury received, or dies of any disease contracted by reason of such officer's or member's occupation as a policeman or fireman, or dies after having retired and leaves a spouse, such spouse, shall receive a monthly pension in an amount equal to 50% of the monthly salary of such deceased officer or member, if such spouse was lawfully married to such policeman or fireman at the time of such policeman's or fireman's retirement. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. In the event there is no surviving spouse, then any child or children of the deceased shall receive, in equal shares a monthly amount equal to 50% of the monthly salary received at the time of retirement, such sums to be paid until such child or children attain the age of 18 years or until such child or children attain the age of 23 years, if such child or children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the

effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

~~(b) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ If any officer or member of such fire or police department, after having become eligible for retirement as provided in K.S.A. 13-14a08 and amendments thereto, is killed while not in the performance of such officer's or member's official duties, or dies, an amount equal to 50% of such officer's or member's monthly salary shall be paid to such persons for the periods of time provided in subsection (a) and shall be subject to all the limitations provided in subsection (a).

(c) Payments to the surviving spouse, child or children under the provisions of subsection (a) or (b) shall begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

Sec. 2. K.S.A. 2000 Supp. 14-10a07 is hereby amended to read as follows: 14-10a07.

(a) If any officer or member of a police or fire department, while in the performance of such officer's or member's duties, is killed or dies as a result of an injury received, or dies of any disease contracted by reason of such officer's or member's occupation as a policeman or fireman, or dies after having retired and leaves a spouse, such spouse, shall receive a monthly pension in an amount equal to 50% of the monthly salary of such deceased officer or member, if such spouse was lawfully married to such policeman or fireman at the time of such policeman's or fireman's retirement. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. In the event there is no surviving spouse, then any child or children of the deceased, shall receive, in equal shares a monthly amount equal to 50% of the monthly salary received at the time of death, such sums to be paid until such child or children attain the age of 18 years or until such child or children attain the age of 23 years, if such child or children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

~~(b) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ If any officer or member of such fire or police department, after having become eligible for retirement as provided in K.S.A. 14-10a08 and amendments thereto, is killed while not in the performance of such officer's or member's official duties, or dies, an amount equal to 50% of such officer's or member's monthly salary shall be paid to such persons for the periods of time provided in subsection (a) and shall be subject to all the limitations provided in subsection (a).

(c) Payments to the surviving spouse, child or children under the provisions of subsection (a) or (b) must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

Sec. 3. K.S.A. 2000 Supp. 20-2603 is hereby amended to read as follows: 20-2603. (a) Except as otherwise provided in this section, each judge shall contribute 6% of the judge's salary for each payroll period to the fund. Commencing with the first payroll period after 20 years of service by the judge and after the judge reaches 65 years of age, and for each payroll period thereafter, such judge shall contribute 2% of such judge's salary to the fund. Commencing with the first payroll period after the judge has enough years of service to entitle such judge upon retirement to the maximum monthly retirement benefit of 70% of

the final average salary of such judge provided under the provisions of K.S.A. 20-2610 and amendments thereto, and for each payroll period thereafter, each judge shall contribute 4% of such judge's salary to the fund or, commencing on and after the effective date of this act, each such judge shall contribute 2% of such judge's salary to the fund.

(b) The director of accounts and reports shall deduct the amount each judge is to contribute to the fund on the payroll of each judge for each payroll period showing the amount deducted and its credit to the fund. Such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* of the Kansas public employees retirement system for credit to the fund to the credit of the judge's individual account therein.

(c) Interest on each judge's accumulated contributions at the rate determined under subsection (a) of K.S.A. 74-4922 and amendments thereto shall be added annually to the judge's individual account in the fund.

(d) No member who has retired under the retirement system for judges shall make contributions to that system or receive any service credit under that system for any service after the date of such retirement.

(e) (1) Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (a). The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(2) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the retirement system for judges.

(3) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 4. K.S.A. 2000 Supp. 20-2610a is hereby amended to read as follows: 20-2610a.

(a) A judge may elect to have such judge's retirement annuity paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 20-2610 and amendments thereto. Such election shall be made before the date of actual retirement. A specific person shall be designated as joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the judge.

(b) The amount of retirement annuity payable under an option shall be based on the age of the judge and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto as prescribed in subsection (c). 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. In no case shall the total amount of retirement annuity payable under any option provided in this section be more than 100% of the retirement annuity which would have been otherwise payable if no option had been elected under this section.

(c) The following retirement options, which are subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, are available:

(1) *Joint and $\frac{1}{2}$ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 91% minus .4% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest

whole year, or plus .4% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with $\frac{1}{2}$ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(2) *Joint and survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 83% minus .6% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .6% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(3) *Joint and $\frac{3}{4}$ to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 87% minus .5% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .5% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with $\frac{3}{4}$ of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(4) *Life with 5 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the five-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the five-year certain period.

(5) *Life with 10 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the ten-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the ten-year certain period.

(6) *Life with 15 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the fifteen-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the fifteen-year certain period.

(7) *Lump sum payment at retirement.* (A) Pursuant to this option, the judge must specify a lump sum amount to be paid to the judge upon the judge's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 20-2610, and amendments thereto. The lump sum amount designated by the judge must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 20-2610, and amendments thereto.

(B) Pursuant to this option, the judge must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 20-2610, and amendments thereto, or subsections (c)(1) through (c)(6) of this section.

(C) ~~The amount of any retirement benefit payable pursuant to this subsection shall remain as provided in this subsection even in the event that the designated joint annuitant pursuant to subsections (c)(1), (c)(2) or (c)(3) predeceases the retirant. In the event that the designated joint annuitant pursuant to subsection (c)(1), (c)(2) or (c)(3), under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.~~

(D) The provisions of this subsection shall be effective on and after July 1, 2001.

(d) If a judge, who is eligible to retire, dies without having actually retired, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits as a joint annuitant under one of the options provided in this section in lieu of receiving the judge's accumulated contributions.

(e) On and after July 1, 1993, if a judge with 15 or more years of credited service dies before attaining retirement age, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the judge's accumulated contributions. Payments under one of the options provided in this section to the judge's spouse if so elected, shall commence on the date that the judge would have first attained retirement age.

(f) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(g) The provisions of the law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement annuity payable to the retired judge and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for judges who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (c)(1), (2) or (3), as applicable, predeceased the judge, the amount of the retirement benefit otherwise payable to the judge under the option provided in subsection (c)(1), (2) or (3), as applicable, shall be adjusted automatically to the retirement benefit which the judge would have received if no option had been elected under this section.

(h) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retired judge over the sum of all retirement benefit payments made to such retired judge and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retired judge. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (1) The joint annuitant's surviving spouse;
- (2) the joint annuitant's dependent child or children;
- (3) the joint annuitant's dependent parent or parents;
- (4) the joint annuitant's nondependent child or children;
- (5) the joint annuitant's nondependent parent or parents; or
- (6) the estate of the deceased joint annuitant.

(i) In any event, benefits shall be adjusted as necessary to satisfy the incidental death benefits regulations under the federal internal revenue code.

Sec. 5. K.S.A. 2000 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 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 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. 2000 Supp. 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, 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 of a participating employer. "Leased employee" means the same as provided in section 414 of the federal internal revenue code; 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 ~~secretary~~ 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, who was first hired as an employee, as defined in subsection (14) of K.S.A. 74-4902 and amendments thereto, prior to 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 who is first hired as an employee, as defined in subsection (14) of K.S.A. 74-4902 and amendments thereto, 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. 2000 Supp. 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, 1998, 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. 6. K.S.A. 2000 Supp. 74-4904 is hereby amended to read as follows: 74-4904. (1) The system may sue and be sued in its official name, but its trustees, officers, employees and agents shall not be personally liable for acts of the system unless such person acted with willful, wanton or fraudulent misconduct or intentionally tortious conduct. Any agreement in settlement of litigation involving the system and the investment of moneys of the fund is a public record as provided in K.S.A. 45-215 *et seq.* and amendments thereto and subject to the provisions of that act. The service of all legal process and of all notices which may be required to be in writing, whether legal proceedings or otherwise, shall be had on the executive ~~secretary~~ director at such executive ~~secretary's~~ director's office. All actions or proceedings directly or indirectly against the system shall be brought in Shawnee county.

(2) Any person aggrieved by any order or decision of the board made without a hearing, may, within 30 days after notice of the order or decision of the board make written request to the board for a hearing thereon. The board shall hear such party or parties in accordance with the provisions of the Kansas administrative procedure act at its next regular meeting or at a special meeting within 60 days after receipt of such request. For the purpose of any hearing under this section, the board may appoint one or more presiding officers. Any such presiding officer shall be a member of the board, an employee of the board or any other person designated by the board to serve as such presiding officer. Any such appointment shall apply to a particular hearing or to a set or class of hearings as specified by the board in making such appointment. The board shall review an initial order resulting from a hearing under this section. Any member of the board who serves as a presiding officer shall be reimbursed for actual and necessary expenses and shall receive compensation in an amount fixed by the board not to exceed the per diem compensation allowable for members of the board. The board is hereby authorized to enter into a contract with any other person designated by the board to serve as a presiding officer who is not a member or employee of the board and to provide for reimbursement for actual and necessary expenses and compensation for such person serving as a presiding officer.";

And by renumbering section 1 as section 7;

On page 2, after line 31, by inserting the following:

"Sec. 8. K.S.A. 2000 Supp. 74-4911e is hereby amended to read as follows: 74-4911e.

(a) Each person who is an elected official on and after January 1, 1985, and who is a member of the Kansas public employees retirement system, may elect to continue to participate in the Kansas public employees retirement system under the provisions of this act after the date such person's service as an elected official terminates unless such person immediately becomes an employee of another participating employer. Such person's election is valid only if such person files notice of such election in the office of the executive ~~secretary~~ director

of the Kansas public employees retirement system, in a form acceptable to the system, within 30 days of the termination of such person's service as an elected official.

(b) For the purposes of contributions to and benefits under the Kansas public employees retirement system, compensation of such members shall be a monthly amount equal to the greater of (1) the compensation to which the elected official was entitled for services as an elected official during the period January 15 to February 14, inclusive, of the most recent year, or (2) the monthly amount of such person's compensation at the time that such person's service as an elected official terminates. The employer rate of contribution for the state of Kansas and employee rate of contribution shall be applied to such amounts monthly. Such person shall remit the required employer and employee contributions to the system quarterly in advance with a report as may be required by the system.

(c) Any election by such person under subsection (a) shall remain in effect until revoked in writing and received by the system or such person becomes an employee of another participating employer or upon failure of such person to remit to the system the employer and employee contributions required under subsection (b).

(d) This act or acts amendatory thereof and supplemental thereto shall become a part of the Kansas public employees retirement act as defined in subsection (2) of K.S.A. 74-4902 and amendments thereto and shall be governed thereby in all respects, except if words and phrases used in this act appear to have a different meaning, the provisions of this act shall prevail.

(e) The provisions of subsection (2) of K.S.A. 74-4916 and amendments thereto are not applicable to any person making an election under subsection (a).

(f) No election shall be made as provided in subsection (a) after June 30, 1998.

Sec. 9. K.S.A. 2000 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

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

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

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) If a retirant who retired on or after July 1, 1988, is employed 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 any participating employer for which

such retirant was employed or appointed 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 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 ~~secretary~~ *director* of the system, the secretary of revenue shall provide such information as may be needed by the executive ~~secretary~~ *director* to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit.

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

Sec. 10. K.S.A. 2000 Supp. 74-4914e is hereby amended to read as follows: 74-4914e.

(1) As used in this section:

(a) "Correctional employee" means any member of the system who is a security officer or other employee of the department of corrections and who is in a position for which the duties and responsibilities involve regular contact with inmates as certified by the secretary of corrections;

(b) "disability" means the total inability to perform permanently the duties of the position of a correctional employee in which the correctional employee was employed at the time of disability;

(c) "service-connected" means any physical or mental disability resulting from external force, violence or disease occasioned by an act of duty as a correctional employee and includes, for any correctional employee after five years of credited service, any death or disability resulting from a heart disease or disease of the lung or respiratory tract, except that in the event that the correctional employee ceases to be a contributing member except by reason of a service-connected disability for a period of six months or more and then again becomes a contributing member the provision relating to death or disability resulting from a heart disease or disease of the lung or respiratory tract shall not apply until such correctional employee has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease or disease of the lung or respiratory tract was in fact occasioned by an act of duty as a correctional employee; and

(d) "final average salary" means the average highest annual compensation paid to a correctional employee for any three of the last five years of participating service immediately preceding the date of disability, or if participating service is less than three years, then the average annual compensation paid to the correctional employee during the full period of participating service or if a correctional employee has less than one calendar year of partic-

ipating service the correctional employee's final average salary shall be computed by multiplying the correctional employee's highest monthly salary received in that year by 12.

(2) If any active contributing correctional employee becomes totally and permanently disabled due to service-connected causes as defined in subsection (1), such correctional employee shall be retired and the following benefits shall become payable and shall continue until the correctional employee's death or until the correctional employee recovers from the disability if a report of the event in a form acceptable to the board is filed in the office of the executive ~~secretary~~ *director* of the board within 220 days after the date of the event or act of duty causing such disability and an application for such benefit, in such form and manner as the board shall prescribe, is filed by the correctional employee or the correctional employee's authorized representative in the office of the executive ~~secretary~~ *director* of the board within two years of the date of disability:

(a) The correctional employee shall receive a retirement benefit equal to 50% of the correctional employee's final average salary. Such benefit shall accrue from the day upon which the correctional employee ceases to draw compensation.

(b) Each of the correctional employee's unmarried children under the age of 18 years or each of the correctional employee's children under the age of 23 years who are full-time students as provided in K.S.A. 74-49,117 and amendments thereto shall receive an annual benefit equal to 10% of the correctional employee's final average salary. Such benefit shall accrue from the day upon which the correctional employee ceases to draw compensation and shall end on the first day of the month in which each such child or children attains the age of 18 years, die or marry, whichever occurs earlier or in which each such child or children attains the age of 23 years, if such child or children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto.

(c) In no case shall the total benefits payable under paragraphs (a) and (b) of this subsection (2) be in excess of 75% of the correctional employee's final average salary.

(d) In the event a correctional employee who is retired under paragraph (a) of this subsection (2), dies within two years after the date of such retirement, then benefits may be payable under subsection (2) of K.S.A. 74-4916 and amendments thereto.

(e) In the event a correctional employee who is retired under paragraph (a) of this subsection (2), dies more than two years after the date of such retirement, and the proximate cause of such death is the service-connected cause from which the disability resulted, then benefits may be payable under subsection (2) of K.S.A. 74-4916 and amendments thereto.

(f) In the event a correctional employee who is retired under subsection (2) dies after the date of retirement and no benefits are payable under paragraphs (d) and (e) the following benefits shall be payable:

(i) To the correctional employee's spouse, if lawfully wedded to the correctional employee at the time of the correctional employee's death, a lump-sum benefit equal to 50% of the correctional employee's final average salary at the time of the correctional employee's retirement.

(ii) To the correctional employee's spouse, if lawfully wedded to the correctional employee at the time of the correctional employee's death, an annual benefit equal to 50% of the correctional employee's retirement benefit payable in monthly installments, to accrue from the first day of the month following the correctional employee's date of death and ending on the first day of the month in which the spouse dies. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, the annual spouse's benefit shall be payable in equal shares to such children and each child's share shall end on the first day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto.

The provisions of this subsection shall apply in all cases of such correctional employees who die after October 1, 1996.

(3) If any correctional employee who is an active contributing member prior to such correctional employee's normal retirement becomes totally and permanently disabled for a period of 180 days from causes not service-connected, and not as the result of a willfully

negligent or intentional act of the correctional employee, such correctional employee shall be retired and the following benefit shall become payable and shall continue until the correctional employee's death or until the correctional employee recovers from such disability whichever occurs first if a report of the disability in a form acceptable to the board is filed in the office of the executive ~~secretary~~ *director* of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive ~~secretary~~ *director* of the board within two years of the date of disability:

A retirement benefit equal to 2% of the correctional employee's final average salary multiplied by the number of years of credited service, except that such retirement benefit shall be at least equal to 25% of the member's final average salary but not to exceed the amount of the retirement benefit provided in paragraph (a) of subsection (2). Such benefit shall not become payable until satisfactory evidence is presented to the board that the correctional employee is and has been for a period of 180 days totally and permanently disabled, but benefits shall accrue from the day upon which the correctional employee ceases to draw compensation.

(4) Any correctional employee who is employed for compensation by an employer other than the department of corrections and whose disability is incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (3).

(5) If a correctional employee becomes totally and permanently disabled and no benefits are payable under subsections (2) or (3), the sum of the correctional employee's accumulated contributions shall be paid to the correctional employee.

(6) Any correctional employee receiving benefits under this section shall submit to medical examination, not oftener than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by Kansas state board of healing arts, as the board of trustees may direct. If upon such medical examination the examiners report to the board that the retirant is physically able and capable of resuming employment with the participating employer from whose employment the correctional employee retired, the disability benefits shall terminate. A retirant who has been receiving benefits under the provisions of this section and who returns to employment of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(7) Any retirant who has been receiving benefits under the provisions of this section for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required.

(8) Refusal or neglect to submit to examination as provided in subsection (6) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the correctional employee's rights in and to all benefits under the system may be revoked by the board.

(9) Any retirement benefits payable under the provisions of this section shall be in lieu of all other benefits under the system.

(10) Each correctional employee shall report to such member's participating employer any event or act of duty causing disability within 200 days after such event or act of duty. The department of corrections shall file in the office of the executive ~~secretary~~ *director* of the board, in a form acceptable to the board, a report of the event or act of duty causing disability within 220 days after the event or act of duty.

(11) Benefits payable under this section shall be reduced by the original amount of any disability benefits received under the federal social security act or the workers compensation act. For any correctional employee already retired on the effective date of this act, no reduction of the original social security benefits shall be applicable to benefits paid prior to the effective date of this act. In no case shall a correctional employee who is entitled to receive benefits under this section receive less than \$100 per month.

(12) The provisions of this section shall apply to disabilities occurring after June 30, 1982, and prior to July 1, 1995. At the direction of the board of trustees, the actuary shall

conduct an experience evaluation of benefits payable under this section and the board shall provide copies of such study to the governor and members of the legislature.

(13) The provisions of K.S.A. 74-4927 and amendments thereto relating to insured disability benefits shall not be applicable to correctional employees subject to the provisions of this section.

(14) In the event a correctional employee who is retired under subsection (3) dies after the date of retirement and no benefits are payable under that subsection, the following benefits shall be payable:

(i) To the correctional employee's spouse, if lawfully wedded to the correctional employee at the time of the correctional employee's death, a lump-sum benefit equal to 50% of the correctional employee's final average salary at the time of the correctional employee's retirement.

(ii) To the correctional employee's spouse, if lawfully wedded to the correctional employee at the time of the correctional employee's death, an annual benefit equal to 50% of the correctional employee's retirement benefit payable in monthly installments, to accrue from the first day of the month following the correctional employee's date of death and ending on the first day of the month in which the spouse dies. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, the annual spouse's benefit shall be payable in equal shares to such children and each child's share shall end on the first day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto.

The provisions of this subsection shall apply in all cases of such correctional employees who die after October 1, 1996.

Sec. 11. K.S.A. 2000 Supp. 74-4915 is hereby amended to read as follows: 74-4915. (1) Any member who retires on or after such member's normal retirement date shall be entitled to receive an annual retirement benefit equal to the sum obtained by adding an amount for participating service and an amount for prior service determined as provided in this section. The amount for prior service shall be equal to 1% of the member's prior service annual salary multiplied by the number of years of prior service entitled to credit as provided in K.S.A. 74-4913 and amendments thereto, except that for members retiring on or after July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991 and amendments thereto, and for the period commencing January 1, 1986, for members retiring before July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991 and amendments thereto, except that any increase in benefits under this section shall be reduced by any postretirement benefit adjustments received by such member prior to July 2, 1985, the amount for prior service shall be calculated using final average salary in lieu of prior service annual salary and, in the case of any such member who became a member under subsection (3) of K.S.A. 74-4925 and amendments thereto and for whom a final average salary cannot be otherwise determined, such member's final average salary shall be based on all service for which such member received assistance in a plan under subsection (2) of K.S.A. 74-4925 and amendments thereto as certified by such employer upon request of the board. For any member who retires on or after July 1, 1993, the amount for participating service shall be equal to the total of 1.75% of the member's final average salary multiplied by the number of years of participating service.

(2) (A) Any member who retires on or after July 1, 1993, but before the normal retirement date and has attained age 60 but has not attained age 62 with the completion of 10 years of credited service, shall receive an annual retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date but based upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an amount equal to the product of (i) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (ii) the product of .2% multiplied by the number of months' difference, to

the nearest whole month, between the member's attained age at the time of retirement and age 62.

(B) Any member who retires on or after July 1, 1993, but before the normal retirement date and has attained age 55 but has not attained age 60 with the completion of 10 years of credited service, shall receive an annual retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date but based upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an amount equal to the total of: (i) (a) The product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (b) the product of .6% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

(ii) on and after July 1, 1993, the product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by 4.8%.

(3) Upon death of a retirant, there shall be paid to such retirant's beneficiary an amount equal to the excess, if any, of such retirant's accumulated contributions over the sum of all retirement benefit payments made.

(4) Such annual retirement benefits shall be paid in equal monthly installments except, that the board may provide for the payment of retirement benefits which total less than \$240 a year on other than a monthly basis.

(5) In the event that an application in such form as may be prescribed by the board for any amount due under the provisions of this act, is not filed with the office of the retirement system by the person entitled to same within five years of the date such amount became due and payable, an amount equal to same shall be transferred to the retirement benefit accumulation reserve and such amount shall no longer be due and payable, except that if any such person shall present evidence satisfactory to the board that such person's failure to file such application within that time period was due to lack of knowledge or incapacity on such person's part, the amount equal to the amount originally due shall be transferred from the retirement benefit accumulation reserve to the reserve or reserves from which such transfer was initially made and the amount originally due shall be paid to such person.

(6) *The participating employer, when an employee files an application for retirement, shall certify to the system all member contributions of such employee which have not been reported previously. In the event the amount certified results in an overpayment of retirement benefits, the employer shall be held responsible for the contribution amount previously certified from the time of commencement of the overpayment of retirement benefits until the time that such overpayment is discovered by the system. At the time that such overpayment of retirement benefits is discovered by the system, the system shall adjust the amount of retirement benefits paid to the employee to the correct amount based on the participating employer's certification of member contributions which had not been previously reported. The participating employer of the employee who has had such member's retirement benefits adjusted as provided in this subsection shall notify such employee of such overpayment and such adjustment of retirement benefits. If the contributions previously certified are lower than the actual amount reported, the employer shall be responsible for remitting the correct amount and the member's monthly benefit shall be recalculated based on the amount reported by the employer. When an employee in school employment files such an application, the participating employer responsible for any such amounts as provided in this subsection shall be the employee's eligible employer as specified in subsection (1), (2) or (3) of K.S.A. 74-4931, and amendments thereto, and shall not be the state of Kansas. The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.*

Sec. 12. K.S.A. 2000 Supp. 74-4915b is hereby amended to read as follows: 74-4915b.

(a) Notwithstanding any provision of law to the contrary, any member who is a member of the legislature who is also employed by another participating employer of the Kansas public employees retirement system other than the legislature and is an eligible employee as defined in K.S.A. 74-4902, and amendments thereto, may retire from service from such other participating employer and may continue to serve as a member of the legislature, except that, commencing January 8, 2001, such member of the legislature shall not receive any

retirement benefit for any month for which such member of the legislature serves when compensation as provided in subsection (e) is paid in an amount equal to \$15,000 or more in any one such calendar year. Such member's retirement benefit shall be based on the final average salary of such member for service prior to service as a member of the legislature.

(b) No such member who is a member of the legislature who retires as provided in subsection (a) and who continues to serve as a member of the legislature shall accrue any additional service credit for such service as a member of the legislature or be entitled to any benefit provided in K.S.A. 74-4916 or 74-4927, and amendments thereto.

(c) When such member who is a member of the legislature retires as a member of the legislature, such member's final average salary shall be recalculated to include legislative compensation, if such inclusion of such compensation increases such member's final average salary, of the member up to the time of retirement from the participating employer other than the legislature as provided in subsection (a).

(d) No such member who is a member of the legislature shall accrue any additional retirement benefits for the period of time between the date the member retired from the participating employer other than the legislature and the date such member retires as a member of the legislature.

(e) 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 in subsection (a). Upon request of the executive ~~secretary~~ *director* of the system, the secretary of revenue shall provide such information as may be needed by the executive ~~secretary~~ *director* to carry out the provisions of this section. For determination of the amount of legislative compensation, as provided in subsection (a) and this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit.

(f) The provisions of this section are intended to further the public policy of encouraging persons to serve in elective public office by permitting a member of the system, who is a member through employment with a participating employer in a nonelected position and who holds an elected office as a member of the legislature and who is also a member of the system for such elected office, to retire under the system from such nonelected employment and to continue serving in such elected public office.

(g) The words and phrases used in this section have the meanings respectively ascribed thereto by K.S.A. 74-4902, and amendments thereto, unless a different meaning is plainly required by the context.

(h) The provisions of this section shall be effective on and after July 1, 2000.

Sec. 13. K.S.A. 2000 Supp. 74-4915c is hereby amended to read as follows: 74-4915c.

(a) Notwithstanding any provision of law to the contrary, any member who is an elected local official of a municipality who is also employed by another participating employer of the Kansas public employees retirement system other than the municipality and is an eligible employee as defined in K.S.A. 74-4902, and amendments thereto, may retire from service from such other participating employer and may continue to serve as an elected local official, except that such local official shall not receive any retirement benefit for any month for which such local official serves in such office when compensation is paid in an amount equal to \$15,000 or more in any one such calendar year. 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 in this subsection. Upon request of the executive ~~secretary~~ *director* of the system, the secretary of revenue shall provide such information as may be needed by the executive ~~secretary~~ *director* to carry out the provisions of this section.

(b) No such member who is an elected local official who retires as provided in subsection (a) and who continues to serve as an elected local official shall accrue any additional service credit for such service as an elected local official or be entitled to any benefit provided in K.S.A. 74-4916 or 74-4927, and amendments thereto.

(c) The provisions of this section are intended to further the public policy of encouraging persons to serve in elective public office by permitting a member of the system, who is a member through employment with a participating employer in a nonelected position and who holds an elected office as an elected local official of a municipality and who is also a member of the system for such elected office, to retire under the system from such nonelected employment and to continue serving in such elected public office.

(d) The words and phrases used in this section have the meanings respectively ascribed thereto by K.S.A. 74-4902, and amendments thereto, unless a different meaning is plainly required by the context.

Sec. 14. K.S.A. 2000 Supp. 74-4916 is hereby amended to read as follows: 74-4916. (1) Upon the death of a member before retirement, the member's accumulated contributions shall be paid to the member's beneficiary.

(2) (a) In the event that a member dies before retirement as a result of an accident arising out of and in the course of the member's actual performance of duty in the employ of a participating employer independent of all other causes and not as a result of a willfully negligent or intentional act of the member, an accidental death benefit shall be payable if: (A) A report of the accident, in a form acceptable to the board, is filed in the office of the executive ~~secretary~~ *director* of the board within 60 days after the date of the accident causing such death and an application for such benefit, in such form and manner as the board shall prescribe, is filed in the office of the executive ~~secretary~~ *director* of the board within two years of the date of the accident, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity; and (B) the board finds from such evidence as it may require, to be submitted in such form and manner as it shall prescribe, that the natural and proximate cause of death was the result of an accident arising out of and in the course of the member's employment with a participating employer independent of all other causes at a definite time and place. Such accidental death benefit shall be a lump-sum amount of \$50,000 and an annual amount of $\frac{1}{2}$ of the member's final average salary which shall accrue from the first day of the month following the date of death and which shall be payable in monthly installments or as the board may direct, but, after June 30, 1982, in no case shall the accidental death benefit be less than \$100 per month. The accidental death benefit payments shall be paid to the surviving spouse of such deceased member, such payments to continue so long as such surviving spouse lives or if there is no surviving spouse, or in the case the spouse dies before the youngest child of such deceased member attains age 18 or before the youngest child of such deceased member attains age 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto or if there are one or more children of the member who are totally disabled and dependent on the member or spouse, then to the child or children of such member under age 18 or under age 23, if such child or children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto and to the child or children of the member who are totally disabled and dependent on the member or spouse, divided in such manner as the board in its discretion shall determine, to continue until the youngest surviving child dies or attains age 18 or attains age 23 if such child is a full-time student as provided in K.S.A. 79-49,117 and amendments thereto or, in the case of the child or children who are totally disabled and dependent on the member or spouse, until death or until no longer totally disabled, or if there is no surviving spouse or child eligible for accidental death benefits under this subsection (2) at the time of the member's death, then to the parent or parents of such member who are dependent on such member, to continue until the last such parent dies. All payments due under this subsection (2) to a minor shall be made to a legally appointed conservator of such minor or totally disabled child as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) In construction of this section of the act there shall be no presumption that the death of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the person claiming under this subsection (2). In the event of the death of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that death was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) The annual benefit under this subsection (2) shall be reduced by any workers compensation benefit payable. If the workers compensation benefit is paid in a lump-sum, the amount of such reduction shall be calculated on a monthly basis over the period of time for which workers compensation benefits would have been payable had such lump-sum not been paid. For any recipient already in receipt of such benefits on the effective date of this act, no change in the original reduction for workers compensation benefits shall be applicable to benefits paid prior to July 1, 1994. In the event that a member should die as a result of an accident as described in this subsection (2), all elections or options previously made by the deceased member shall become void and of no effect whatsoever and the retirement system shall be liable only for the accidental death benefit, refund of accumulated contributions as described in subsection (1) and any insured death benefit that may be due. The benefit payable under this subsection (2) shall be known and referred to as the "accidental death benefit."

(3) (a) Upon the application of a member, or the member's appointing authority acting for the member, a member who is in the employ of a participating employer and becomes totally and permanently disabled for duty in the employ of a participating employer, by reason of an accident which occurred prior to July 1, 1975, may be retired by the board if, (A) the board finds the total and permanent disability to be the natural and proximate result of an accident causing personal injury or disease independent of all other causes and arising out of and in the course of the member's actual performance of duties as an employee of a participating employer; and (B) a report of the accident, in a form acceptable to the board is filed in the office of the executive ~~secretary~~ director of the board within 200 days after the date of the accident causing such injury; and (C) such application for retirement under this provision, in such form and manner as shall be prescribed by the board, is filed in the office of the executive ~~secretary~~ director of the board within two years of the date of the accident; and (D) after a medical examination of the member has been made by or under the direction of a medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts designated by the board and the medical physician or physicians or any other practitioner holding a valid license to practice a branch of the healing arts issued by the state board of healing arts report in writing to the board that the member is physically or mentally totally disabled for duty in the employ of a participating employer and that such disability will probably be permanent; and (E) the board finds that the member became permanently and totally disabled on a date certain based on the evidence furnished and the professional guidance obtained and that such disability was not the result of a willfully negligent or intentional act of the member. If the board shall so retire the applicant, the member shall receive annually an accidental total disability benefit equal to $\frac{1}{2}$ of the member's final average salary which shall accrue from the first day of the month following the date of such accidental total and permanent disability as found by the board payable in monthly installments or as the board may direct.

(b) In construction of this subsection (3) there shall be no presumption that the disability of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the member claiming under this subsection (3). In the event of the disability of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that disability was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) A member will continue to receive such accidental total disability benefit so long as the member is wholly and continuously disabled by such injury and prevented thereby from engaging in any gainful occupation or employment for which the member is reasonably

qualified by reason of education, training or experience. The accidental loss of both hands by actual severance through or above the wrist joint, or the accidental loss of both feet by actual severance through or above the ankle joint or the entire and irrecoverable accidental loss of sight of both eyes, or such severance of one hand and one foot, and such severance of one hand or one foot and such loss of sight of one eye, shall be deemed accidental total and permanent disability and accidental total disability benefits shall be paid so long as the member lives.

(d) Any retirant retired by reason of such accidental total and permanent disability who has been receiving benefits under the provisions of this subsection (3) for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees has reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required. Refusal or neglect to submit to examination shall be sufficient cause for suspending or discontinuing the accidental total disability benefit. If the refusal or neglect continues for a period of one year, all of the member's rights with respect to such accidental total disability benefit may be revoked by the board.

(e) In the event that a retirant who is receiving an accidental total disability benefit dies within five years after the date of the retirant's retirement, an accidental death benefit shall then be payable as provided in subsection (2) of this section.

(f) A member who retires under the provisions of this subsection (3) shall receive such benefits as provided in this subsection (3) in lieu of all other retirement benefits provided under the retirement system except that no member shall be entitled to receive any payments under this subsection (3) for a period for which insured disability benefits are received.

(g) The value, as determined by the board upon recommendation of the actuary, of any workmen's compensation benefits paid or payable to the recipient of an accidental total disability benefit shall be deducted from the amount payable under this section.

(h) The benefit payable under subsection (3) of this section shall be known and referred to as "accidental total disability benefit."

(4) The payment of benefits as provided in this section is subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto.

Sec. 15. K.S.A. 2000 Supp. 74-4918 is hereby amended to read as follows: 74-4918. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 74-4915 and amendments thereto. Such election must be made before the date of actual retirement. A specific person must be designated as joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto, as prescribed in subsection (3). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) The following retirement options, which are subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, are available:

(A) *Joint and $\frac{1}{2}$ to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 91% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with $\frac{1}{2}$ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining

lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 83% minus .6% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .6% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and $\frac{3}{4}$ to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 87% minus .5% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .5% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with $\frac{3}{4}$ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4915, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 74-4915, and amendments thereto.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4915, and amendments thereto, or subsections (3)(A) through (3)(F) of this section.

(iii) ~~The amount of any retirement benefit payable pursuant to this subsection shall remain as provided in this subsection even in the event that the designated joint annuitant pursuant to subsection (3)(A), (3)(B) or (3)(C) predeceases the retirant. In the event that the designated joint annuitant pursuant to subsection (3)(A), (3)(B) or (3)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.~~

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(4) If a member, who is eligible to retire in accordance with the provisions of K.S.A. 74-4914 and amendments thereto, dies without having actually retired, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions.

(5) The benefits of subsection (4) shall be available in the case of death within the first six months after the entry date of the member's participating employer.

(6) On and after January 1, 1991, if a member with 15 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (3)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (3)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

Sec. 16. K.S.A. 2000 Supp. 74-4918a is hereby amended to read as follows: 74-4918a.

(a) If the member who is married at the time of retirement selects or will receive a retirement benefit or annuity which would provide to such member's spouse upon the member's death no monthly payments or payment which is less than the payment that the spouse would receive as a joint annuitant under the joint and $\frac{1}{2}$ to joint annuitant survivor option, as provided in K.S.A. 20-2610a, 74-4918, 74-4964 or 74-4964a and amendments thereto, or selects the lump sum payment at retirement benefit option as provided in subsection (3)(G) of K.S.A. 74-4918, and amendments thereto, at the time of such selection of a retirement benefit or annuity the member shall submit a notarized statement of the marital status of

the member and, if the member is currently married, a statement of the spouse's consent or objection to the member's selected retirement benefit or annuity under the provisions of this section signed by the spouse and notarized in such form and manner as provided by the system.

(b) (i) If the spouse of the member does not consent to the member's selection of a retirement benefit or annuity under the provisions of this section before the date of actual retirement, the system shall:

(A) Notify the spouse that the spouse has 90 days to consent or have the member change such member's selected retirement benefit or annuity; and

(B) pay the retirement benefit or annuity at the amount as provided by the joint and ½ to joint annuitant survivor option until the spouse consents or for 90 days, whichever is less.

(ii) Upon consent of the spouse or at the end of 90 days, the retirement benefit or annuity must be recalculated and paid as provided by the terms of the member's original selected retirement benefit or annuity retroactively to the date on which the retirement became effective.

(iii) The system is not liable for any damages resulting from false designation of marital status by a member or retiree.

(c) For purposes of this section, "retirement system" or "system" means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges.

(d) The provisions of this section shall take effect on and after July 1, 1994.

Sec. 17. K.S.A. 2000 Supp. 74-4919 is hereby amended to read as follows: 74-4919. (1) Each participating employer, beginning with the first payroll for services performed after the entry date, shall deduct from the compensation of each member 4% of such member's compensation as employee contributions. Such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* for deposit in the Kansas public employees retirement fund. Such deductions shall be credited to the members' individual accounts and interest shall be added annually to such accounts.

(2) (a) Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 18. K.S.A. 2000 Supp. 74-4919b is hereby amended to read as follows: 74-4919b.

(a) Any employee of a participating employer who becomes a member of the system as provided in K.S.A. 74-4911 or 74-4935 and amendments thereto, who has previously been a member of the system and who has forfeited participating and prior service credit by reason of termination of employment with a participating employer and withdrawal of such member's accumulated contributions, may have all or a part of such forfeited service reinstated as provided in K.S.A. 74-4901 through 74-4930 and amendments thereto.

(b) Any member, if not actively employed, who has previously been a member of the system and who has forfeited participating and prior service credit by reason of termination of employment with a participating employer and withdrawal of such member's accumulated

contributions may have all or a part of such forfeited service reinstated as provided in K.S.A. 74-4901 through 74-4930 and amendments thereto. Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, such member may purchase such service credit by means of a single lump-sum payment. The lump-sum payment shall be an amount determined by the actuary using the member's annual rate of compensation when last participating, the actuarial assumptions and tables currently in use by the retirement system and the member's attained age. ~~The provisions of this subsection shall not apply to repurchase of previously forfeited service credit as provided in subsection (b) of K.S.A. 74-4911b and amendments thereto.~~

Sec. 19. K.S.A. 2000 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. 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 actuarial cost method shall 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 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. For all participating employers described in this section, the projected unit credit actuarial cost method shall 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) 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. 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. 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. There shall be an employer rate of contribution certified to the state of Kansas and participating employers under K.S.A. 74-4931 and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers 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. 1998 Supp. 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. ~~1998~~ 2000 Supp. 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. 2000 Supp. 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) 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.

(10) 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.

(11) 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.

(12) 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 ~~secretary~~ 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. 20. K.S.A. 2000 Supp. 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 ~~secretary~~ 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 alternative investments does not exceed more than 5% of the total 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;

(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;

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

(d) the board shall not invest or reinvest moneys of the fund in any banking institution, savings and loan association or credit union which positions the system as a shareholder or owner of such banking institution, savings and loan association or credit union.

(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 re-

quire 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 performance audit subjects to be included in any financial-com-

pliance 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. 21. K.S.A. 2000 Supp. 74-4922 is hereby amended to read as follows: 74-4922. The executive ~~secretary~~ *director* shall maintain such records as are necessary to determine the following reserves.

(a) *Member's accumulated contribution reserve.* This reserve shall be maintained within the fund for each member and for each member having a vested benefit. Each such reserve account shall be credited with the employee's contributions upon receipt thereof and shall be credited on June 30 each year with interest: (1) At the actuarial assumption rate adopted by the board on the balance in the employee's account as of the preceding December 31 for those who first became members prior to July 1, 1993; and (2) 4% for those who first became members on and after July 1, 1993. For the purposes of crediting interest upon accumulated contributions, the term member shall include the beneficiary of a member during the twelve-month period following the death of a member and the beneficiary of a member pursuant to subsection (6) of K.S.A. 74-4918 and amendments thereto during any period commencing on the date of death of such member and ending on the date that the member would have attained retirement age. Refunds of employee's accumulated contributions prior to retirement shall be made from this reserve. Upon commencement of pay-

ments of the retirement benefit, the amount in this reserve account for the retiring member or members, shall be transferred to the retirement benefit payment reserve.

(b) *Retirement benefit accumulation reserve.* This reserve within the fund shall be credited with the portion of employer contributions for retirement benefits both for prior service and for participating service and with income of the fund not otherwise directed by law to a different reserve. The board shall credit interest to all other reserves and reserve accounts as provided by law at rates determined by the board. Interest so credited shall be transferred from the retirement benefit accumulation reserve. Separate reserve accounts shall not be maintained for each participating employer joining the system on the first entry date. The board shall determine whether or not separate reserve accounts shall be maintained for each participating employer joining the system after the first entry date.

(c) *Retirement benefit payment reserve.* (i) This reserve within the fund will be credited with the amount transferred from the member's accumulated contributions reserve and from the retirement benefit accumulation reserve and with interest allocated to this reserve at the rate determined each year by the board. This reserve shall be charged with payments of retirement benefits including payments upon death of the excess of member's accumulated contributions over retirement benefit payments paid to date of death. Annually, upon receipt of the actuarial valuation as of the end of the previous fiscal year the board shall cause certain adjustments to be made which shall be made prior to the end of the fiscal year immediately following the fiscal year for which the actuarial valuation is applicable.

(ii) The amount of these adjustments shall be the difference between the amount required by the current actuarial valuation and the amount required by the previous year's actuarial valuation plus amounts transferred to this reserve less amounts paid out of this reserve during the fiscal year to be adjusted. Such adjustments required to maintain this reserve on an actuarial reserve basis as of June 30 of the previous fiscal year shall be accomplished by transfers to or from, as applicable, the retirement benefit accumulation reserve.

(d) *Expense reserve.* This reserve within the fund shall be credited with interest allocated to this reserve at the rate determined each year by the board. It shall be charged with payments of all expenses incurred in connection with the administration of the system.

Sec. 22. K.S.A. 2000 Supp. 74-4925 is hereby amended to read as follows: 74-4925. (1) The state board of regents shall:

(a) Assist all those members of the faculty and other persons who are employed by the state board of regents or by educational institutions under its 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, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, in the purchase of retirement annuities for their service rendered after December 31, 1961. 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 shall be eligible for assistance by the state board of regents in the purchase of retirement annuities under this section. The state board of regents shall not assist any such person who is employed after December 31, 1961, until such person has been employed for a waiting period of at least one year except that (i) the state board of regents may assist any newly employed person immediately if at the time of the commencement of employment the person is covered by a valid retirement annuity contract issued by a company described in subsection (2) which was entered into pursuant to a retirement pension plan adopted for faculty members or other persons, or both, employed by an institution of higher education and to which such person or such person's employer on such person's behalf has been making contributions for at least one year, and (ii) all periods of employment with (A) participating employers under the Kansas public employees retirement system, for which employment participating service credit accrued, or (B) institutions of higher education in other states for which employment retirement benefits accrued under a retirement system or plan provided for such employment, shall be credited toward satisfaction of such one-year waiting period if served, in either case, during the five years immediately preceding employment with the state board of regents or with an educational institution under its management 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, in addition to such employment with the state board of regents or with an educational institution under its management; no period of employment as a student employee, as a seasonal or temporary employee or as a part-time employee, whose employment requires less than 1,000 hours of work per year, shall be credited toward the one-year waiting period under subsection (1)(a); this act shall not apply to persons employed in such temporary and part-time positions designated by the state board of regents as exceptions hereto;

(b) require such members of the faculty and others described in subsection (1)(a) who are so assisted by the state board of regents to contribute an amount toward the purchase of such retirement annuities of 5.5% of their salaries, such contributions to be made through payroll deductions and on a pretax basis;

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

(d) provide, under such rules and regulations as the state board of regents may adopt, for the retirement of any such member of the faculty or other person described in subsection (1)(a) on account of age or condition of health, retirement of such member of the faculty or other person described in subsection (1)(a) on account of age to be not earlier than the 55th birthday and prior to January 1, 1994, not later than the end of the academic year following the 70th year. On and after January 1, 1994, there shall be no mandatory retirement on account of age. Any person who retires under this section and who receives benefits from the Kansas public employees retirement system for prior service credit shall have such benefits calculated in accordance with the applicable provisions of K.S.A. 74-4914 and 74-4915 and amendments thereto.

(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) any life insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institution and individuals engaged in the services of such institutions, whether or not such company is authorized to do business in Kansas. No premium tax or income tax shall be due or payable on such annuity contract or contracts for such retirement programs issued by a company described in this subsection (2)(b), except that neither the purchase nor the issuance of such retirement annuities from or by a company described in this subsection (2)(b) shall constitute the effecting of a contract of insurance.

(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 the board shall prescribe.

(4) For the purpose of establishing a procedure whereby the state board of regents and any member of the faculty or other person described in subsection (1)(a), subject to rules and regulations of the state board of regents, may take advantage of section 403(a) or (b) of the federal internal revenue code of 1986 or any other section of the federal internal

revenue code of 1986 which defers or excludes amounts from inclusion in income, any member of the faculty or any other person described in subsection (1)(a), whether or not such person has satisfied the one-year waiting period requirement under subsection (1)(a), may request in writing that the state board of regents reduce such person's annual salary, as fixed by the board, in an amount equal to not less than 5% nor more than the percentage allowed under section 403(b) of the federal internal revenue code of 1986, as designated by such member of the faculty or other person described in subsection (1)(a), of the gross amount of such annual salary. In the event of such request by a faculty member or other person who is required to make the contribution as provided in subsection (1)(b), such person shall not be required to make such contribution and the state board of regents shall provide a sum equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross annual salary of the member of the faculty or other person and shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person and the amount paid by the state board of regents. In the event of such request by a faculty member or other person who is serving the one-year waiting period pursuant to subsection (1)(a) who is not required to make the contribution as provided in subsection (1)(b), the state board of regents shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person, but the state board of regents shall not provide the sum equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross annual salary of such person as provided for such person who is required to make the contribution as provided in subsection (1)(b). Such retirement annuity contracts may be purchased by the state board of regents from companies described in subsection (2)(a) and subsection (2)(b) or from noninsurance companies who offer retirement plans that meet the requirements of section 403(b) of the federal internal revenue code of 1986, except that the state board of regents may require that the first 5% of the gross amount of such person's annual salary which is reduced under this subsection (4) and the amount equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the gross amount of such person's annual salary which is provided by the state board of regents for the purchase of retirement annuity contracts under this subsection (4), if required to be provided under this subsection (4), shall be used to purchase such retirement annuity contracts from such company or companies as may be designated by the state board of regents for such purposes. The director of accounts and reports is authorized to draw warrants on the state treasurer upon the filing with the director of proper vouchers for the amount of the premium on the retirement annuity contract to be paid pursuant to the terms of such contracts and this act.

(5) All employees who are described in subsection (1)(a) and who commence such employment on and after July 1, 1976, shall receive assistance under subsection (1) and shall be covered by a valid retirement annuity contract issued by a company described in subsection (2).

(6) Any employee of the state board of regents or of an educational institution under its management, other than an elected official, who is receiving or is eligible for assistance by the state board of regents in the purchase of a retirement annuity under this section and who becomes ineligible for such assistance because such employee's position is reclassified to a position in the classified service under the Kansas civil service act or who becomes ineligible for such assistance because such employee transfers to a position in the classified service under the Kansas civil service act with the state board of regents or an educational institution under its management, shall become a member of the Kansas public employees retirement system in accordance with the provisions of subsection (5) of K.S.A. 74-4911 and amendments thereto, unless such employee files a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board of trustees thereof, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer. Failure to file such written election shall be pre-

sumed 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, whether to remain eligible for such assistance or to become a member of such system, shall be effective as of the effective date of such reclassification or transfer and shall be irrevocable.

(7) The state board of regents shall adopt uniform policies applicable to members of the faculty and other persons, who are employed by the state board of regents or by any educational institution under its 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, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, for the purposes of administering the provisions of this section and the provision of retirement annuities and other benefits hereunder. All assistance provided by the state board of regents for such persons, and agreements entered into therefor, pursuant to this section prior to the effective date are hereby authorized, confirmed and validated.

(8) Any employee described in subsection (1)(a) who is on leave of absence and who accepts a position in the executive branch of government may file a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in the executive branch of government. 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. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the sum of the amounts provided in subsection (1)(c).

(9) *Any employee described in subsection (1)(a) who is on leave of absence and who is elected or appointed as a member of the legislature may file a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in 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 occurring after July 1, 2001. 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. 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. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, on the biweekly rate of the salary of such employee with the state board of regents in effect on the date preceding such leave of absence and continuing throughout such leave of absence. Any such employee who makes an election as provided by 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 section are intended to further the public policy of encouraging persons to serve in elective office.*

Sec. 23. K.S.A. 2000 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 reason-

able 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 ~~June 30, 2001~~ *December 31, 2001*.

(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.

Sec. 24. K.S.A. 2000 Supp. 74-4927f is hereby amended to read as follows: 74-4927f.

(a) For the purposes of providing the "insured death benefit" as prescribed in K.S.A. 74-4927 and amendments thereto, to all persons who are members of the retirement system for judges, the term "member" as used in K.S.A. 74-4927 and amendments thereto, and as used in this section shall include members of the retirement system for judges.

(b) Except as otherwise provided by this subsection, the employer of any member who is a member of the retirement system for judges shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe, an amount equal to .4% of the amount of compensation on which the member's contributions to the retirement system for judges are based for deposit in the group insurance reserve of the Kansas public employees retirement fund, in lieu of the amount required to be paid under subsection (4) of K.S.A. 74-4927 and amendments thereto. Notwithstanding the provisions of this subsection, no employer shall pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the ~~fiscal year ending June 30, 2001~~ *period commencing on April 1, 2000, and ending on December 31, 2001.*

Sec. 25. K.S.A. 2000 Supp. 74-4927h is hereby amended to read as follows: 74-4927h.

(1) The provisions of this section shall apply to employees of the state board of regents and institutions under its management covered by the provisions of K.S.A. 74-4925 and 74-4927a and amendments thereto. This section shall be administered by the board of trustees of the Kansas public employees retirement system.

(2) (a) In the event that a member dies before retirement as a result of an accident arising out of and in the course of the member's actual performance of duty in the employ of a participating employer independent of all other causes and not as a result of a willfully negligent or intentional act of the member, an accidental death benefit shall be payable if: (A) A report of the accident, in a form acceptable to the board, is filed in the office of the executive ~~secretary~~ *director* of the board within 60 days of the date of the accident causing such death, and an application for such benefit, in such form and manner as the board shall prescribe, is filed in the office of the executive ~~secretary~~ *director* of the board within two years of the date of the accident, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity; and (B) the board finds from such evidence as it may require, to be submitted in such form and manner as it shall prescribe, that the natural and proximate cause of death was the result of an accident arising out of and in the course of the member's employment with a participating employer independent of all other causes at a definite time and place. Such accidental death benefit shall be a lump-sum amount of \$50,000 and an annual amount of $\frac{1}{2}$ of the member's final average salary which shall accrue from the first day of the month following the date of death and which shall be payable in monthly installments or as the board may direct, but in no case shall the accidental death benefit be less than \$100 per month. The accidental death benefit payments shall be paid to the surviving spouse of such deceased member, such payments to continue so long as such surviving spouse lives or until such surviving spouse remarries. If there is no surviving spouse, or in

the case the spouse dies or remarries before the youngest child of such deceased member attains age 18 years or before the youngest child of such deceased member attains age 23, if such child is a full-time student as provided in K.S.A. 74-49,117, or if there are one or more children of the member who are totally disabled and dependent on the member or spouse, the accidental death benefit payments shall be paid to the child or children of such member under age 18 years or under age 23 years, if such child or children are full-time students as provided in K.S.A. 74-49,117 and to the child or children of the member who are totally disabled and dependent on the member or spouse, such payments to be divided in such manner as the board in its discretion shall determine and to continue until the youngest surviving child dies or attains age 18 years or attains age 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, in the case of the child or children who are totally disabled and dependent on the member or spouse, until death or until no longer totally disabled. If there is no surviving spouse or child eligible for accidental death benefits under this subsection (2) at the time of the member's death, the accidental death benefit payments shall be paid to the parent or parents of such member who are dependent on such member, such payments to continue until the last such parent dies. All payments due under this subsection (2) to a minor shall be made to a legally appointed conservator of such minor or totally disabled child as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto.

(b) In construction of this section, there shall be no presumption that the death of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the person claiming under this subsection (2). In the event of the death of a member resulting from a heart, circulatory or respiratory condition, there must be clear and precise evidence that death was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of duties in the employ of a participating employer.

(c) The value, as determined by the board upon recommendation of the actuary, of any worker's compensation benefits paid or payable to the recipient or recipients of an annual benefit under this subsection (2) shall be deducted from the amounts which become payable under this section. In the event that a member should die as a result of an accident as described in this subsection (2), all elections or options previously made by the deceased member shall become void and of no effect whatsoever and the retirement system shall be liable only for the accidental death benefit and any insured death benefit that may be due. The benefit payable under this subsection (2) shall be known and referred to as the "accidental death benefit."

(3) Any costs to the board from the claims arising under this section shall be included in the rate certified by the board to finance the costs of members under subsection (3) of K.S.A. 74-4925 and amendments thereto.

(4) The payment of benefits as provided in this section is subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto.

Sec. 26. K.S.A. 2000 Supp. 74-4932 is hereby amended to read as follows: 74-4932. As used in this act, unless the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to such member's account, with interest allowed thereon, plus such member's contributions transferred from the school employees savings fund of the state school retirement system;

(2) "compensation" means the same as defined in subsection (9) of K.S.A. 74-4902 and amendments thereto;

(3) "school year" means the twelve-month period beginning September 1 and ending August 31;

(4) "employee" means any employee of a participating employer which is an eligible employer, as specified in K.S.A. 74-4931 and amendments thereto, whose employment is not seasonal or temporary and whose employment requires at least 630 hours of work per year or 3.5 hours of work per day for at least 180 days or any employee who is concurrently employed by two or more eligible employers, as specified in K.S.A. 74-4931 and amendments thereto, whose combined employment is not seasonal or temporary and whose com-

bined employment requires at least 630 hours of work per year or 3.5 hours of work per day for at least 180 days. Employee shall not include:

(a) Any employee who is covered by or eligible for or who will become eligible for retirement benefits under any retirement plan or system provided by K.S.A. 74-4925 and amendments thereto;

(b) any employee who is a contributing member of the United States civil service retirement system;

(c) any employee or class of employees specifically exempt by law, except those persons who were formerly employees of one or more of the participating employers which are eligible employers as specified in K.S.A. 74-4931 and amendments thereto, who are covered by and have contributions on deposit with the state school retirement system and who have not retired under that system on the day next preceding entry date;

(d) any employee who on entry date is covered by or eligible for or will become eligible for retirement benefits under a separate retirement system authorized or established under K.S.A. 72-1758 to 72-1769, inclusive, and amendments thereto, or K.S.A. 72-6780 and amendments thereto, except that this paragraph (d) shall not include any employee, who before September 1, 1974, elects to become a member of the Kansas public employees retirement system as provided in K.S.A. 74-4935a and amendments thereto; or

(e) on and after July 1, 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. However, 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;

(5) "executive ~~secretary~~ director" means the managing officer of the system as defined in subsection (16) of K.S.A. 74-4902 and amendments thereto;

(6) "military service" means the same as defined in subsection (22) of K.S.A. 74-4902 and amendments thereto, and includes such service when followed by return to employment with the same or another participating employer on or before the beginning of the next school year following discharge or separation from such military service;

(7) "normal retirement date" means the same as defined in subsection (23) of K.S.A. 74-4902 and amendments thereto, as modified by subsection (1) of K.S.A. 74-4937 and amendments thereto;

(8) "school employment" means the employment of a member when employed by an eligible employer as specified in any of ~~subsections~~ subsection (1), (2) or (3) of K.S.A. 74-4931 and amendments thereto; and

(9) "USERRA" means the same as defined in subsection (35) of K.S.A. 74-4902 and amendments thereto.

Sec. 27. K.S.A. 74-4934 is hereby amended to read as follows: 74-4934. (1) On and after July 1, 1970, the state school retirement board is abolished and such board shall have no further legal authority or powers. On such date all of the powers provided in K.S.A. 72-5501 to 72-5534 and amendments thereto shall devolve upon and be performed by the board of trustees of the Kansas public employees retirement system, and all powers heretofore exercised by the state school retirement board, including management and control of the assets and funds of the state school retirement system, shall be and become vested in the board of trustees of the Kansas public employees retirement system. Whenever in the statutes of this state the words "state school retirement board" or words of like effect are used, the same shall be deemed to mean the board of trustees of the Kansas public employees retirement system. The board of trustees of the Kansas public employees retirement system is authorized to execute transfer endorsements for any stock or security of the state school retirement system and such endorsements may be in the name of the state school retirement board.

(2) On January 1, 1971, there shall be transferred from the school employees savings fund of the state school retirement system such moneys and securities, and accumulated earnings thereon, as are equal to the accumulated contributions (savings annuity deductions or accumulated deductions) of the members of the state school retirement system on deposit

with the state school retirement system who become members of this system on January 1, 1971, as provided in K.S.A. 74-4935. Such transfer of securities in the school employees savings fund shall be on the basis of the book value of such securities. The member's account in this system shall be credited with the amount in his savings annuity account (savings annuity deductions or accumulated deductions) so transferred.

(3) "Executive ~~secretary~~ director" as used in K.S.A. 72-5501 to 72-5534, inclusive, and amendments thereto means the same as is provided in subsection (5) of K.S.A. 74-4932. The duties provided in such statutes to be performed by the executive ~~secretary~~ director shall be performed by the person holding the office defined in subsection (5) of K.S.A. 74-4932. Employees of the state school retirement board shall continue in state service and retain all their rights under the Kansas civil service act.

Sec. 28. K.S.A. 2000 Supp. 74-4940 is hereby amended to read as follows: 74-4940. (a) Subject to the provisions of subsection (b), all members in school employment who are subject to the continuing contract law shall be paid their contractual compensation in not less than 12 substantially equal installments, paid once, or more often, each month commencing in September of each school year.

(b) Upon written authorization from any member in school employment who is subject to the continuing contract law, an employer shall pay the balance of such member's contractual compensation for the school year in one payment upon completion of all contractual obligations of the member. The authorization shall be filed with the employer not later than April 1 of the school year in and for which the balance payment is first authorized. A written authorization under this subsection shall remain in effect until revoked in writing by the member filing the authorization. So long as the authorization of such member remains in effect, the balance of the member's contractual compensation shall be paid each school year in accordance with the provisions of this subsection. Such payment shall be made no later than June 30 of the school year. For the purposes of the Kansas public employees retirement system, the employer shall make the appropriate employee contribution deduction from the payment and shall report and remit the amount so deducted to the executive ~~secretary~~ director at the time monthly deductions and quarterly reports would normally be made under K.S.A. 74-4919, and amendments thereto, if the authorization for one payment was not in effect.

(c) Notwithstanding the provisions of subsections (a) and (b), each member in school employment who is subject to the continuing contract law, who has completed the balance of such member's contractual obligations and retires prior to the end of a school year under K.S.A. 74-4937, and amendments thereto, shall be paid the balance of the member's contractual compensation in one payment during the calendar month immediately preceding the date of retirement. For the purposes of the Kansas public employees retirement system, the employer shall make the appropriate employee contribution deduction from the payment and shall report and remit the amount so deducted to the executive ~~secretary~~ director at the time monthly deductions and reports are made under K.S.A. 74-4919, and amendments thereto, for the period in which the payment is made except that such report and remittance shall not include any amount which would have been reported normally in the next ensuing period under subsection (b). No employee contribution deduction shall be made from such amount and such amount shall not be included as compensation in determining the member's final average salary.

(d) An employer of members in school employment who are not subject to the continuing contract law may adopt a policy providing that any or all such members shall be paid their contractual compensation each school year in not less than 12 substantially equal installments, paid once, or more often, each month commencing in the first month of any such member's school employment. A copy of any such policy shall be provided to each such member in school employment.

(e) As used in this section, the term "school employment" means the employment of a member when employed by an eligible employer as specified in any of subsections (1), (2) or (3) of K.S.A. 74-4931, and amendments thereto.

Sec. 29. K.S.A. 2000 Supp. 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. 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 ~~secretary~~ director of the system, the secretary of revenue shall provide such information as may be needed by the executive ~~secretary~~ director to carry out the provisions of this act.

Sec. 30. K.S.A. 2000 Supp. 74-4957a is hereby amended to read as follows: 74-4957a.

(1) The normal retirement date for a member of the system who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a and amendments thereto to be covered by the provisions of this act 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, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service. Any such member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) Any member 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) 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.

(4) If a retirant who retired on or after July 1, 1996, 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 ~~secretary~~ director of the system, the secretary of revenue shall provide such information as may be needed by the executive ~~secretary~~ director to carry out the provisions of this act.

(5) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 31. K.S.A. 2000 Supp. 74-4958 is hereby amended to read as follows: 74-4958. (1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service except that in no case shall such retirement benefit exceed 80% of such member's final average salary.

(2) Any member who is appointed or employed prior to July 1, 1989, who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto and who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of .4% multiplied by the number of months difference, to the nearest whole month, between the member's attained age at the time of retirement and age 55.

(3) ~~Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ Upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or 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, and who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) *Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,* a lump-sum benefit equal to ½ the member's final average salary at the time of the member's retirement; and ~~shall receive~~ (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the last day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the ~~annual~~ spouse's benefit shall be payable, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any

benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the qualifications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

Sec. 32. K.S.A. 2000 Supp. 74-4958a is hereby amended to read as follows: 74-4958a.

(1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service except that in no case shall such retirement benefit exceed 80% of such member's final average salary.

(2) Any member who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of .4% multiplied by the number of months difference, to the nearest whole month, between the member's attained age at the time of retirement and age 55.

(3) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto, upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or 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, and who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto, a lump-sum benefit equal to $\frac{1}{2}$ the member's final average salary at the time of the member's retirement; and ~~shall receive~~ (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the ~~annual~~ spouse's benefit shall be payable, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limi-

tations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the qualifications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(6) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

Sec. 33. K.S.A. 2000 Supp. 74-4959 is hereby amended to read as follows: 74-4959. (1) Upon the death from service-connected causes as defined in this act, of an active contributing member prior to retirement, the following benefits shall be payable if a report of the event, in a form acceptable to the board, is filed in the office of the executive ~~secretary~~ *director* of the board within 200 days after the date of the act of duty causing such death and an application for such benefits, in such form and manner as prescribed by the board, is filed in the office of the executive ~~secretary~~ *director* of the board within two years of the date of death, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity:

(a) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual spouse's benefit equal to 50% of the member's final average salary, which shall accrue from the first day of the month coinciding with or following the member's death and shall end on the first day of the month in which the spouse's death occurs. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, to the member's children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto an annual children's benefit equal to 10% of the member's final average salary for each such child, which shall accrue from the first day of the month coinciding with or following the member's death and shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, except that if there is no eligible spouse, or if upon the death of the spouse there remain one or more children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the annual spouse's benefit shall be paid in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations

contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

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

(2) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto, upon the death from causes not service-connected of an active contributing member prior to retirement, the member's spouse, if lawfully wedded to the member at the time of the member's death, shall receive immediately a lump-sum benefit equal to 100% of the member's final average salary and shall be entitled to receive an annual death benefit equal to the member's retirement benefit calculated as if the member had retired on the member's normal retirement date, but based upon the member's final average salary and years of credited service on the date of death but not to exceed the amount of the annual spouse's benefit provided in paragraph (a) of subsection (1). An application for such benefits in such form and manner as prescribed by the board must be filed in the office of the executive ~~secretary~~ director of the board within two years of the date of death, but the board may waive such time limit for a reasonable period if in the judgment of the board the failure to meet this limit was due to the lack of knowledge or incapacity. On and after July 1, 1993, the annual spouse's benefit under this subsection (2) shall accrue from the first day of the month coinciding with or following the member's death and shall continue until the spouse's death. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no eligible spouse or if after the death of the spouse there remain one or more children of the member under the age of 18 years or one or more children of the member under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

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

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

Sec. 34. K.S.A. 2000 Supp. 74-4960 is hereby amended to read as follows: 74-4960. (1) If any active contributing member becomes totally and permanently disabled due to service-connected causes as defined in subsection (10) of K.S.A. 74-4952 and amendments thereto, such member shall be retired and the following benefits shall become payable and shall continue until the member's death or until the member recovers from the disability if: A report of the event in a form acceptable to the board is filed in the office of the executive ~~secretary~~ director of the board within 220 days after the date of the event or act of duty causing such disability; and an application for such benefit, in such form and manner as the board prescribes, is filed by the member or the member's authorized representative in the office of the executive ~~secretary~~ director of the board within two years of the date of disa-

bility, *except the board may waive such two-year requirement if the board is presented with evidence that clearly warrants such a waiver.*

(a) On and after July 1, 1993, the member shall receive a retirement benefit equal to 50% of the member's final average salary or, if the member has no dependents, as defined in subsection (1)(b), the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater. Such benefit shall accrue from the day upon which the member ceases to draw compensation.

(b) *Except as otherwise provided by this subsection*, each of the member's children under the age of 18 years or each of the member's children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto shall receive an annual benefit equal to 10% of the member's final average salary. Such benefit shall accrue from the day upon which the member ceases to draw compensation and shall end on the last day of the month in which each such child or children shall attain the age of 18 years or die, whichever occurs earlier or in which such children attain the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. *For a member who becomes totally and permanently disabled as provided in this section on and after July 1, 2001, only the member's children who were born, conceived or adopted prior to the commencement of the member's disability are entitled to the annual benefit as provided in this subsection.*

(c) In no case shall the total of the benefits payable under paragraphs (a) and (b) of this subsection (1) be in excess of 75% of the member's final average salary.

(d) In the event a member who is retired under subsection (1) dies within two years after the date of such retirement and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto.

(e) In the event a member who is retired under subsection (1) dies more than two years after the date of such retirement, and the proximate cause of such death is the service-connected cause from which the disability resulted and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto. The provisions of this paragraph (e) of this subsection (1) shall apply in all cases of such members who die after June 30, 1978.

(f) In the event a member who is retired under subsection (1) dies after the date of such retirement, and no benefits are payable under paragraphs (d) and (e) of subsection (1), nor under subsection (3) of K.S.A. 74-4958 and amendments thereto, the following benefits shall be payable:

(i) To the member's spouse, if lawfully wedded to the member at the time of the member's death, a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments

thereto, the annual spouse's benefit shall be payable, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (f) of subsection (1) shall apply in all cases of such members who die after December 1, 1984.

(2) (a) If any active contributing member, prior to such member's normal retirement, becomes totally and permanently disabled for a period of 180 days from causes not service-connected, and not as the result of a willfully negligent or intentional act of the member, such member shall be retired and the following benefit shall become payable and shall continue until the member's death or until the member recovers from such disability, whichever occurs first, if a report of the disability in a form acceptable to the board is filed in the office of the executive ~~secretary~~ director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive ~~secretary~~ director of the board within two years of the date of disability; *except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.*

A retirement benefit equal to 2.5% of the member's final average salary multiplied by the number of years of credited service or the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater, multiplied by the number of years of credited service except that such retirement benefit shall be at least equal to 25% of the member's final average salary but shall not exceed the amount of the retirement benefit provided in paragraph (a) of subsection (1). Such benefit shall not become payable until satisfactory evidence shall be presented to the board that the member is and has been totally and permanently disabled for a period of 180 days, but benefits shall accrue from the day upon which the member ceases to draw compensation.

~~(b) Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto, In the event a member who is retired under subsection (2) dies after the date of such retirement, and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, the following benefits shall be payable:~~

(i) ~~Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ to the member's spouse, if lawfully wedded to the member at the time of the member's death ~~and if no benefits are payable under subsection (3) of K.S.A. 74-4958, and amendments thereto,~~ a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the ~~annual~~ spouse's benefit shall be payable, subject to the provisions of K.S.A.

2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (b) of subsection (2) shall apply in all cases of such members who die after July 1, 1989.

(3) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (2).

(4) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1) or (2), the sum of the member's accumulated contributions shall be paid to the member.

(5) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by Kansas state board of healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the retirant is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A retirant who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952 and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(6) Any retirant who has been receiving benefits under the provisions of this section for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required.

(7) Refusal or neglect to submit to examination as provided in subsection (5) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(8) Any retirement benefits payable under the provisions of this section shall be in lieu of normal retirement benefits as provided in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto.

(9) Each member shall report to such member's participating employer any event or act of duty causing disability within 200 days after such event or act of duty. The member's participating employer shall file in the office of the executive ~~secretary~~ *director* of the board, in a form acceptable to the board, a report of the event or act of duty causing disability within 220 days after the event or act of duty.

(10) In any case of any event occurring prior to July 1, 1979, and after June 30, 1998, for which a report of the event was made by the participating employer to the director of ~~workers' workers~~ compensation in accordance with K.S.A. 44-557 and amendments thereto, such report to the director of ~~workers' workers~~ compensation shall satisfy the requirement under subsection (1) of this section to file a report of such event, in a form acceptable to the board within 220 days. No such report to the director of workers' compensation shall be deemed to satisfy such requirement with respect to events occurring on or after July 1, 1979, and prior to July 1, 1998.

(11) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(12) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

(13) Any retirant who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall be deemed no longer retired.

(14) *Upon the death of a member after retirement, if no benefits are payable under the provisions of this section, the excess, if any, of the retirant's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.*

Sec. 35. K.S.A. 2000 Supp. 74-4960a is hereby amended to read as follows: 74-4960a.

(1) If any active contributing member who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a and amendments thereto to be covered by the provisions of this act becomes disabled as defined in subsection (2), such member shall receive a monthly benefit equal to 50% of the member's final average salary at the time such member was disabled payable in monthly installments, accruing from the first day upon which the member ceases to draw compensation, if a report of the disability in such form and manner as the board shall prescribe is filed in the office of the executive ~~secretary~~ director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive ~~secretary~~ director of the board within two years of the date of the commencement of such disability, *except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.*

(2) For the purposes of this section, "disabled" means total inability to perform permanently the duties of the position of policeman or fireman.

(3) ~~Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ In the event a member who is disabled and entitled to such benefits as provided in subsection (1) dies after the date of such disability, ~~and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto,~~ the following benefits shall be payable:

(i) ~~Pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto,~~ to the member's spouse, if lawfully wedded to the member at the time of the member's death, ~~and if no benefits are payable under subsection (3) of K.S.A. 74-4958a, and amendments thereto,~~ a lump-sum benefit equal to 50% of the member's final average salary at the time such member was disabled.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the ~~annual~~ spouse's benefit shall be payable, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(4) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (1) or (3).

(5) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1), the sum of the member's accumulated contributions shall be paid to the member.

(6) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by the state board of healing arts to practice a branch of the healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the member is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A member who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952 and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(7) Any member who has been receiving benefits under the provisions of this section for a period of five years shall be deemed permanent and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the member remains totally and permanently disabled, a further medical examination or examinations may be required.

(8) Refusal or neglect to submit to examination as provided in subsection (6) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(9) In the event that a member becomes disabled and is eligible for benefits provided in this section, such member shall be given participating service credit for the entire period of such disability.

(10) Any member who is receiving benefits pursuant to this section shall file annually a statement of earnings for the previous year in such form and manner as the board shall prescribe. Any disability benefit paid to a member entitled to such benefit pursuant to this section shall be reduced by the board in an amount equal to a \$1 reduction in such benefit for every \$2 of earnings of such member which were earned during the previous year while such member was disabled. Such reduction shall apply only to a member's earnings which exceed \$10,000.

(11) Any benefits provided pursuant to this section and any participating service credit given pursuant to subsection (9) shall terminate upon the earliest date such member is eligible for retirement upon attainment of the normal retirement date as provided in K.S.A. 74-4964a and amendments thereto.

(12) Any member who has received benefits under the provisions of this section for a period of five years or more immediately preceding retirement shall have such member's final average salary adjusted upon retirement by the actuarial salary assumption rates in existence during such period. Effective July 1, 1993, each member's current annual rate 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 current annual rate shall be adjusted upon retirement by an amount equal to the lesser of: (1) 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 one percent; or (2) 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.

(13) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(14) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who

made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(15) Any retirant who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall be deemed no longer retired.

(16) Upon the death of a member after retirement, if no benefits are payable under the provisions of this section, the excess, if any, of the retirant's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

Sec. 36. K.S.A. 2000 Supp. 74-4963 is hereby amended to read as follows: 74-4963. (1) Upon termination of employment prior to the completion of 20 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on deposit with the system. If the member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, ~~pay to the system within 31 days of the former member's return to covered employment, the total of the former member's withdrawn accumulated contributions plus interest at a rate specified by the board, in which case the member shall receive full credit for the member's service prior to the member's termination. Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, members who do not elect to repay within 31 days of return to covered employment may elect to purchase previously forfeited service any time prior to retirement. Such purchase shall be made by a lump-sum payment equal to 1.75% of the member's current annual salary for each quarter of previously forfeited participating service which the member elects to repurchase; purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment shall be made immediately upon being notified of the amount due.~~ Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system

established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 20 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, to purchase service credit for the previously forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

Sec. 37. K.S.A. 2000 Supp. 74-4963a is hereby amended to read as follows: 74-4963a.

(1) Upon termination of employment prior to the completion of 15 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on deposit with the system. If the member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, pay to the system within 31 days of the former member's return to covered employment, the total of the former member's withdrawn accumulated

~~contributions plus interest at a rate specified by the board, in which case the member shall receive full credit for the member's service prior to the member's termination. Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, members who do not elect to repay within 31 days of return to covered employment may elect to purchase previously forfeited service any time prior to retirement. Such purchase shall be made by a lump-sum payment equal to 1.75% of the member's current annual salary for each quarter of previously forfeited participating service which the member elects to repurchase. purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment shall be made immediately upon being notified of the amount due. Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.~~

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 15 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, to purchase service credit for the previously

forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 38. K.S.A. 2000 Supp. 74-4964 is hereby amended to read as follows: 74-4964. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a 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 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, are available:

(A) *Joint and $\frac{1}{2}$ to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with $\frac{1}{2}$ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year,

or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and $\frac{3}{4}$ to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with $\frac{3}{4}$ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 74-4958, and amendments thereto.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) ~~The amount of any retirement benefit payable pursuant to this subsection shall remain as provided in this subsection even in the event that the designated joint annuitant pursuant to subsections (5)(A), (5)(B) or (5)(C) predeceases the retirant. In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.~~

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole bene-

ficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

Sec. 39. K.S.A. 2000 Supp. 74-4964a is hereby amended to read as follows: 74-4964a.

(1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a 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 through 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 2000 Supp. 74-49.123 and amendments thereto, are available:

(A) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 3/4 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto,

and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958a, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed $\frac{1}{2}$ of the actuarial present value of the benefit provided in K.S.A. 74-4958a, and amendments thereto.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958a, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) ~~The amount of any retirement benefit payable pursuant to this subsection shall remain as provided in this subsection even in the event that the designated joint annuitant pursuant to subsections (5)(A), (5)(B) or (5)(C) predeceases the retirant.~~ *In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.*

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and $\frac{1}{2}$ to joint annuitant survivor option, the joint and survivor option and the joint and $\frac{3}{4}$ to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;

- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 40. K.S.A. 2000 Supp. 74-4965 is hereby amended to read as follows: 74-4965. (1) Except as otherwise provided in this section, each participating employer shall, beginning with the first payroll period for services performed after the entry date, deduct from the compensation of each member 7% of such member's compensation as employee contributions, except that in the case of a member whose employment is covered by social security and the member is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), the deduction from such member's compensation shall be reduced by the amount of such member's contributions to social security.

(2) For any member other than a member who is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), no employee contributions shall be reduced because of contributions to social security.

(3) All such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund and shall be credited to the members' individual accounts. Interest on each member's accumulated contributions at the rate determined under subsection (a) of K.S.A. 74-4922 and amendments thereto shall be added annually to the member's individual account.

(4) For all payroll periods commencing on or after the effective date of this act, each participating employer shall deduct from the compensation of each member who has received 32 years of credited service, 2% of such member's compensation as employee contributions.

(5) (a) Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 41. K.S.A. 2000 Supp. 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. 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 ~~secretary~~ 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. 2000 Supp. 74-49,114a, shall be reflected in the employer contribution rate in the fiscal year immediately following such enactment.

Sec. 42. K.S.A. 74-4978h is hereby amended to read as follows: 74-4978h. Beginning with the first payment of compensation for services of a patrolman after becoming a special member of the Kansas police and firemen's retirement system, the employer shall deduct from the compensation of such special member 8% as employee contribution. Such deductions shall be remitted, as the board may provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund, and such deduction shall be credited to the member's individual account.

Sec. 43. K.S.A. 2000 Supp. 74-4989 is hereby amended to read as follows: 74-4989. (1) (a) Except as provided in (b), pursuant to the provisions of K.S.A. 2000 Supp. 74-49,128, and amendments thereto, upon the death of a retirant, the board of trustees of the Kansas public employees retirement system shall pay a lump-sum death benefit to: The retirant's beneficiary which shall not exceed \$4,000 for such retirant, less any amount payable for funeral benefits under the applicable provisions of any local police or fire pension plan, as defined by subsection (c) of K.S.A. 12-5001 and amendments thereto; *or to a funeral establishment as directed by the retirant and filed in the office of the system prior to such retirant's death.*

(b) Notwithstanding the provisions of K.S.A. 74-4923 and amendments thereto, any amounts owed the system shall be deducted from such lump-sum death benefit.

(2) As used in this section, "retirant" means any person who is a member or special member of the Kansas public employees retirement system, the Kansas police and firemen's retirement system, the state school retirement system or the retirement system for judges and who has retired.

Sec. 44. K.S.A. 2000 Supp. 74-4998c is hereby amended to read as follows: 74-4998c.

(a) Except as otherwise provided in this section, for all payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act, each elected state official shall contribute 5% of the elected state official's salary for each payroll period to the fund. For all payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act, the employer shall deduct from the compensation of each member who has received 30 years of credited service 2% of such member's compensation as employee contributions. Each elected state official shall make contributions as provided in K.S.A. 74-4919 and amendments thereto in lieu of contributions as provided in this section, for all payroll periods during any term of office of such elected state official which commences after the effective date of this act. The provisions of K.S.A. 74-4919c, 74-4919d, 74-4919e, 74-4919h or 74-4919j and amendments thereto shall apply to elected state officials, except that, subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, such elected state officials shall purchase prior and participating service credit at the rate of 10% or 15% for the payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act.

(b) The director of accounts and reports shall deduct the amount each elected state official is to contribute to the fund on the payroll of each elected state official for each payroll period showing the amount deducted and its credit to the fund. Such deductions shall be remitted as the board may provide, to the executive ~~secretary~~ *director* of the Kansas public employees retirement system for credit to the fund to the credit of the elected state official's individual account therein.

(c) For purposes of contributions to and benefits under the Kansas public employees retirement system of such elected state officials who are members of the legislature, the salary or compensation of such elected state official shall be as provided in K.S.A. 74-4995 and amendments thereto.

(d) (1) Subject to the provisions of K.S.A. 2000 Supp. 74-49,123 and amendments thereto, the state of Kansas pursuant to the provisions of section 414(h)(2) of the federal internal revenue code of 1986, as in effect on July 1, 1998, shall pick up and pay the contributions which would otherwise be payable by elected state officials as prescribed in subsection (a) commencing with the effective date of this act. Contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the elected state official's compensation.

(2) Member contributions picked up by the state shall be paid from the same source of funds used for the payment of compensation to an elected state official. A deduction shall be made from each elected state official's compensation equal to the amount of the elected state official's contributions picked up by the state, provided that such deduction shall not reduce the elected state official's compensation for purposes of computing benefits under the retirement system.

(3) Member contributions picked up by the state shall be remitted as the board may provide, to the executive ~~secretary~~ *director* for credit to the Kansas public employees retirement fund.

(e) No former member of the legislature shall be required to make contributions as otherwise required by this section.

Sec. 45. K.S.A. 74-49,102 is hereby amended to read as follows: 74-49,102. Beginning with the first payroll for services performed after July 1, 1975, of each person who is a member of the Kansas public employees retirement system pursuant to subsection (b) of K.S.A. 74-4999 and amendments thereto, the employer shall deduct from the compensation of such person 4% of such person's compensation as employee contributions. Such deductions shall be remitted quarterly, or as the board of trustees of the Kansas public employees retirement system may otherwise provide, to the executive ~~secretary~~ *director* of the system for credit to the Kansas public employees retirement fund. Such deductions shall be credited to the members' individual accounts and interest shall be added annually to such accounts beginning as provided in subsection (d) of K.S.A. 74-49,103 and amendments thereto.

Sec. 46. K.S.A. 2000 Supp. 74-49,128 is hereby amended to read as follows: 74-49,128. The lump sum death benefits, survivor benefits and funeral expenses that are provided to surviving spouses, minor children and other beneficiaries as a result of a ~~non-duty related death or retirant~~ death pursuant to K.S.A. ~~13-14a07, 13-14a11, 14-10a07, 14-10a11, 74-4958, 74-4958a, 74-4959, 74-4960, 74-4960a and 74-4989, and amendments thereto, are in the nature of life insurance; are provided by the participating employers for the protection of members' spouses, survivors or beneficiaries as provided in those sections; and are not subject to regulation of the state of Kansas department of insurance. The provisions of this section shall be effective on and after July 1, 2000.~~”;

And by renumbering sections accordingly;

On page 6, after line 19, by inserting the following:

“New Sec. 49. The retirement benefit, pension or annuity payments to each retirant of the state school retirement system who retired prior to January 1, 1971, and who had at least 20 years or more of service credit, shall for retirement benefit, pension or annuity payments accruing after June 30, 2001, be in an amount as otherwise provided by law but shall be an amount at least equal to \$500.

New Sec. 50. Any judge who has retired or who retires as provided in K.S.A. 20-2608, and amendments thereto, and who has entered into agreement with the Kansas supreme court to perform assigned judicial duties as provided pursuant to K.S.A. 20-2622, and amendments thereto, may elect to purchase, subject to the provisions of K.S.A. Supp. 74-49,123, service credit for such service under the retirement system for judges. Such purchase shall be by means of a single lump-sum payment. Such lump-sum payment shall be an amount determined by the actuary using the judge's current age, the final average salary of such judge at the time of such judge's retirement, the form of the payment of the annuity to such judge including any retirement option elected by such judge pursuant to K.S.A. 20-2610a, and amendments thereto, and the actuarial assumptions and tables then in use by the system.

New Sec. 51. Except as otherwise provided, any active contributing member of the retirement system who at one time had the state board of regents assist such member in the purchase of retirement annuities as provided in K.S.A. 74-4925, and amendments thereto and who withdrew such member's accumulated contributions upon the termination of such employment as provided in K.S.A. 74-4925, and amendments thereto, may purchase participating service credit for any waiting period required pursuant to K.S.A. 74-4925, and amendments thereto. Such member may purchase, subject to the provisions of K.S.A. 2000 Supp. 74-49,123, and amendments thereto, such service credit by making a single lump-sum payment in an amount determined by the actuary using (1) the member's then current

annual rate of compensation, (2) the actuarial assumptions and tables currently in use by the system and (3) the member's attained age.”;

And by renumbering sections accordingly;

Also on page 6, in line 20, before “K.S.A.” by inserting “K.S.A. 74-4934, 74-4978h and 74-49,102 and”; also in line 20, after “Supp.” by inserting “13-14a07, 14-10a07, 20-2603, 20-2610a, 74-4902, 74-4904.”; also in line 20, after “74-4908.” by inserting “74-4911e, 74-4914, 74-4914e, 74-4915, 74-4915b, 74-4915c, 74-4916, 74-4918, 74-4918a, 74-4919, 74-4919b, 74-4920, 74-4921, 74-4922, 74-4925, 74-4927, 74-4927f, 74-4927h, 74-4932, 74-4940, 74-4957, 74-4957a, 74-4958, 74-4958a, 74-4959, 74-4960, 74-4960a, 74-4963, 74-4963a, 74-4964, 74-4964a, 74-4965, 74-4967, 74-4989, 74-4998c, 74-49,128.”;

On page 1, in the title, in line 9 after “concerning” by inserting “retirement; relating to”; also in line 9, after “system” by inserting “and systems thereunder”; in line 10, by striking “relating to”; in line 12, after the semicolon by inserting “benefits; employer certification of member contributions; purchase of service credit; postretirement benefit increase; lump-sum payments; disability benefits; payments to beneficiaries; executive director; employer contributions.”; also in line 12, after “amending” by inserting “K.S.A. 74-4934, 74-4978h and 74-49,102 and”; in line 13, after “Supp.” by inserting “13-14a07, 14-10a07, 20-2603, 20-2610a, 74-4902, 74-4904.”; also in line 13, after “74-4908.” by inserting “74-4911e, 74-4914, 74-4914e, 74-4915, 74-4915b, 74-4915c, 74-4916, 74-4918, 74-4918a, 74-4919, 74-4919b, 74-4920, 74-4921, 74-4922, 74-4925, 74-4927, 74-4927f, 74-4927h, 74-4932, 74-4940, 74-4957, 74-4957a, 74-4958, 74-4958a, 74-4959, 74-4960, 74-4960a, 74-4963, 74-4963a, 74-4964, 74-4964a, 74-4965, 74-4967, 74-4989, 74-4998c, 74-49,128.”;

And your committee on conference recommends the adoption of this report.

KENNY A. WILK

LLOYD A. STONE

Conferees on part of House

STEPHEN R. MORRIS

DAVID ADKINS

Conferees on part of Senate

On motion of Rep. Stone, the conference committee report on **H. Sub. for SB 322** was adopted.

On roll call, the vote was: Yeas 65; Nays 58; Present but not voting: 2; Absent or not voting: 0.

Yeas: Aday, Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cox, Dahl, DeCastro, Dreher, Edmonds, Faber, Findley, Freeborn, Glasscock, Hayzlett, Holmes, Horst, Huebert, Huff, Humerickhouse, Huy, Johnson, Kauffman, Kline, Krehbiel, Light, Lightner, Lloyd, P. Long, Loyd, Mason, McCreary, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Patterson, J. Peterson, Pottorff, L. Powell, T. Powell, Ray, Schwartz, Shultz, Sloan, Stone, Storm, Tanner, Tomlinson, Weber, Wells, Wilk, D. Williams.

Nays: Alldritt, Barnes, Burroughs, Cook, Crow, Dillmore, DiVita, Feuerborn, Flaharty, Flora, Garner, Gatewood, Gilbert, Gordon, Grant, Henderson, Henry, Hermes, Howell, Hutchins, Kirk, Klein, Kuether, Landwehr, Lane, Larkin, Levinson, Loganbill, M. Long, Mayans, Mays, McClure, McKinney, Nichols, O'Brien, Palmer, Pauls, E. Peterson, Phelps, Powers, Pyle, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Spangler, Swenson, Tafanelli, Thimesch, Toelkes, Toplikar, Vickrey, Welshimer, J. Williams, Wilson, Winn.

Present but not voting: Ballard, McLeland.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2245**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 7, in line 8, by striking “10” and inserting “25”;

On page 8, following line 18, by inserting:

"New Sec. 2. (a) For the purpose of financing the construction, renovation or repair of one or more facilities which generate electricity solely by use of hydropower and which each have a capacity of more than two but less than 25 megawatts, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, renovation or repair, including any required interest on the bonds during construction, renovation or repair, plus all amounts required for costs of the bond issuance and for any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of electricity generated by the generation facility or facilities.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905 and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.";

By renumbering the remaining sections accordingly;

In the title, in line 9, by striking "certain"; in line 10, by striking all preceding the semicolon and inserting "electric generation; relating to certain parallel generation services; providing for issuance of bonds for certain purposes";

And your committee on conference recommends the adoption of this report.

DAVID R. CORBIN
STAN CLARK
JANIS K. LEE

Conferees on part of Senate

CARL DEAN HOLMES
TOM SLOAN
LAURA MCCLURE

Conferees on part of House

On motion of Rep. Holmes, the conference committee report on **HB 2245** was adopted.

On roll call, the vote was: Yeas 99; Nays 26; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Compton, Cook, Cox, Crow, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Henderson, Henry, Hermes, Holmes, Horst, Huebert, Huff, Humerickhouse, Hutchins, Johnson, Kirk, Kline, Krehbiel, Kuether, Lane, Larkin, Levinson, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mays, McClure, McKinney, McLeland, Minor, Jim Morrison, Judy Morrison, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Weber, Welshimer, Wilk, J. Williams, Wilson.

Nays: Campbell, Dahl, Edmonds, Hayzlett, Howell, Huy, Kauffman, Klein, Landwehr, Light, Lightner, Mason, Mayans, McCreary, Merrick, Miller, Myers, Osborne, Ostmeier, Powers, Spangler, Toplikar, Vickrey, Wells, D. Williams, Winn.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2266**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 8, in line 32, by striking "(a)"; also in line 32, by striking "this section, "independent" and inserting "sections 2 and 3, and amendments thereto:

(a) "Independent";

Also on page 8, in line 36, following the period, by inserting "Independent power producer property shall not include property used in generating electricity by nuclear resources or technologies or by renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto;

(b) "peak load plant" means an independent power plant used during maximum load periods.";

Also on page 8, by striking all in lines 37 through 43;

On page 9, by striking all in lines 1 through 43;

On page 10, by striking all in lines 1 through 3 and inserting:

"New Sec. 3. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto.

(b) The provisions of subsection (a) shall apply:

(1) Except as provided in paragraph (2), from and after commencement of construction of such property and for the 12 taxable years immediately following the taxable year in which construction of such property is completed; or

(2) for peak load plants, from and after commencement of construction of such property and for the six taxable years immediately following the taxable year in which construction of such property is completed.

(c) All pollution control devices purchased for or constructed or installed at electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto.

(d) The provisions of subsection (c) shall apply:

(1) Except as provided in paragraph (2), from and after purchase or commencement of construction or installation of such property and for the 12 taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed; or

(2) for a peak load plant, from and after purchase or commencement of construction or installation of such property and for the six taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed.

(e) The provisions of this section shall apply to all taxable years commencing after December 31, 2000.

New Sec. 4. (a) For the purpose of financing the construction, purchase and installation of pollution control devices at electric generation facilities and additions to electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, purchase and installation, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of generation from the electric generation facility. As used in this subsection, "pollution control devices" means any device or structure required to meet air emission or water discharge standards imposed by state or federal law.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of

subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.”;

By renumbering sections accordingly;

Also on page 10, in line 4, by striking “and 79-5a01 are” and inserting “is”;

In the title, in line 22, by striking “and 79-5a01”; also in line 22, by striking “sections” and inserting “section”

And your committee on conference recommends the adoption of this report.

DAVID R. CORBIN

STAN CLARK

JANIS K. LEE

Conferees on part of Senate

CARL DEAN HOLMES

TOM SLOAN

LAURA MCCLURE

Conferees on part of House

On motion of Rep. Holmes, the conference committee report on **HB 2266** was adopted.

On roll call, the vote was: Yeas 112; Nays 13; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O’Neal, Osborne, Ostmeyer, Palmer, Patterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Ballou, Burroughs, Edmonds, Henderson, Klein, O’Brien, Pauls, E. Peterson, Rardon, Rehorn, Sharp, Spangler, Winn.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2268**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 2, following line 12, by inserting:

“(3) Electric generation facilities under the provisions of subsection (b)(2)(D) or (b)(2)(E) shall not include facilities used in generating electricity by nuclear resources or technologies or by using renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto.”;

Also on page 2, in line 42, preceding “prop-” by inserting “all”; in line 43, by striking “pursuant to the”;

On page 3, by striking all in lines 1 and 2 and inserting "under the laws of the state of Kansas"; by striking all in line 13 and inserting:

"(b) The provisions of subsection (a) shall apply: (1) Except as provided in paragraph (2).";

Also on page 3, in line 16, following "completed" by inserting "; or (2) for a peak load plant, from and after commencement of construction of such peak load plant and for the four taxable years immediately following the taxable year in which construction of such property is completed"; in line 17, by striking "(b)" and inserting "(c)"; by striking all in line 20 and inserting:

"(d) The provisions of subsection (c) shall apply: (1) Except as provided in paragraph (2), from and after pur-";

Also on page 3, in line 24, by striking the period and inserting "; or (2) for a peak load plant, from and after purchase or commencement of construction or installation of such property and for the four taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed.

(e) As used in this section, "peak load plant" means an electric generation facility used during maximum load periods.";

Also on page 3, in line 25, by striking "(e)" and inserting "(f)"; by striking all in lines 27 through 43;

On page 4, by striking all in lines 1 through 4 and inserting:

"New Sec. 3. (a) For the purpose of financing the construction, purchase and installation of pollution control devices at electric generation facilities and additions to electric generation facilities described in subsection (b)(2)(D) of K.S.A. 66-128, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, purchase and installation, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of generation from the electric generation facility. As used in this subsection, "pollution control devices" means any device or structure required to meet air emission or water discharge standards imposed by state or federal law.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.";

And your committee on conference recommends the adoption of this report.

DAVID R. CORBIN
STAN CLARK
JANIS K. LEE

Conferees on part of Senate

CARL DEAN HOLMES
TOM SLOAN
LAURA MCCLURE

Conferees on part of House

On motion of Rep. Holmes, the conference committee report on **HB 2268** was adopted.

On roll call, the vote was: Yeas 114; Nays 11; Present but not voting: 0; Absent or not voting: 0.

Yeas: Aday, Alldritt, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Garner, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Burroughs, Edmonds, Henderson, Klein, Pauls, E. Peterson, Reardon, Rehorn, Sharp, Spangler, Winn.

Present but not voting: None.

Absent or not voting: None.

MESSAGE FROM THE SENATE

The Senate accedes to the request of the House for a conference on **HB 2065** and has appointed Senators Praeger, Teichman and Feleciano as conferees on the part of the Senate.

The Senate accedes to the request of the House for a conference on **HB 2507** and has appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **S. Sub. for HB 2033**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Swenson, the House concurred in Senate amendments to **S. Sub. for HB 2033**, An act concerning insurance; providing coverage for certain mental health conditions; amending K.S.A. 40-2,103, 40-2,105 and 40-19c09 and repealing the existing sections.

(The House requested the Senate to return the bill, which was in conference).

On roll call, the vote was: Yeas 77; Nays 48; Present but not voting: 0; Absent or not voting: 0.

Yeas: Alldritt, Ballard, Barnes, Benlon, Boston, Burroughs, Campbell, Crow, Dahl, Dillmore, DiVita, Faber, Feuerborn, Findley, Flaharty, Flora, Garner, Gatewood, Gilbert, Gordon, Grant, Henderson, Henry, Hermes, Holmes, Horst, Howell, Johnson, Kirk, Klein, Kuether, Larkin, Levinson, Loganbill, M. Long, Loyd, Mays, McClure, McCreary, McKinney, Minor, Jim Morrison, Judy Morrison, Myers, Nichols, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Powers, Reardon, Rehorn, Ruff, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Thimesch, Toelkes, Toplikar, Vickrey, Wells, Welshimer, J. Williams, Wilson, Winn.

Nays: Aday, Aurand, Ballou, Beggs, Bethell, Compton, Cook, Cox, DeCastro, Dreher, Edmonds, Freeborn, Glasscock, Hayzlett, Huebert, Huff, Humerickhouse, Hutchins, Huy, Kauffman, Kline, Krehbiel, Landwehr, Lane, Light, Lightner, Lloyd, P. Long, Mason, Mayans, McLeland, Merrick, Miller, Neufeld, Newton, Novascone, Patterson, L. Powell, T. Powell, Pyle, Ray, Schwartz, Tafanelli, Tanner, Tomlinson, Weber, Wilk, D. Williams.

Present but not voting: None.

Absent or not voting: None.

EXPLANATION OF VOTE

MR. SPEAKER: We have no idea how much it will cost to implement the parity contained in this bill. Studies show that insurance costs could increase by more than 5% because of mental health parity. Increased insurance costs could result in the loss of insurance coverage to individuals because such individuals cannot afford it or the businesses for which they

work may have to cancel coverage completely as a result of the new mandate and costs. We do not want to pass a bill that may result in the loss of coverage to low-income or small-business employees, mostly dependant coverages for women and children. We vote not on **S. Sub. for HB 2033**.—DEAN NEWTON, BOB TOMLINSON, LEE TAFANELLI, TODD NOVASCONE, STEVE HUEBERT, L.R. POWELL, DOUG PATTERSON, JOE MCLELAND

On motion of Rep. Weber, the House recessed until 2:30 p.m.

AFTERNOON SESSION

The House met pursuant to recess with Speaker Glasscock in the chair.

MESSAGE FROM THE SENATE

Announcing passage of **HB 2596**.

Announcing passage of **HB 2590**, as amended.

The Senate adopts conference committee report on **H. Sub. for SB 322**.

The Senate adopts conference committee report on **HB 2176**.

The Senate adopts conference committee report on **S. Sub. for HB 2034**.

The Senate concurs in House amendments to **SB 100**, and requests return of the bill.

The Senate concurs in House amendments to **SB 366**.

The Senate concurs in House amendments to **H. Sub. for SB 304**, and requests return of the bill.

INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, Rep. Wilk moved, pursuant to House Rule 2303, that the House reconsider its action in the adoption of the conference committee report to **SB 321**, and request the Senate to return the bill. The motion prevailed.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Neufeld to concur in Senate amendments to **HB 2507**, the motion did not prevail and the bill remains in conference.

On roll call, the vote was: Yeas 26; Nays 96; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Beggs, Benlon, Bethell, Cox, Dreher, Findley, Garner, Glasscock, Henry, Horst, Huff, Kline, McKinney, Neufeld, Nichols, Patterson, J. Peterson, Phelps, Ray, Sloan, Stone, Storm, Tanner, Tomlinson, Wilk.

Nays: Alldritt, Aurand, Ballou, Barnes, Boston, Burroughs, Campbell, Compton, Cook, Crow, Dahl, DeCastro, Dillmore, DiVita, Faber, Feuerborn, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Gordon, Grant, Hayzlett, Henderson, Hermes, Holmes, Howell, Huebert, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Newton, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Pauls, E. Peterson, Pottorff, L. Powell, T. Powell, Powers, Pyle, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Spangler, Swenson, Tafanelli, Thimesch, Toelkes, Toplikar, Vickrey, Weber, Wells, Welshimer, D. Williams, J. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Aday, Edmonds, Larkin.

On motion of Rep. Wilk to concur in Senate amendments to **HB 2065**, the motion did not prevail and the bill remains in conference.

On roll call, the vote was: Yeas 45; Nays 77; Present but not voting: 0; Absent or not voting: 3.

Yeas: Ballard, Barnes, Beggs, Benlon, Bethell, Compton, Cox, Crow, Dillmore, Dreher, Findley, Flaharty, Garner, Gatewood, Gilbert, Glasscock, Henry, Horst, Kirk, Klein, Kline, Krehbiel, Kuether, Loganbill, Loyd, McKinney, Minor, Neufeld, Nichols, O'Brien, Pauls,

J. Peterson, Phelps, Pottorff, Reardon, Rehorn, Ruff, Sloan, Stone, Storm, Swenson, Tanner, Toelkes, Wilk, J. Williams.

Nays: Alldritt, Aurand, Ballou, Boston, Burroughs, Campbell, Cook, Dahl, DeCastro, DiVita, Faber, Feuerborn, Flora, Freeborn, Gordon, Grant, Hayzlett, Henderson, Hermes, Holmes, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, M. Long, P. Long, Mason, Mayans, Mays, McClure, McCreary, McLeland, Merrick, Miller, Jim Morrison, Judy Morrison, Myers, Newton, Novascone, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, E. Peterson, L. Powell, T. Powell, Powers, Pyle, Ray, Schwartz, Sharp, Showalter, Shriver, Shultz, Spangler, Tafanelli, Thimesch, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, D. Williams, Wilson, Winn.

Present but not voting: None.

Absent or not voting: Aday, Edmonds, Larkin.

On motion of Rep. Wilk, the House nonconcurrent in Senate amendments to **HB 2590** and asked for a conference.

Speaker Glasscock thereupon appointed Reps. Wilk, Neufeld and Nichols as conferees on the part of the House.

On motion of Rep. Weber, the House went into Committee of the Whole, with Rep. Mays in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Mays, Committee of the Whole report, as follows, was adopted:

Recommended that committee report recommending a substitute bill to **H. Sub. for SB 9** be adopted; and the substitute bill be passed.

On motion of Rep. Weber, the House recessed until 4:00 p.m.

LATE AFTERNOON SESSION

The House met pursuant to recess with Speaker Glasscock in the chair.

CHANGE OF CONFEREES

Speaker Glasscock announced the appointment of Rep. Nichols as a member of the conference committee on **SB 321** to replace Rep. Feuerborn.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Weber, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 67**; **HB 2176**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 67**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 6, by deleting all in lines 26 through 43;

On page 7, by deleting all in lines 1 through 17;

And by renumbering sections accordingly;

On page 8, in line 3, by striking "The" and inserting "Except for a hearing conducted by telephone or video conference call, the"; in line 4, by striking "At the"; in line 5, by striking "discretion of the division" and inserting "If the licensee requests"; in line 29, by striking "and" and inserting a comma; in line 30, after "form" by inserting "and to one other witness who was present at the time of the issuance of the certification and called by the licensee";

On page 10, after line 42, by inserting the following:

“(4) the testimony of any witness present at the time of the issuance of the certification and called by the licensee;”

Also on page 10, in line 43, by striking “(4)” and inserting “(5)”;

On page 11, in line 1, by striking “(5)” and inserting “(6)”;

in line 4, by striking “(6)” and inserting “(7)”;

On page 12, in line 14, by striking “To be raised”;

by striking all in lines 15 through 22;

On page 13, in line 4, after “mailing” by inserting “, except that this provision shall not apply to any licensee where such application would result in a manifest injustice”;

by striking all in lines 13 through 43;

By striking all on pages 14 through 18;

By striking all on pages 27 through 31 and inserting the following:

“Sec. 2. K.S.A. 2000 Supp. 8-255 as amended by section 32 of 2001 Senate Bill No. 15

is hereby amended to read as follows: 8-255. (a) The division is authorized to *restrict*, suspend or revoke a person’s driving privileges upon a showing by its records or other sufficient evidence the person:

(1) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(2) has been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period;

(3) is incompetent to drive a motor vehicle;

(4) has been convicted of a moving traffic violation, committed at a time when the person’s driving privileges were *restricted*, suspended or revoked; or

(5) is a member of the armed forces of the United States stationed at a military installation located in the state of Kansas, and the authorities of the military establishment certify that such person’s on-base driving privileges have been suspended, by action of the proper military authorities, for violating the rules and regulations of the military installation governing the movement of vehicular traffic or for any other reason relating to the person’s inability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) The division shall suspend a person’s driving privileges when required by K.S.A. 8-262 ~~or~~, 8-1014 *or* 41-727, and amendments thereto, and K.S.A. 2000 Supp. 21-3765, and amendments thereto, and shall disqualify a person’s privilege to drive commercial motor vehicles when required by K.S.A. 8-2,142, and amendments thereto.

(c) When the action by the division *restricting*, suspending, revoking or disqualifying a person’s driving privileges is based upon a report of a conviction or convictions from a convicting court, the person may not request a hearing but, within 30 days after notice of *restriction*, suspension, revocation or disqualification is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been *restricted*, suspended, revoked or disqualified by the division was not convicted of the offense upon which the *restriction*, suspension, revocation or disqualification is based. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the *restriction*, suspension, revocation or disqualification has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(d) Upon *restricting*, suspending, revoking or disqualifying the driving privileges of any person as authorized by this act, the division shall immediately notify the person in writing. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, and subsection (c) of this section, if the person makes a written request for hearing within 30 days after such notice of *restriction*, suspension or revocation is mailed, the division shall afford the person an opportunity for a hearing as early as practical not sooner than five days nor more than 30 days after such request is mailed. If the division has not revoked or suspended the person’s driving privileges or vehicle registration prior to the hearing, the hearing may be held within not to exceed 45 days. Except as provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing shall be held in the person’s county of residence or a county adjacent thereto, unless the division and the person agree that the hearing may be held in some other county. Upon the hearing, the director or the director’s duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and

the production of relevant books and papers and may require an examination or reexamination of the person. When the action proposed or taken by the division is authorized but not required, the division, upon the hearing, shall either rescind or affirm its order of *restriction*, suspension or revocation or, good cause appearing therefor, extend the *restriction* or suspension of the person's driving privileges, modify the terms of the *restriction* or suspension or revoke the person's driving privileges. When the action proposed or taken by the division is required, the division, upon the hearing, shall either affirm its order of *restriction*, suspension, revocation or disqualification, or, good cause appearing therefor, dismiss the administrative action. If the person fails to request a hearing within the time prescribed or if, after a hearing, the order of *restriction*, suspension, revocation or disqualification is upheld, the person shall surrender to the division, upon proper demand, any driver's license in the person's possession.

(e) In case of failure on the part of any person to comply with any subpoena issued in behalf of the division or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of the division, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the director or the director's duly authorized agent by order or subpoena, other than an officer or employee of the state or of a political subdivision of the state, shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness.

(f) The division, in the interest of traffic and safety, may establish driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. A person who is required to attend a driver improvement clinic shall pay a fee of \$15. Amounts received under this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the division of vehicles operating fund.

Sec. 3. K.S.A. 2000 Supp. 8-262 as amended by section 4 of 2001 Senate Bill No. 56 is hereby amended to read as follows: 8-262. (a) (1) Any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to section 1 of 2001 Senate Bill No. 56, and amendments thereto, shall be guilty of a: (A) Class B nonperson misdemeanor on the first conviction; and (B) class A nonperson misdemeanor on the second conviction or subsequent conviction.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least \$100 and upon a second or subsequent conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) If a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-1567, and amendments thereto, or any ordinance of any city or *resolution of any county* or a law of another state, which ordinance or law prohibits the acts prohibited by that statute; and (B) is or has been also convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by that statute, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) The division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

~~(c) In addition to extension of the period of suspension or revocation under subsection (b), if the conviction is for a violation committed after June 30, 1994, and before July 1, 1996, and committed while the person's driving privileges are suspended pursuant to K.S.A. 8-1014, and amendments thereto, the division, upon completion of the extended period of suspension, shall restrict the person's driving privileges for an additional 120 days to driving only a motor vehicle equipped with an ignition interlock device, as defined by K.S.A. 8-1013, and amendments thereto, approved by the division and obtained, installed and maintained at the person's expense.~~

~~(d) For the purposes of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.~~

Sec. 4. K.S.A. 2000 Supp. 8-1008 as amended by section 35 of 2001 Senate Bill No. 15 is hereby amended to read as follows: 8-1008. (a) Community-based alcohol and drug safety action programs certified in accordance with subsection (b) shall provide:

(1) Presentence alcohol and drug evaluations of any person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(2) supervision and monitoring of all persons who are convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section;

(3) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(4) supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, to complete an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section; or

(5) any combination of (1), (2), (3) and (4).

(b) The presentence alcohol and drug evaluation shall be conducted by a community-based alcohol and drug safety action program certified in accordance with the provisions of this subsection to provide evaluation and supervision services as described in subsections (c) and (d). A community-based alcohol and drug safety action program shall be certified either by the chief judge of the judicial district to be served by the program or by the secretary of social and rehabilitation services for judicial districts in which the chief judge declines to certify a program. In addition to any qualifications established by the secretary, the chief judge may establish qualifications for the certification of programs, which qualifications may include requirements for training, education and certification of personnel; supervision and monitoring of clients; fee reimbursement procedures; handling of conflicts of interest; delivery of services to clients unable to pay; and other matters relating to quality and delivery of services by the program. In establishing the qualifications for programs, the chief judge or the secretary shall give preference to those programs which have had practical experience prior to July 1, 1982, in diagnosis and referral in alcohol and drug abuse. Certification of a program by the chief judge shall be done with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If within 60 days after the effective date of this act the chief judge declines to certify any program for the judicial district, the judge shall notify

the secretary of social and rehabilitation services, and the secretary of social and rehabilitation services shall certify a community-based alcohol and drug safety action program for that judicial district. The certification shall be for a four-year period. Recertification of a program or certification of a different program shall be by the chief judge, with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If upon expiration of certification of a program there will be no certified program for the district and the chief judge declines to recertify or certify any program in the district, the judge shall notify the secretary of social and rehabilitation services, at least six months prior to the expiration of certification, that the judge declines to recertify or certify a program under this subsection. Upon receipt of the notice and prior to the expiration of certification, the secretary shall recertify or certify a community-based alcohol and drug safety action program for the judicial district for the next four-year period. To be eligible for certification under this subsection, the chief judge or the secretary of social and rehabilitation services shall determine that a community-based alcohol and drug safety action program meets the qualifications established by the judge or secretary and is capable of providing, within the judicial district: (1) The evaluations, supervision and monitoring required under subsection (a); (2) the alcohol and drug evaluation report required under subsection (c) or (d); (3) the follow-up duties specified under subsection (c) or (d) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. Community-based alcohol and drug safety action programs performing services in any judicial district under this section prior to the effective date of this act may continue to perform those services until a community-based alcohol and drug safety action program is certified for that judicial district.

(c) A presentence alcohol and drug evaluation shall be conducted on any person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The presentence alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. The presentence alcohol and drug evaluation report shall contain a history of the defendant's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the defendant to education and rehabilitation. The presentence alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the defendant. The presentence alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the presentence alcohol and drug evaluation report may also include appearing at sentencing and probation hearings in accordance with the orders of the court, monitoring defendants in the treatment programs, notifying the probation department and the court of any defendant failing to meet the conditions of probation or referrals to treatment, appearing at revocation hearings as may be required and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e). If financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence.

(d) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The alcohol and drug evaluation report shall contain a history of the person's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the person to education and rehabilitation. The alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the person. The alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of

alcohol and drug abuse. The duties of persons who prepare the alcohol and drug evaluation report may also include monitoring persons in the treatment programs, notifying the prosecutor and the court of any person failing to meet the conditions of diversion or referrals to treatment, and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e).

(e) In addition to any fines, fees, penalties or costs levied against a person who is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, or who enters a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of that statute or such an ordinance, ~~\$125~~ \$150 shall be assessed against the person by the sentencing court or under the diversion agreement. The ~~\$125~~ \$150 assessment may be waived by the court, *in whole or in part*, or, in the case of diversion of criminal proceedings, by the prosecuting attorney, if the court or prosecuting attorney finds that the defendant is an indigent person. Except as otherwise provided in this subsection, the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over that court. If the secretary of social and rehabilitation services certifies the community-based alcohol and drug safety action program for the judicial district in which the court is located, the clerk of the court shall remit, during the four-year period for which the program is certified, 15% of all assessments received under this section to the secretary of social and rehabilitation services. Moneys credited to the alcohol and drug safety action fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for costs of the services specified by subsection (a) or otherwise required or authorized by law and provided by community-based alcohol and drug safety action programs, except that not more than 10% of the money credited to the fund may be expended to cover the expenses of the court involved in administering the provisions of this section. In the provision of these services the court shall contract as may be necessary to carry out the provisions of this section. The district or municipal judge having administrative authority over that court shall compile a report and send such report to the office of the state judicial administrator on or before January 20 of each year, beginning January 20, 1991. Such report shall include, but not be limited to:

- (1) The balance of the alcohol and drug safety action fund of the court on December 31 of each year;
- (2) the assessments deposited into the fund during the 12-month period ending the preceding December 31; and
- (3) the dollar amounts expended from the fund during the 12-month period ending the preceding December 31.

The office of the state judicial administrator shall compile such reports into a statewide report and submit such statewide report to the legislature on or before March 1 of each year.

(f) The secretary of social and rehabilitation services shall remit all moneys received by the secretary under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the certification of community-based alcohol and drug safety action programs fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants issued pursuant to vouchers approved by the secretary of social and rehabilitation services or a person designated by the secretary.”;

And by renumbering sections accordingly;

On page 33, in line 28, by striking “2” and inserting “1”; in line 35, by striking “for a charge of \$20”;

On page 34, in line 3, by striking “On and after July 1, 2001,”; in line 35, by striking “On and after July 1, 2001,”;

On page 35, in line 40, by striking “On and after July 1, 2001,”;

On page 38, in line 19, by striking “, the” and inserting “: (1) The”; in line 21, by striking “(1)” and inserting “(A)”; in line 22, by striking “(2)” and inserting “(B)”; in line 24, by striking the period and inserting “; and”; in line 25, by striking “In addition, the court may” and inserting “(2) the court shall”; in line 26, by striking “up to”; also in line 26, after the period, by inserting “The court shall order that for any offender who has not been issued a driver’s license by the division prior to sentencing of the offender for a violation of this section, the division shall not issue such offender a driver’s license for 30 days.”; by striking all in lines 37 through 43;

By striking all on page 39;

On page 40, by striking all in lines 1 through 9 and inserting the following:

“Sec. 10. K.S.A. 2000 Supp. 8-241 as amended by section 31 of 2001 Senate Bill No. 15 is hereby amended to read as follows: 8-241. (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) the division of vehicles has suspended such person’s license pursuant to K.S.A. 8-1014, and amendments thereto, as the result of a test refusal, test failure or conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, except that no person shall have to submit to and successfully complete an examination more than once as the result of separate suspensions arising out of the same occurrence.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be ~~55~~ \$25. In addition, any person required to submit to an examination pursuant to subsection (a)(2): *(1) As the result of a test failure, a conviction for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto, shall be required, at the time of examination, to pay a reinstatement fee of ~~50~~ \$100 after the first occurrence, \$200 after the second occurrence, \$300 after the third occurrence and \$400 after the fourth occurrence; and (2) as a result of a test refusal shall be required, at the time of examination, to pay a reinstatement fee of \$400 after the first occurrence, \$600 after the second occurrence, \$800 after the third occurrence and \$1,000 after the fourth occurrence. No reinstatement shall be allowed after the fifth or subsequent occurrence under either subsection (b)(1) or (b)(2).* All examination fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 80% to the state highway fund and 20% shall be disposed of as provided in K.S.A. 8-267, and amendments thereto. All reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount in the state treasury and credit 50% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, 20% to the juvenile detention facilities fund created by K.S.A. 79-4803, and amendments thereto, 20% to the forensic laboratory and materials fee fund cited in K.S.A. 28-176, and amendments thereto, and 10% to the driving under the influence equipment fund created by K.S.A. 75-5660, and amendments thereto. Moneys credited to the forensic laboratory and materials fee fund as provided herein shall be used to supplement existing appropriations and shall not be used to supplant general fund appropriations to the Kansas bureau of investigation.

(c) When an examination is required pursuant to subsection (a), at least five days’ written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.”;

And by renumbering sections accordingly;

On page 42, in line 32, by striking “5” and inserting “1”;

On page 44, in line 37, by striking all after “(D)””; by striking all in lines 38 and 39; in line 40, by striking “(E)””;

On page 45, in line 3, by striking “(F)” and inserting “(E)””; in line 14, by striking “(G)” and inserting “(F)””; in line 18, by striking “(H)” and inserting “(G)””; in line 22, by striking “(I)” and inserting “(H)””; in line 26, by striking “(J)” and inserting “(I)””;

On page 53, in line 24, by striking “10” and inserting “five””; in line 26, by striking “After 10””; by striking all in lines 27 through 31; in line 32, by striking “sentence.” and by inserting “The five days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours’ imprisonment.”; in line 34, by striking “an inpatient or outpatient” and inserting “a””; in line 36, by striking all after the period; by striking all in lines 37 and 38; in line 41, by striking “120” and inserting “90””;

On page 54, in line 3, by striking “120” and inserting “90””; by striking all in lines 4 through 10; in line 11, by striking all before “enter” and inserting “The court may also require as a condition of parole that such person””; also in line 11, by striking “an inpatient””; in line 12, by striking “or outpatient” and inserting “a””; by striking all in lines 18 and 19 and inserting “The 90 days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours’ imprisonment.”; in line 26, by striking “15 months” and inserting “not less than 90 days nor more than one year’s””; also in line 26, by striking “The””; by striking all in lines 27 through 33 and inserting “The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days’ imprisonment. The 90 days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 72 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. After the term of imprisonment imposed by the court, the person shall be placed in the custody of the secretary of corrections and shall be required to participate in an inpatient or outpatient program for alcohol and drug abuse as determined by the secretary. Upon completion of the term of imprisonment and the required treatment program for alcohol and drug abuse, the person shall be released to a mandatory one-year period of postrelease supervision, which such period of postrelease supervision shall not be reduced. During such postrelease supervision, the person shall be required to participate in an approved aftercare plan as determined by the Kansas parole board as a condition of release. Any violation of the conditions of such postrelease supervision may subject such person to revocation of postrelease supervision pursuant to K.S.A. 75-5217 *et seq.*, and amendments thereto and as otherwise provided by law.”; in line 41, by striking “the person shall not be eligible for” and inserting “the judge may order the person on””;

On page 57, after line 14, by inserting the following:

“(s) The amount of the increase in fines as specified in this section shall be remitted by the clerk of the district court to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of remittance of the increase provided in this act, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit 50% to the community alcoholism and intoxication programs

fund and 50% to the department of corrections alcohol and drug abuse treatment fund, which is hereby created in the state treasury.”;

Also on page 57, by striking all in lines 15 through 18:

By striking all on pages 58 through 60;

On page 61, by striking all in lines 1 through 40;

And by renumbering sections accordingly;

On page 67, in line 20, after “family” by inserting “including in person comments, contemporaneous comments and prerecorded comments made by any technological means”;

On page 71, by striking all in lines 34 through 39 and inserting the following:

“Sec. 17. K.S.A. 2000 Supp. 21-4711 is hereby amended to read as follows: 21-4711.

In addition to the provisions of K.S.A. 21-4710 and amendments thereto, the following shall apply in determining an offender’s criminal history classification as contained in the presumptive sentencing guidelines grid for nondrug crimes and the presumptive sentencing guidelines grid for drug crimes:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender’s criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408 and amendments thereto occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of subsection (a)(1) of K.S.A. 21-4204 and amendments thereto, criminal possession of firearms by a person who is both addicted to and an unlawful user of a controlled substance, subsection (a)(4) of K.S.A. 21-4204 and amendments thereto, possession of a firearm on school grounds or K.S.A. 21-4218 and amendments thereto, possession of a firearm on the grounds or in the state capitol building, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, involuntary manslaughter in the commission of K.S.A. 8-1567 and amendments thereto driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567 and amendments thereto shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for involuntary manslaughter while driving under the influence of alcohol and drugs, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) An act described in K.S.A. 8-1567 and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the act described in K.S.A. 8-1567 and amendments thereto shall count as one person felony for criminal history purposes.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as described in subsection (a) of K.S.A. 21-3715 and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as described in subsection (b) or (c) of K.S.A. 21-3715 and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications must be established by the state by a preponderance of the evidence.

(e) Out-of-state convictions and juvenile adjudications will be used in classifying the offender’s criminal history. An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction. If a crime is a felony in another state, it will be counted as a felony in Kansas. The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson comparable offenses shall be referred to. If the state of Kansas does not have a comparable offense, the out-of-state conviction shall be classified as a nonperson crime. Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or

military courts are considered out-of-state convictions or adjudications. The facts required to classify out-of-state adult convictions and juvenile adjudications must be established by the state by a preponderance of the evidence.

(f) Except as provided in subsections (4), (5) and (6) of K.S.A. 21-4710 and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

Sec. 18. K.S.A. 2000 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit ~~22%~~ 19.81% to the crime victims compensation fund and ~~4%~~ 3.6% to the crime victims assistance fund, 4.98% to the community alcoholism and intoxication programs fund and 4.98% to the department of corrections alcohol and drug abuse treatment fund. The remainder of the remittances shall be credited to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 19. K.S.A. 8-2,145 and 41-727 and K.S.A. 2000 Supp. 8-241, as amended by section 31 of 2001 Senate Bill No. 15, 8-255, as amended by section 32 of 2001 Senate Bill No. 15, 8-262, as amended by section 4 of 2001 Senate Bill No. 56, 8-1001, 8-1002, 8-1008, as amended by section 35 of 2001 Senate Bill No. 15, 8-1014, 8-1015, 8-1016, 8-1567, 8-1567a, 21-4711, 22-3717, 22-3717b, 65-1,107 and 74-7336 are hereby repealed.”;

And by renumbering section 24 as section 20;

Also on page 71, in line 41, by striking “Kansas register” and inserting “statute book”;

On page 1, in the title, in line 14, after “ACT” by inserting “concerning motor vehicles;”; also in line 14, after “driving” by inserting “under the influence of alcohol or drugs, penalties;”; in line 18, by striking “concerning;”; in line 19, after the semicolon, by inserting “certain fees and fines;”; also in line 19, by striking all after “K.S.A.”; by striking all in lines 20 through 23 and by inserting the following: “8-2,145 and 41-727 and K.S.A. 2000 Supp. 8-241, as amended by section 31 of 2001 Senate Bill No. 15, 8-255, as amended by section 32 of 2001 Senate Bill No. 15, 8-262, as amended by section 4 of 2001 Senate Bill No. 56, 8-1001, 8-1002, 8-1008, as amended by section 35 of 2001 Senate Bill No. 15, 8-1014, 8-1015, 8-1016, 8-1567, 8-1567a, 21-4711, 22-3717, 65-1,107 and 74-7336 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 22-3717b.”;

And your committee on conference recommends the adoption of this report.

MICHAEL R. O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

On motion of Rep. O'Neal, the conference committee report on **SB 67** was adopted.

On roll call, the vote was: Yeas 105; Nays 16; Present but not voting: 0; Absent or not voting: 4.

Yeas: Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, Dreher, Faber, Feuerborn, Findley, Flaharty, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Johnson, Kauff-

man, Kirk, Kline, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, O'Brien, O'Neal, Osborne, Ostmeyer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Ray, Reardon, Ruff, Schwartz, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Alldritt, DiVita, Flora, Garner, Henderson, Hutchins, Huy, Klein, Merrick, Novascone, Palmer, Powers, Pyle, Rehorn, Sharp, Winn.

Present but not voting: None.

Absent or not voting: Aday, Edmonds, Larkin, Spangler.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2034**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed as Amended by Senate on Final Action, as follows:

On page 1, by striking all in lines 21 through 43;

By striking all on pages 2 through 7;

On page 8, by striking all in lines 1 through 5 and inserting:

"Section 1. Sections 1 through 12, and amendments thereto, may be cited as the enhanced wireless 911 act.

Sec. 2. As used in the enhanced wireless 911 act, unless the context otherwise requires:

(a) "Emergency telephone service," "emergency telephone system," "governing body," "public agency," "service user," "wireless carrier" and "wireless service" have the meanings provided by K.S.A. 12-5301, and amendments thereto.

(b) "Administrator" means the person appointed by the governor pursuant to section 4, and amendments thereto.

(c) "Automatic number identification" means a feature by which the 10-digit telephone number of a person calling a PSAP is simultaneously forwarded to the PSAP and to the PSAP's display and transfer units.

(d) "Board" means the enhanced wireless 911 board established by section 3, and amendments thereto.

(e) "Enhanced 911 service" means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location information features.

(f) "Enhanced wireless 911 service" means a telephone exchange communication service by which wireless carriers are able to provide automatic number identification, pseudo-automatic number identification and wireless automatic location information to a PSAP which has the capability of providing selective routing, selective transfer, fixed transfer, automatic number identification and wireless automatic location information.

(g) "Fund" means the enhanced wireless 911 fund established pursuant to section 5, and amendments thereto.

(h) "PSAP" means a public safety answering point that offers emergency telephone service.

(i) "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, government or subdivision of government, limited liability company or corporation, or any other legal entity.

(j) "Pseudo-automatic number identification" means a feature by which a PSAP is provided automatic number identification of the 10-digit telephone number of the specific cell site or cell site sector from which a wireless call originated.

(k) "Subscriber account" means the 10-digit telephone number assigned to a service user regardless of whether more than one such number is aggregated for the purpose of billing such service user.

(l) "Wireless automatic location information" means a feature by which information is provided to a PSAP identifying the location, the latitude and longitude within the parameters

established by the federal communications commission, of a wireless unit originating a call to a PSAP.

Sec. 3. (a) There is hereby established the enhanced wireless 911 board, which shall be attached to the state corporation commission for administrative purposes.

(b) The board shall consist of the following members:

- (1) The chairperson of the state corporation commission or the chairperson's designee;
- (2) one member appointed by the citizens' utility ratepayer board;
- (3) one member with a communications disability appointed by the Kansas commission for the deaf and hard of hearing; and

(4) the following members appointed by the governor: (A) One representative of law enforcement; (B) one member of a county commission of a county having a population of 25,000 or more; (C) one member of a county commission of a county having a population of less than 25,000; (D) two representatives of the state's wireless telecommunications industry; (E) two managers of PSAP's, one large and one small, in the state; (F) one representative of the state's local exchange telecommunications service industry; and (G) one person who has expert knowledge of the telecommunications industry but is not affiliated with the industry.

(c) Each member of the board shall serve for a term of four years and until a successor is appointed and qualifies. Every two years the members of the board shall elect a chairperson and vice-chairperson from among the members of the board.

(d) Members of the board shall be reimbursed their actual and necessary expenses.

(e) The board shall:

- (1) Supervise and review the performance of the administrator;
- (2) review and approve all contracts of the administrator;
- (3) review and approve all expenditures from the fund;
- (4) establish standards and criteria to determine the eligibility of applications for disbursements from the fund pursuant to subsection (c) of section 7, and amendments thereto, and the level of disbursement for each application;
- (5) determine the technical and financial reports that shall be required to be filed with the administrator;

(6) establish the amount of compensation and expenses to be paid to the administrator and the staff of the administrator;

(7) recommend to the state corporation commission rules and regulations for implementation of this act;

(8) on or before the commencement of each regular legislative session, submit to the governor and to the secretary of the senate and the clerk of the house of representatives, for distribution to the appropriate standing committees, a report on implementation of statewide enhanced wireless 911 service, including, but not limited to, financial and technological issues, the extent to which service is being implemented statewide, any problems encountered, any successes achieved and any recommendations of the board;

(9) have the authority to modify or recommend modification of the surcharge as provided by subsection (a) of section 6, and amendments thereto;

(10) have the authority to recommend, as provided by subsection (e) of section 6, and amendments thereto, modification of the percentage of moneys to be retained from the surcharge by wireless carriers pursuant to subsection (d) of section 6, and amendments thereto;

(11) have the authority to recommend, as provided by subsection (b) of section 7, and amendments thereto, modification of the amount or percentage of moneys to be remitted to counties pursuant to subsection (a) of section 7, and amendments thereto; and

(12) have such other powers and duties as provided by law.

(f) Before July 1, 2002, the state corporation commission shall adopt rules and regulations for implementation of this act.

(g) The state corporation commission shall provide office space for the board, the administrator and the administrator's staff.

Sec. 4. (a) The governor shall appoint an administrator of the enhanced wireless 911 fund, the position of which shall be attached to the state corporation commission for administrative purposes. The appointment shall be made in accordance with the provisions of

subsection (b) and shall be subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. The administrator shall serve at the pleasure of the governor.

(b) The appointment of the administrator shall be from among three persons nominated by the board. The chairperson of the state corporation commission shall submit to the board the names of three persons for nomination to the governor for appointment as administrator. If the board disapproves any person submitted by the chairperson of the state corporation commission, the board shall ask the chairperson to submit the name of another person in place of the person disapproved by the board. When the board has approved three persons for nomination to the governor, the board shall forward the names of such persons to the governor, who shall appoint one of the persons as administrator of the fund.

(c) The administrator, subject to the direction and approval of the board, shall:

(1) Negotiate and coordinate with wireless carriers and counties to ensure cost-effective statewide enhanced wireless 911 service, uniformity of service and compliance with agreements;

(2) promote collaboration among wireless carriers, counties and PSAP's and encourage economies of scale;

(3) verify time lines for implementation of enhanced wireless 911 service and monitor the progress in meeting such time lines;

(4) collect from wireless carriers all moneys due to the fund from the surcharge imposed pursuant to section 6, and amendments thereto;

(5) distribute amounts from the fund in accordance with section 7, and amendments thereto;

(6) within the limitations of subsection (c)(1) of section 5, and amendments thereto, employ such staff as necessary to carry out the duties of the administrator and the board;

(7) draft reports, applications and other documents for the board for review and approval;

(8) review all technical and financial reports required by the board;

(9) sign contracts approved by the board;

(10) submit to the joint committee on information technology, for review and recommendations, any plans approved by the board for implementation of statewide enhanced wireless 911 service; and

(11) perform such other duties as required by the board or provided by law.

Sec. 5. (a) The board shall establish the enhanced wireless 911 fund, which shall be outside the state treasury.

(b) The following moneys shall be credited to the fund:

(1) All moneys received by the administrator from the surcharge imposed pursuant to section 6, and amendments thereto;

(2) any federal moneys received for wireless emergency communication and all other moneys received by the administrator for the purposes of the fund; and

(3) all interest earned on moneys credited to the fund.

(c) Moneys in the fund shall be expended only for the following purposes, unless otherwise required by federal law with regard to federal moneys credited to the fund:

(1) Payment of costs of administering the fund, including expenses of the board and compensation and expenses of the administrator and the administrator's staff, but the aggregate amount of all such costs in any fiscal year of the board shall not exceed 3% of all amounts credited to the fund during the preceding fiscal year; and

(2) amounts provided to be paid from the fund pursuant to section 7, and amendments thereto.

(d) No moneys shall be expended from the fund except upon the signatures of both the chairperson of the state corporation commission, or the chairperson's designee, and the chairperson of the board.

Sec. 6. (a) (1) On and after July 1, 2001, there is hereby imposed a surcharge on each subscriber account of any service user of a wireless carrier if such service user has a billing address in the state of Kansas.

(2) Prior to July 1, 2005, the amount of the surcharge shall be \$.75 per month per subscriber account unless the report of the division of legislative post audit in 2003 rec-

ommends reduction of the surcharge, in which case the board may reduce the amount of the surcharge at that time.

(3) On and after July 1, 2005: (A) The amount of the surcharge may be reduced by the board at any time if the board determines that the amount of the surcharge is in excess of the amount needed for full recovery by PSAP's and wireless carriers of costs associated with developing and maintaining enhanced wireless 911 service on a technologically and competitively neutral basis; and (B) the amount of the surcharge may be increased by rules and regulations of the state corporation commission at any time if the board so recommends and the commission determines that the amount of the surcharge is insufficient for full recovery by PSAP's and wireless carriers of costs associated with developing and maintaining enhanced wireless 911 service on a technologically and competitively neutral basis, but in no event shall the amount of the surcharge exceed \$.75 per month per subscriber account.

(4) The surcharge imposed hereunder shall ensure, over a reasonable period of time, the full recovery by PSAP's and wireless carriers of costs associated with developing and maintaining an enhanced wireless 911 system on a technologically and competitively neutral basis.

(b) No surcharge shall be imposed pursuant to this section on a wireless connection which is used for remote control purposes and is capable of accessing only one number.

(c) The wireless carrier shall collect the surcharge from each of the carrier's service users who has a billing address in the state of Kansas. The wireless carrier shall add the surcharge to each such service user's bill for wireless service. The surcharge shall appear on the service user's billing statement as a separate line item charge labeled "Enhanced Wireless 911 Surcharge." All charges for enhanced wireless 911 service shall be so identified. The wireless carrier shall have no obligation to take any legal action to enforce the collection of any surcharge imposed under authority of this act. The wireless carrier annually shall provide to the administrator a list of amounts uncollected along with the names and addresses of those service users who carry a balance that can be determined by the wireless carrier to be nonpayment of any surcharge imposed under authority of this act. Any surcharge imposed under authority of this act shall be collected insofar as practicable at the same time as, and along with, other charges owed by the service user in accordance with the regular billing practice of the wireless carrier.

(d) Subject to the provisions of subsection (e), a wireless carrier may retain an amount equal to 22.5% of the surcharge collected by such carrier pursuant to this act for the purpose of recovering:

(1) The carrier's costs of collecting and dispersing the surcharge; and

(2) the necessary and reasonable costs incurred or to be incurred by the carrier to implement enhanced wireless 911 service pursuant to a service agreement with a PSAP or pursuant to a request for service from a PSAP, including, but not limited to: (A) Costs of creating and maintaining any database or database elements used solely for enhanced wireless 911 service; (B) that portion of the costs of equipment or services, including leased equipment or services, used in the wireless carrier's main infrastructure necessary to implement enhanced 911 service or enhanced wireless 911 service; and (C) any other costs incurred by the carrier to establish enhanced 911 wireless service.

(e) On and after July 1, 2005, the percentage of the surcharge to be retained by wireless carriers may be modified by rules and regulations of the state corporation commission at any time if the board so recommends and the commission determines that the percentage is insufficient or is in excess of the amount needed for full recovery of wireless carriers' costs associated with developing and maintaining enhanced wireless 911 service.

(f) After deduction of the amount provided by subsection (d), each wireless carrier shall remit to the administrator, at such times and in such manner as provided by rules and regulations adopted pursuant to this act, all remaining amounts collected by the carrier for the surcharge. Each remittance shall be accompanied with such information in such form as required by the administrator. Each wireless carrier shall maintain all records of the billing, collection and remittance of surcharges pursuant to this section for a period of two years after the date of the billing of the surcharge to the service user.

(g) The administrator may require an audit of any wireless carrier's books and records concerning the collection and remittance of the surcharge pursuant to this act. Any such audit shall be conducted at the expense of the fund.

Sec. 7. (a) Subject to the provisions of subsections (b) and (d), the administrator shall pay to the county treasurer of each county in the state an annual amount equal to the greater of \$25,000 or 22.5% of all moneys collected during the year by wireless carriers from service users having a billing address in such county. Such amount shall be paid in monthly installments. Upon receipt of such moneys, the county treasurer shall deposit the entire amount in the county treasury and shall credit it to a special enhanced wireless 911 fund. All moneys in such special fund shall be under the direction and control of the county commission and shall be paid by the county to PSAP's serving the county for use only for:

(1) Necessary and reasonable costs incurred or to be incurred by the PSAP to implement enhanced wireless 911 service, including, but not limited to, purchases of equipment and upgrades and modification to equipment used solely to process the data elements of enhanced wireless 911 service, and maintenance costs and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities; and

(2) necessary and reasonable costs incurred or to be incurred by the PSAP to purchase, install, maintain and operate telecommunications equipment and telecommunications services required for the provision of emergency telephone service, or enhanced 911 service, if the costs are necessary to prepare the PSAP for the capability of providing enhanced wireless 911 service, but such costs shall not include expenditures for new or expanded buildings or similar facilities or to construct other capital improvements not expressly authorized by this act.

(b) On and after July 1, 2005, the amount or percentage to be remitted to counties pursuant to subsection (a) may be modified by rules and regulations of the state corporation commission at any time if the board so recommends and the commission determines that such amount or percentage is insufficient or is in excess of the amount needed for full recovery of the costs of PSAP's associated with developing and maintaining enhanced wireless 911 service.

(c) For the purpose of ensuring that statewide enhanced wireless 911 service is planned, constructed, implemented and operated in a cost effective manner, the administrator, after distribution of moneys to counties pursuant to subsection (a) and payment of the costs of administering the fund, may disburse any moneys remaining in the fund to counties for the purposes provided by subsection (a) and to wireless carriers for the purposes provided by subsection (d)(2) of section 6, and amendments thereto. Any county or wireless carrier may apply for a disbursement from the fund by submitting a written application to the administrator. The administrator shall receive, review and approve or disapprove, subject to review and approval of the board, any application for such disbursement, including supporting documentation. The administrator shall notify the applicant as to the determination of the administrator regarding the application. Moneys disbursed to a county pursuant to this subsection shall be remitted to the county treasurer, who shall deposit the entire amount in the county treasury and credit it to the special enhanced wireless 911 fund provided for by subsection (a).

(d) If a PSAP, within two years after first receiving moneys from a county pursuant to this section, has not entered into an agreement with wireless carriers for the purpose of implementing enhanced 911 service, such PSAP shall repay to the administrator all moneys received by the PSAP pursuant to this section and such PSAP shall not be eligible to receive further moneys pursuant to this section until such time as the PSAP has submitted to the administrator evidence satisfactory to the administrator that the PSAP has entered into an agreement with wireless carriers for the purpose of implementing enhanced 911 service.

(e) Any decision of the administrator pursuant to subsection (c) shall be subject to review by the board. The decision of the board upon review shall be subject to review by the state corporation commission in accordance with the provisions of the Kansas administrative procedure act. The order of the commission upon such review shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 8. Each county or wireless carrier that receives moneys collected from the surcharge imposed pursuant to this act, and each PSAP that directly or indirectly receives any such moneys, shall make a full public accounting of the money in a manner and form prescribed by the board.

Sec. 9. (a) Before commencement of the regular legislative session in 2003, the division of post audit shall conduct an audit of implementation of this act. The scope of the audit shall be determined by the legislative post audit committee and shall include, but not be limited to, determination of the degree to which enhanced wireless 911 service has been implemented in all areas of the state and the costs associated with the implementation.

(b) Before commencement of the regular legislative session in 2005, the division of post audit shall conduct an audit of implementation of this act. The scope of the audit shall be determined by the legislative post audit committee and shall include, but not be limited to, determination of the degree to which enhanced wireless 911 service has been implemented in all areas of the state, the costs associated with the implementation and whether the funding of such service shall be achieved by centralized or decentralized administration.

(c) The auditor to conduct the audits required by this section shall be specified in accordance with K.S.A. 46-1122, and amendments thereto, and the cost of such audit shall be paid from the fund. 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 such audit work, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123 and 46-1125 through 46-1127, and amendments thereto, and the cost of the audit shall be paid from the fund. The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this section, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the board shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of audit services pursuant to this section shall be a transaction between the post auditor and the board and shall be settled in accordance with the provisions of K.S.A. 75-5516, and amendments thereto.

Sec. 10. Except for information necessary to document expenditures of surcharge revenue as required by section 8, and amendments thereto, and any information compiled in aggregate to the extent that the information cannot be related to or identified with a specific wireless carrier, any information made available to or received by the administrator from wireless carriers shall not be subject to any provisions of the Kansas open records act and shall be considered confidential and proprietary. Information regarding revenue realized by wireless carriers from the surcharge shall be made available to the division of post audit division pursuant to K.S.A. 46-1114, and amendments thereto. Any information obtained by the division of post audit may be reported in aggregate to the extent that such report does not identify such information with a specific wireless carrier.

Sec. 11. (a) Phases 1 and 2 of enhanced 911 service, as described by the federal communications commission in CC Docket No. 94-102, shall be deployed throughout the state before July 1, 2005.

(b) Nothing in this act shall be construed to require the deployment of a statewide centralized system of dispatch.

Sec. 12. (a) No public agency or wireless carrier shall be liable for any form of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency telephone service.

(b) No wireless carrier, or its officers, employees, assigns or agents, shall be liable for any form of damages which directly or indirectly result from, or are caused by, the release of subscriber information to any public agency as required to implement the provisions of this act unless the release constitutes gross negligence, recklessness or intentional misconduct.

Sec. 13. K.S.A. 2000 Supp. 12-5308 is hereby repealed.”;

In the title, in line 15, by striking “and cable telephony service”; in line 16, after “thereof” by inserting “and imposing a surcharge for such purpose”; in line 16 and 17, by striking “9-1-1 advisory board” and inserting “911 board and administrator”; in line 17, by striking all after the semicolon; in line 18, by striking all before the period and inserting “repealing K.S.A. 2000 Supp. 12-5308”;

And your committee on conference recommends the adoption of this report.

KARIN S. BROWNLEE
JAY SCOTT EMLER
Conferees on part of Senate

CARL DEAN HOLMES
TOM SLOAN
LAURA MCCLURE
Conferees on part of House

On motion of Rep. Holmes to adopt the conference committee report on **S. Sub. for HB 2034**, Rep. Dillmore offered a substitute motion to not adopt the conference committee report and asked that a new conference committee be appointed. The substitute motion prevailed.

Speaker Glasscock thereupon appointed Reps. Holmes, Sloan and McClure as third conferees on the part of the House.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2176**, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 2, in line 25, following "teacher" by inserting "or a person in a position of authority"; in line 28, by striking "teaches" and inserting: "is employed. If the offender is the parent of the student, the provisions of K.S.A. 21-3603, and amendments thereto, shall apply, not this subsection";

On page 3, in line 5, following "other" by inserting "professional"; in line 7, by striking "nonpublic" and inserting "private"; by striking all in line 11 and inserting in lieu thereof the following:

"Sec. 2. K.S.A. 2000 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) Any person convicted as an adult or adjudicated as a juvenile offender because of the commission of any offense which requires such person to register as an offender pursuant to the Kansas offender registration act, K.S.A. 22-4901 *et seq.*, any off-grid felony, any nondrug severity level 1 through 6 felony, or a violation of subsection (a)(1) of K.S.A. 21-3505, 21-3508, 21-3602 or 21-3609, 21-3715, 21-4310, subsections (e)(2), (e)(3) and (e)(4) of K.S.A. 65-4142 or K.S.A. 65-4159, and amendments thereto, including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of any such offenses provided in this subsection regardless of the sentence imposed, shall be required to submit specimens of blood and saliva to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

- (1) Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;
- (2) ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or
- (3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 22-3717 or 38-1663, and amendments thereto.

(b) Notwithstanding any other provision of law, the Kansas bureau of investigation is authorized to obtain fingerprints and other identifiers for all persons, whether juveniles or adults, covered by this act.

(c) Any person required by paragraphs (a)(1) and (a)(2) to provide specimens of blood and saliva shall be ordered by the court to have specimens of blood and saliva collected within 10 days after sentencing or adjudication:

(1) If placed directly on probation, that person must provide specimens of blood and saliva, at a collection site designated by the Kansas bureau of investigation. Failure to cooperate with the collection of the specimens and any deliberate act by that person intended to impede, delay or stop the collection of the specimens shall be punishable as contempt of court and constitute grounds to revoke probation;

(2) if sentenced to the secretary of corrections, the specimens of blood and saliva will be obtained immediately upon arrival at the Topeka correctional facility; or

(3) if a juvenile offender is placed in the custody of the commissioner of juvenile justice, in a youth residential facility or in a juvenile correctional facility, the specimens of blood and saliva will be obtained immediately upon arrival.

(d) Any person required by paragraph (a)(3) to provide specimens of blood and saliva shall be required to provide such samples prior to final discharge or conditional release at a collection site designated by the Kansas bureau of investigation.

(e) The Kansas bureau of investigation shall provide all specimen vials, mailing tubes, labels and instructions necessary for the collection of blood and saliva samples. The collection of samples shall be performed in a medically approved manner. No person authorized by this section to withdraw blood and collect saliva, and no person assisting in the collection of these samples shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices. The withdrawal of blood for purposes of this act may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician including, but not limited to, an emergency medical technician-intermediate or mobile intensive care technician, as those terms are defined in K.S.A. 65-6112, and amendments thereto, or a phlebotomist. The samples shall thereafter be forwarded to the Kansas bureau of investigation for analysis and categorizing into genetic marker groupings.

(f) The genetic marker groupings shall be maintained by the Kansas bureau of investigation. The Kansas bureau of investigation shall establish, implement and maintain a state-wide automated personal identification system capable of, but not limited to, classifying, matching and storing analysis of DNA (deoxyribonucleic acid) and other biological molecules. The genetic marker grouping analysis information and identification system as established by this act shall be compatible with the procedures specified by the federal bureau of investigation's combined DNA index system (CODIS). The Kansas bureau of investigation may participate in the CODIS program by sharing data and utilizing compatible test procedures, laboratory equipment, supplies and computer software.

(g) The genetic marker grouping analysis information obtained pursuant to this act shall be confidential and shall be released only to law enforcement officers of the United States, of other states or territories, of the insular possessions of the United States, or foreign countries duly authorized to receive the same, to all law enforcement officers of the state of Kansas and to all prosecutor's agencies.

(h) The Kansas bureau of investigation shall be the state central repository for all genetic marker grouping analysis information obtained pursuant to this act. The Kansas bureau of investigation may promulgate rules and regulations for the form and manner of the collection of blood and saliva samples and other procedures for the operation of this act. The provisions of the Kansas administrative procedure act shall apply to all actions taken under the rules and regulations so promulgated.

Sec. 3. K.S.A. 2000 Supp. 21-3106 is hereby amended to read as follows: 21-3106. (1) A prosecution for murder may be commenced at any time.

(2) Except as provided by ~~subsection~~ *subsections (7) and (8) (9)*, a prosecution for any of the following crimes must be commenced within five years after its commission if the victim is less than 16 years of age: (a) Indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (b) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (c) enticement of a child as defined in K.S.A. 21-3509 and amendments thereto; (d) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (e) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (f) sexual exploitation of a child as defined in

K.S.A. 21-3516 and amendments thereto; or (g) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto.

(3) Except as provided in subsection ~~(8)~~ (9), a prosecution for any crime must be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(4) Except as provided by ~~subsection (8)~~ subsections (7) and (9), a prosecution for rape, as defined in K.S.A. 21-3502 and amendments thereto, or aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto, must be commenced within five years after its commission.

(5) Except as provided in subsection ~~(8)~~ (9), a prosecution for any crime found in the Kansas medicaid fraud control act must be commenced within five years after its commission.

(6) Except as provided by subsection ~~(8)~~ (9), a prosecution for the crime of arson, as defined in K.S.A. 21-3718 and amendments thereto, or aggravated arson, as defined in K.S.A. 21-3719 and amendments thereto, must be commenced within five years after its commission.

(7) (a) *Except as provided in subsection (9), a prosecution for any offense provided in subsection (2) or a sexually violent offense as defined in K.S.A. 22-3717, and amendments thereto, must be commenced within the limitation of time provided by the law pertaining to such offense or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.*

(b) *For purposes of this section, "DNA" means deoxyribonucleic acid.*

(8) Except as provided by subsection ~~(8)~~ (9), a prosecution for any crime not governed by subsections (1), (2), (3), (4), (5) ~~and~~, (6) and (7) must be commenced within two years after it is committed.

~~(8)~~ (9) The period within which a prosecution must be commenced shall not include any period in which:

(a) The accused is absent from the state;

(b) the accused is concealed within the state so that process cannot be served upon the accused;

(c) the fact of the crime is concealed;

(d) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(e) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(f) whether or not the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present: (i) The victim was a child under 15 years of age at the time of the crime; (ii) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime; (iii) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and (iv) there is substantially competent expert testimony indicating the victim psychologically repressed such witness' memory of the fact of the crime, and in the expert's professional opinion the recall of such memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in this section later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime. "Parent or other legal authority" shall include but not be limited to natural and stepparents, grandparents, aunts, uncles or siblings.

~~(9)~~ (10) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of

conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

~~(10)~~ (11) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

New Sec. 4. (a) Notwithstanding any other provision of law, a person in state custody, at any time after conviction for murder as defined by K.S.A. 21-3401, and amendments thereto, or for rape as defined by K.S.A. 21-3502, and amendments thereto, may petition the court that entered the judgment for forensic DNA testing (deoxyribonucleic acid testing) of any biological material that:

(1) Is related to the investigation or prosecution that resulted in the conviction;
 (2) is in the actual or constructive possession of the state; and
 (3) was not previously subjected to DNA testing, or can be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(b) (1) The court shall notify the prosecuting attorney of a petition made under subsection (a) and shall afford the prosecuting attorney an opportunity to respond.

(2) Upon receiving notice of a petition made under subsection (a), the prosecuting attorney shall take such steps as are necessary to ensure that any remaining biological material that was secured in connection with the case is preserved pending the completion of proceedings under this section.

(c) The court shall order DNA testing pursuant to a petition made under subsection (a) upon a determination that testing may produce noncumulative, exculpatory evidence relevant to the claim of the petitioner that the petitioner was wrongfully convicted or sentenced.

(d) The cost of DNA testing ordered under subsection (c) shall be borne by the state or the petitioner, as the court may order in the interests of justice, if it is shown that the petitioner is not indigent and possesses the means to pay.

(e) The court may at any time appoint counsel for an indigent applicant under this section.

(f) (1) If the results of DNA testing conducted under this section are unfavorable to the petitioner, the court:

(A) Shall dismiss the petition; and
 (B) in the case of a petitioner who is not indigent, may assess the petitioner for the cost of such testing.

(2) If the results of DNA testing conducted under this section are favorable to the petitioner, the court shall:

(A) order a hearing, notwithstanding any provision of law that would bar such a hearing; and
 (B) enter any order that serves the interests of justice, including, but not limited to, an order:

(i) Vacating and setting aside the judgment;
 (ii) discharging the petitioner if the petitioner is in custody;
 (iii) resentencing the petitioner; or
 (iv) granting a new trial.

(3) If the results of DNA testing conducted under this section are inconclusive, the court may order a hearing to determine whether there is a substantial question of innocence. If the petitioner proves by a preponderance of the evidence that there is a substantial question of innocence, the court shall proceed as provided in subsection (f)(2).

(g) Nothing in this section shall be construed to limit the circumstances under which a person may obtain DNA testing or other postconviction relief under any other provision of law.

Sec. 5. K.S.A. 21-3701 is hereby amended to read as follows: 21-3701. (a) Theft is any of the following acts done with intent to deprive the owner permanently of the possession, use or benefit of the owner's property:

(1) Obtaining or exerting unauthorized control over property;
 (2) obtaining by deception control over property;

(3) obtaining by threat control over property; or
 (4) obtaining control over stolen property knowing the property to have been stolen by another.

(b) (1) Theft of property of the value of \$25,000 or more is a severity level 7, nonperson felony.

(2) Theft of property of the value of at least \$500 but less than \$25,000 is a severity level 9, nonperson felony.

(3) *Theft of property regardless of the value from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony.*

~~(4)~~ (4) Theft of property of the value of less than \$500 is a class A nonperson misdemeanor.

~~(5)~~ (5) Theft of property of the value of less than \$500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, been convicted of theft two or more times.

Sec. 6. K.S.A. 2000 Supp. 21-3764 is hereby amended to read as follows: 21-3764. (a) Unlawful manufacturing or selling of a theft detection shielding device is intentionally manufacturing, selling, offering for sale or distributing in any way a laminated or coated bag or device particular to and intentionally marketed for shielding and intended to shield merchandise from detection by electronic or magnetic theft alarm sensor.

(b) Unlawful possession of a theft detection shielding device is intentionally possessing any laminated or coated bag or device particular to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft.

(c) Unlawful possession of a theft detection device remover is intentionally possessing any tool or device designed to allow the removal of any theft detection device from any merchandise with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding such merchandise.

(d) Unlawful removal of a theft detection device is intentionally removing the device from merchandise prior to purchase.

(e) *Unlawful possession of a sales receipt or universal product code label is possessing 15 or more fraudulent retail sales receipts or universal product code labels, or any combination thereof, or possessing the device which manufactures fraudulent retail sales receipts or universal product code labels. A person having possession, custody or control of 15 or more such receipts or labels or such device shall be presumed to possess such items with the intent to cheat or defraud a retailer.*

~~(f)~~ (f) Violation of this section is a severity level 9, nonperson felony.

~~(g)~~ (g) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 7. K.S.A. 21-4614 is hereby amended to read as follows: 21-4614. In any criminal action in which the defendant is convicted upon a plea of guilty or *no contest* or trial by court or jury or upon completion of an appeal, the judge, if ~~he or she~~ *the judge* sentences the defendant to confinement, shall direct that for the purpose of computing defendant's sentence and ~~his or her~~ parole eligibility and conditional release dates thereunder, that such sentence is to be computed from a date, to be specifically designated by the court in the sentencing order of the journal entry of judgment or the judgment form, whichever is delivered with the defendant to the correctional institution, such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent incarcerated pending the disposition of the defendant's case. In recording the commencing date of such sentence the date as specifically set forth by the court shall be used as the date of sentence and all good time allowances as are authorized by the Kansas ~~adult authority~~ *parole board* are to be allowed on such sentence from such date as though the defendant were actually incarcerated in any of the institutions of the state correctional system. Such jail time credit is not to be considered to reduce the minimum or maximum terms of confinement as are authorized by law for the offense of which the defendant has been convicted.

Sec. 8. K.S.A. 22-3303 is hereby amended to read as follows: 22-3303. (1) A defendant who is charged with a felony and is found to be incompetent to stand trial shall be committed for evaluation and treatment to the state security hospital or any appropriate county or private institution. A defendant who is charged with a misdemeanor and is found to be incompetent to stand trial shall be committed for evaluation and treatment to any appropriate state, county or private institution. Any such commitment shall be for a period of not to exceed 90 days. Within 90 days after the defendant's commitment to such institution, the chief medical officer of such institution shall certify to the court whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. If such probability does exist, the court shall order the defendant to remain in an appropriate state, county or private institution until the defendant attains competency to stand trial or for a period of six months from the date of the original commitment, whichever occurs first. If such probability does not exist, the court shall order the secretary of social and rehabilitation services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and any amendments thereto. *When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e) of K.S.A. 2000 Supp. 59-2946, and amendments thereto, who is likely to cause harm to self and others, as defined in subsection (f)(3) of K.S.A. 2000 Supp. 59-2946, and amendments thereto. The other provisions of subsection (f) of K.S.A. 2000 Supp. 59-2946, and amendments thereto, shall not apply.*

(2) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in subsection (1), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the secretary of social and rehabilitation services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and any amendments thereto. *When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e) of K.S.A. 2000 Supp. 59-2946, and amendments thereto, who is likely to cause harm to self and others, as defined in subsection (f)(3) of K.S.A. 2000 Supp. 59-2946, and amendments thereto. The other provisions of subsection (f) of K.S.A. 2000 Supp. 59-2946, and amendments thereto, shall not apply.*

(3) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302 and amendments thereto to determine the person's present mental condition. Reasonable notice of such hearings shall be given to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

(4) A defendant committed to a public institution under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment may be credited with all or any part of the time during which the defendant was committed and confined in such public institution.

New Sec. 9. The secretary of social and rehabilitation services shall convene a task force to study current programs and laws for alleged offenders with disabilities that render such offenders potentially incompetent to stand trial, but who do not meet the criteria for involuntary commitment under Kansas law. The task force shall review and make recommendations on the adequacy of Kansas programs and services, and current Kansas law, in protecting public safety and in providing services and support to such alleged offenders. The secretary shall report to the judiciary committee during the 2001 interim and shall make a final report including programmatic and statutory recommendations to the 2002 legislature.

Sec. 10. K.S.A. 2000 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);
- (3) *a sexually violent predator as defined in subsection (f)*;
- (4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:
 - (A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;
 - (B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto; or
 - (C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;
- ~~(4)~~ (5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:
 - (A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;
 - (B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;
 - (C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;
 - (D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;
 - (E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendment thereto;

or

- (F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;
- ~~(5) any conviction for~~ (6) *any person who is a resident of this state who has been required to register under any federal, military or other state's law;*

- (7) *any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection ~~(3)~~ or ~~(4)~~ (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection ~~(3)~~ or ~~(4)~~ (4) or (5); or*
- ~~(6)~~ (8) *any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection ~~(3)~~ or ~~(4)~~ (4) or (5).*

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

- (b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c).
- (c) "Sexually violent crime" means:
 - (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
 - (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
 - (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
 - (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
 - (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
 - (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
 - (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
 - (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
 - (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
 - (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
 - (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
 - (12) any conviction for ~~a~~ an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1)

through (11), or any federal, *military* or other state conviction for a ~~felony~~ *an* offense that under the laws of this state would be a sexually violent crime as defined in this section;

(13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or

(14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;
- (2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;
- (3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;
- (4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;
- (5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto;

or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, *military* or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "*Sexually violent predator*" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 et seq. and amendments thereto.

(g) "*Nonresident student or worker*" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

- (1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 2000 Supp. 21-3502, and amendments thereto;
- (2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and
- (3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (f).

Sec. 11. K.S.A. 2000 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a)

(1) Except as provided in subsection (a)(2), within 10 days of the offender coming into any county in which the offender resides or is temporarily domiciled for more than 10 days, the offender shall register with the sheriff of the county.

(2) Within 10 days of the offender coming into any county in which the offender resides or temporarily resides for more than 10 days, any offender who has provided the information and completed and signed the registration form as required in K.S.A. 22-4905 and amendments thereto, shall verify with the sheriff of the county that the sheriff has received such offender's information and registration form.

(3) Upon registration with a school or educational institution, a nonresident student attending such school or educational institution shall register with the sheriff within 10 days of the commencement of the school term.

(4) Upon commencement of employment, a nonresident worker shall register with the sheriff within 10 days of the commencement date of employment.

~~(3)~~ (5) For persons required to register as provided in ~~subsection~~ *subsections* (a)(1), (a)(3) and (a)(4), the sheriff shall: (A) Explain the duty to register and the procedure for registration;

(B) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(C) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(D) *inform the nonresident student offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any change or termination of attendance at the school or educational institution the offender is attending, within 10 days of such change or termination;*

(E) *inform the nonresident worker offender that the offender must give written notice to the sheriff and the Kansas bureau of investigation of any termination of employment at the offender's place of employment, within 10 days of such termination;*

(F) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence; ~~and~~

(G) *inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; and*

~~(E)~~ (H) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

~~(4)~~ (6) Such sheriff, within three days of receipt of the initial registration shall forward this information to the Kansas bureau of investigation.

~~(5)~~ (7) Notwithstanding any other provision of law, if a diversionary agreement or probation order, either adult or juvenile, or a juvenile offender sentencing order, requires registration under the Kansas offender registration act then all provisions of that act shall apply, except that the term of registration shall be controlled by such diversionary agreement, probation order or juvenile offender sentencing order.

(b) (1) If any person required to register as provided in this act changes the address of the person's residence, the offender, within 10 days, shall inform in writing the Kansas bureau of investigation of the new address.

(2) After receipt of the change of address, the Kansas bureau of investigation shall forward this information to the law enforcement agency having jurisdiction of the new place of residence within 10 days of such receipt of the change of address.

(c) For any person required to register as provided in this act, every 90 days after the person's initial registration date during the period the person is required to register, the following applies:

(1) The Kansas bureau of investigation shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form.

(3) The verification form shall be signed by the person; and shall ~~state provide that the person still resides at the address last reported to the Kansas bureau of investigation~~ *the following information, as applicable, to the Kansas bureau of investigation: (A) Whether the person still resides at the address last reported; (B) whether the person still attends the school or educational institution last reported; (C) whether the person is still employed at the place of employment last reported; and (D) whether the person's vehicle registration information is the same as last reported.*

(4) If the person fails to mail the verification form to the Kansas bureau of investigation within 10 days after receipt of the form, the person shall be in violation of the Kansas offender registration act.

(5) Nothing contained in this section shall be construed to alleviate any person required to register as provided in this act from meeting the requirements prescribed in ~~subsection~~ *subsections* (a)(1), (a)(2) and (b)(1).

Sec. 12. K.S.A. 2000 Supp. 22-4905 is hereby amended to read as follows: 22-4905. (a) (1) Any offender, who is discharged or paroled from a prison, hospital or other institution or facility involving a violation of any crime *or confinement* as provided in subsection (a), (b) ~~or~~, (d) *or (f)* of K.S.A. 22-4902 and amendments thereto, prior to discharge, parole or release, shall be informed by the staff of the facility in which the offender was confined of the duty to register as provided in this act.

(2) (A) The staff of the facility shall: (i) Explain the duty to register and the procedure for registration;

(ii) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence; ~~and~~

(v) *inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; and*

(vi) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(B) The staff of the facility shall give one copy of the form to the person, within three days, and shall send two copies of the form provided by subsection (2)(A)(v) to the Kansas bureau of investigation, which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole or release. The Kansas bureau of investigation must immediately ensure that such information is entered in the state law enforcement record system. The Kansas bureau of investigation shall transmit such conviction data and fingerprints to the federal bureau of investigation.

(b) (1) Any offender who is released on probation, receives a suspended sentence, sentenced to community corrections or released on postrelease supervision because of the commission of any crime as provided in subsection (a), (b) or (d) of K.S.A. 22-4902 and amendments thereto, prior to release, shall be informed of the offenders duty to register as provided in this act by the court in which the offender is convicted.

(2) (A) The court shall: (i) Explain the duty to register and the procedure for registration;

(ii) obtain the information required for registration as provided in K.S.A. 22-4907 and amendments thereto;

(iii) inform the offender that the offender must give written notice of any change of address within 10 days of a change in residence to the law enforcement agency where last registered and the Kansas bureau of investigation;

(iv) inform the offender that if the offender changes residence to another state, the offender must inform the law enforcement agency where last registered and the Kansas bureau of investigation of such change in residence and must register in the new state within 10 days of such change in residence; ~~and~~

(v) *inform the offender that the offender must also register in any state or county where the offender is employed, carries on a vocation or is a student; and*

(vi) require the offender to read and sign the registration form which shall include a statement that the requirements provided in this subsection have been explained to the offender.

(B) The court shall give one copy of the form to the person and, within three days, shall send two copies of the form provided by subsection (2)(A)(v) to the Kansas bureau of investigation which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon release. The Kansas bureau of investigation must immediately ensure that such information is entered in the state law enforcement record system. The Kansas bureau of investigation shall transmit such conviction data and fingerprints to the federal bureau of investigation.

Sec. 13. K.S.A. 2000 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime as defined in subsection (c) of K.S.A. 22-4902 and amendments thereto, any offense as defined in subsection (a) of K.S.A. 22-4902 and amendments thereto or any offense as defined in subsection (d) of K.S.A. 22-4902 and amendments thereto, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, if the convicted offender does not again become liable to register as provided by this act during that period.

(c) ~~On and after July 1, 1999;~~ Any person who has been convicted of an aggravated offense shall be required to register for such person's lifetime. The provisions of this subsection shall expire on June 30, 2009.

(d) *Any person who has been declared a sexually violent predator pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, shall register for such person's lifetime.*

(e) *Any nonresident worker shall register for the duration of such person's employment. The provisions of this subsection are in addition to subsections (a) and (b).*

(f) *Any nonresident student shall register for the duration of such person's attendance at a school or educational institution as provided in this act. The provisions of this subsection are in addition to subsections (a) and (b).*

Sec. 14. K.S.A. 2000 Supp. 22-4907 is hereby amended to read as follows: 22-4907. (a) Registration as required by this act shall consist of a form prepared by the Kansas bureau of investigation, which shall include a statement that the requirements provided in this section have been explained to the person, and shall be signed by the person. Such registration form shall include the following:

- (1) Name;
- (2) date and place of birth;
- (3) offense or offenses committed, date of conviction or convictions obtained;
- (4) city or county of conviction or convictions obtained;
- (5) sex and age of victim;
- (6) current address;
- (7) social security number;
- (8) identifying characteristics such as race, *skin tone*, sex, age, hair and eye color, scars, *tattoos* and blood type;
- (9) occupation ~~and~~, name of employer *and place of employment*;
- (10) drivers license and vehicle information;
- (11) documentation of any treatment received for a mental abnormality or personality disorder of the offender; for purposes of documenting the treatment received, sheriffs, prison officials and courts may rely on information that is readily available to them from existing records and the offender.
- (12) anticipated future residence;
- (13) a photograph; ~~and~~
- (14) fingerprints; *and*
- (15) *school*.

(b) (1) The offender shall also provide to the registering law enforcement agency DNA exemplars, unless already on file.

(2) If the exemplars to be taken require the withdrawal of blood, such withdrawal may be performed only by: (A) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;

- (B) a registered nurse or a licensed practical nurse;
- (C) any qualified medical technician; or
- (D) a licensed phlebotomist.

(c) Unless the person has provided the information and completed and signed the registration form as provided in K.S.A. 22-4905 and amendments thereto within three days,

the registering law enforcement agency shall forward the registration form to the Kansas bureau of investigation.

~~(d) The Kansas bureau of investigation may participate in the federal bureau of investigation's NCIC 2000.~~

Sec. 15. K.S.A. 2000 Supp. 22-4908 is hereby amended to read as follows: 22-4908. ~~(a) Any offender registered as provided in this act may apply to the sentencing court for an order relieving the offender of the duty of registration, except that no offender may apply as provided in this section for an order relieving the offender of the duty of registration until such offender has registered for a period of at least 10 years for each conviction for which an offender must register as provided by this act. The court shall hold a hearing on the application at which the applicant and any interested persons may present witnesses and other evidence.~~

~~(b) At such hearing, if the person is a person who is required to register due to a conviction of a sexually violent crime as defined in K.S.A. 22-4902 and amendments thereto, the court shall receive and consider a report by a board composed of experts in the field of the behavior and treatment of sexual offenders. Such board shall be appointed as provided by rules and regulations promulgated by the attorney general. If, after the hearing involving such person, the court finds by a preponderance of the evidence that the sex offender is rehabilitated and that the sex offender does not suffer from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent crime, the court shall grant an order relieving the offender of the duty of further registration under this act. For purposes of this act, "mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit a sexually violent crime in a degree constituting such person a menace to the health and safety of others.~~

~~(c) If, after the hearing involving a person who is an offender who was not required to register due to a conviction of a sexually violent crime as defined in K.S.A. 22-4902 and amendments thereto, the court finds by a preponderance of the evidence that the offender is rehabilitated, the court shall grant an order relieving the offender of the duty of further registration under this act.~~

~~(d) Any person registered as provided in this act may apply to the sentencing court for an order relieving such person of the duty of registration for any conviction which has been set aside. The court shall hold a hearing on the application at which the applicant shall present evidence verifying that such applicant's conviction was set aside. If the court finds that the person's conviction was set aside, the court shall grant an order relieving the person of the duty of further registration under this act for any conviction which has been set aside. Such court granting such an order shall forward a copy of such order to the sheriff of the county in which such person has registered and to the Kansas bureau of investigation. Upon receipt of such copy of the order, such sheriff and the Kansas bureau of investigation shall remove such person's name from the registry for any conviction which has been set aside. Nothing contained in this subsection shall relieve any person of the duty to register or any other duty prescribed under this act for any conviction which has not been set aside.~~

~~(e) Any No person required to register as an offender pursuant to the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, who has a second or subsequent conviction for an offense which requires registration pursuant to such act, and any person who has been convicted of an aggravated offense, shall not be granted an order relieving the offender of further registration under this act. The provisions of this subsection shall expire on June 30, 2009.~~

Sec. 16. K.S.A. 2000 Supp. 22-4909 is hereby amended to read as follows: 22-4909. The statements or any other information required by this act shall be open to inspection ~~in the sheriff's office~~ by the public ~~at the sheriff's office, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a sheriff's department or the Kansas bureau of investigation that contains such statements or information,~~ and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except that the name, address, telephone number, or any other information which specifically and individually identifies the victim of any

offender required to register as provided in this act shall not be disclosed other than to law enforcement agencies.

Sec. 17. K.S.A. 38-1611 is hereby amended to read as follows: 38-1611. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of the juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by a person 18 or more years of age, would make the person liable to be arrested and prosecuted for the commission of a felony as defined by K.S.A. 21-3105 and amendments thereto ~~or~~, a class A or B misdemeanor *or assault, as defined by K.S.A. 21-3408, and amendments thereto*; and

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501 and amendments thereto if the juvenile has been:

(A) Prosecuted as an adult by reason of 38-1636, and amendments thereto; or

(B) convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; or

(C) taken into custody for an offense described in subsection (b)(1) or (2) of K.S.A. 38-1602 and amendments thereto.

(b) Fingerprints and photographs taken under subsection (a)(1) or (2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsection (a)(3) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to a state or federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to a state or federal repository if taken under subsection (a)(2); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 38-1617 and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of a juvenile taken under the provisions of subsection (a)(2) as it existed before the effective date of this act may be sent to a state or federal repository on or before December 31, 1984.

(f) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act.

Sec. 18. K.S.A. 21-3701, 21-4614, 22-3303 and 38-1611 and K.S.A. 2000 Supp. 21-2511, 21-3106, 21-3520, 21-3764, 22-4902, 22-4904, 22-4905, 22-4906, 22-4907, 22-4908 and 22-4909 are hereby repealed.":

And by renumbering existing section 3 as section 19;

On page 1, in the title, in line 12, by striking "and" and inserting a comma; also in line 12, by striking all after "punishment"; in line 13, by striking "relations" and inserting "and criminal procedure"; also in line 13, by striking "2000 Supp. 21-3520" and inserting: "21-3701, 21-4614, 22-3303 and 38-1611 and K.S.A. 2000 Supp. 21-2511, 21-3106, 21-3520, 21-

3764, 22-4902, 22-4904, 22-4905, 22-4906, 22-4907, 22-4908 and 22-4909"; in line 14, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

JOHN VRATIL
DEREK SCHMIDT
GRETA GOODWIN
Conferees on part of Senate

MICHAEL O'NEAL
WARD LOYD
JANICE L. PAULS
Conferees on part of House

On motion of Rep. O'Neal, the conference committee report on **HB 2176** was adopted.

On roll call, the vote was: Yeas 117; Nays 3; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alldritt, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Crow, Dahl, DeCastro, Dillmore, DiVita, Dreher, Faber, Feuerborn, Findley, Flaharty, Flora, Freeborn, Gatewood, Gilbert, Glasscock, Gordon, Grant, Hayzlett, Henry, Hermes, Holmes, Horst, Howell, Huebert, Huff, Humerickhouse, Hutchins, Huy, Johnson, Kauffman, Kirk, Klein, Kline, Krehbiel, Kuether, Landwehr, Lane, Levinson, Light, Lightner, Lloyd, Loganbill, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Miller, Minor, Jim Morrison, Judy Morrison, Myers, Neufeld, Newton, Nichols, Novascone, O'Brien, O'Neal, Osborne, Ostmeyer, Palmer, Patterson, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, L. Powell, T. Powell, Powers, Pyle, Ray, Reardon, Rehorn, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Stone, Storm, Swenson, Tafanelli, Tanner, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Weber, Wells, Welshimer, Wilk, D. Williams, J. Williams, Wilson.

Nays: Ballou, Henderson, Winn.

Present but not voting: None.

Absent or not voting: Aday, Edmonds, Garner, Larkin, Spangler.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. Mayans to concur in Senate amendments to **S. Sub. for HB 2143**, the motion did not prevail and the bill remains in conference.

Call of the House was demanded.

On roll call, the vote was: Yeas 62; Nays 59; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alldritt, Ballard, Barnes, Crow, DeCastro, Dillmore, DiVita, Faber, Findley, Flaharty, Flora, Garner, Gilbert, Glasscock, Grant, Howell, Huebert, Huy, Kauffman, Kirk, Klein, Krehbiel, Kuether, Landwehr, Lane, Levinson, Loganbill, Loyd, Mayans, Mays, McClure, McCreary, McKinney, McLeland, Merrick, Myers, Newton, Nichols, Novascone, O'Neal, Palmer, Patterson, Pauls, J. Peterson, Phelps, Pottorff, T. Powell, Powers, Rehorn, Ruff, Showalter, Shriver, Swenson, Thimesch, Tomlinson, Toplikar, Weber, Wells, Welshimer, D. Williams, J. Williams, Wilson.

Nays: Aurand, Ballou, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Compton, Cook, Cox, Dahl, Dreher, Feuerborn, Freeborn, Gatewood, Gordon, Hayzlett, Henderson, Henry, Hermes, Holmes, Horst, Huff, Humerickhouse, Hutchins, Johnson, Kline, Light, Lightner, Lloyd, M. Long, P. Long, Mason, Miller, Minor, Jim Morrison, Judy Morrison, Neufeld, O'Brien, Osborne, Ostmeyer, E. Peterson, L. Powell, Pyle, Ray, Reardon, Schwartz, Sharp, Shultz, Sloan, Stone, Storm, Tafanelli, Tanner, Toelkes, Vickrey, Wilk, Winn.

Present but not voting: None.

Absent or not voting: Aday, Edmonds, Larkin, Spangler.

On motion of Rep. Weber, the House adjourned until 3:00 p.m., Sunday, May 6, 2001.

CHARLENE SWANSON, *Journal Clerk*.

JANET E. JONES, *Chief Clerk*.

