

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2268

By Committee on Financial Institutions and Pensions

2-2

1 AN ACT concerning retirement and pensions; relating to the Kansas public  
2 employees retirement system; employment after retirement; ~~extending~~  
3 ~~sunset date for exemptions~~ **determining actuarial equivalent or**  
4 **actuarial computation, interest factor**; amending K.S.A. 2016 Supp.  
5 74-4914 ~~and~~, 74-4937 **and 74-49,123** and repealing the existing  
6 sections; also repealing K.S.A. 2016 Supp 74-4914f.

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

9 Section 1. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as  
10 follows: 74-4914. (1) The normal retirement date for a member of the  
11 system shall be the first day of the month coinciding with or following  
12 termination of employment with any participating employer not followed  
13 by employment with any participating employer within 60 days and  
14 without any prearranged agreement for employment with any participating  
15 employer, and the attainment of age 65 or, commencing July 1, 1993, age  
16 62 with the completion of 10 years of credited service or the first day of  
17 the month coinciding with or following the date that the total of the  
18 number of years of credited service and the number of years of attained  
19 age of the member is equal to or more than 85. In no event shall a normal  
20 retirement date for a member be before six months after the entry date of  
21 the participating employer by whom such member is employed. A member  
22 may retire on the normal retirement date or on the first day of any month  
23 thereafter upon the filing with the office of the retirement system of an  
24 application in such form and manner as the board shall prescribe. Such  
25 application shall contain a certification by the member that the member  
26 will not be employed with any participating employer within 60 days of  
27 retirement and the member has not entered into a prearranged agreement  
28 for employment with any participating employer. Nothing herein shall  
29 prevent any person, member or retirant from being employed, appointed or  
30 elected as an employee, appointee, officer or member of the legislature.  
31 Elected officers may retire from the system on any date on or after the  
32 attainment of the normal retirement date, but no retirement benefits  
33 payable under this act shall be paid until the member has terminated such  
34 member's office.

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

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

7 (4) Any member may retire before such member's normal retirement  
8 date on the first day of any month coinciding with or following  
9 termination of employment with any participating employer not followed  
10 by employment with any participating employer within 60 days and the  
11 attainment of age 55 with the completion of 10 years of credited service,  
12 but in no event before six months after the entry date, upon the filing with  
13 the office of the retirement system of an application for retirement in such  
14 form and manner as the board shall prescribe. The member's application  
15 for retirement shall contain a certification by the member that the member  
16 will not be employed with any participating employer within 60 days of  
17 retirement and the member has not entered into a prearranged agreement  
18 for employment with any participating employer.

19 (5) Except as provided in subsection (7), on or after July 1, 2006, for  
20 any retirant who is first employed or appointed in or to any position or  
21 office by a participating employer other than a participating employer for  
22 which such retirant was employed or appointed during the final two years  
23 of such retirant's participation, and, on or after April 1, 2009, for any  
24 retirant who is employed by a third-party entity who contracts services  
25 with a participating employer other than a participating employer for  
26 which such retirant was employed or appointed during the final two years  
27 of such retirant's participation to fill a position covered under K.S.A. 72-  
28 5410(a), and amendments thereto, with such retirant, such participating  
29 employer shall pay to the system the actuarially determined employer  
30 contribution and the statutorily prescribed employee contribution based on  
31 the retirant's compensation during any such period of employment or  
32 appointment. If a retirant is employed or appointed in or to any position or  
33 office for which compensation for service is paid in an amount equal to  
34 \$20,000 or more in any one such calendar year, or \$25,000 or more in any  
35 one calendar year between July 1, 2016, and July 1, ~~2020-2021~~ 2020, by  
36 any participating employer for which such retirant was employed or  
37 appointed during the final two years of such retirant's participation, and, on  
38 or after April 1, 2009, by any third-party entity who contracts services to  
39 fill a position covered under K.S.A. 72-5410(a), and amendments thereto,  
40 with such retirant with a participating employer for which such retirant  
41 was employed or appointed during the final two years of such retirant's  
42 participation, such retirant shall not receive any retirement benefit for any  
43 month for which such retirant serves in such position or office. The

1 participating employer who employs such retirant whether by contract  
2 directly with the retirant or through an arrangement with a third-party  
3 entity shall report to the system within 30 days of when the compensation  
4 paid to the retirant is equal to or exceeds any limitation provided by this  
5 section. Any participating employer who contracts services with any such  
6 third-party entity to fill a position covered under K.S.A. 72-5410(a), and  
7 amendments thereto, shall include in such contract a provision or condition  
8 which requires the third-party entity to provide the participating employer  
9 with the necessary compensation paid information related to any such  
10 position filled by the third-party entity with a retirant to enable the  
11 participating employer to comply with provisions of this subsection  
12 relating to the payment of contributions and reporting requirements. The  
13 provisions and requirements provided for in amendments made in this act  
14 which relate to positions filled with a retirant or employment of a retirant  
15 by a third-party entity shall not apply to any contract for services entered  
16 into prior to April 1, 2009, between a participating employer and third-  
17 party entity as described in this subsection. Any retirant employed by a  
18 participating employer or a third-party entity as provided in this subsection  
19 shall not make contributions nor receive additional credit under such  
20 system for such service except as provided by this section. Upon request of  
21 the executive director of the system, the secretary of revenue shall provide  
22 such information as may be needed by the executive director to carry out  
23 the provisions of this act. The provisions of this subsection shall not apply  
24 to retirants employed as substitute teachers or officers, employees or  
25 appointees of the legislature. The provisions of this subsection shall not  
26 apply to members of the legislature prior to January 8, 2000. The  
27 provisions of this subsection shall not apply to any other elected officials  
28 prior to the term of office of such elected official which commences on or  
29 after July 1, 2000. The provisions of this subsection shall apply to any  
30 other elected official, except an elected city or county officer as further  
31 provided in this subsection, on and after the term of office of such other  
32 elected official which commences on or after July 1, 2000.  
33 Notwithstanding any provisions of law to the contrary, when an elected  
34 city or county officer is retired under the provisions of subsection (1) or  
35 (4) of this section and is paid an amount of compensation of \$25,000 or  
36 more in any one calendar year between July 1, 2016, and July 1, ~~2020~~  
37 ~~2021~~ **2020**, such officer may receive such officer's salary, and still be  
38 entitled to receive such officer's retirement benefit pursuant to the  
39 provisions of K.S.A. 74-4915 et seq., and amendments thereto. Except as  
40 otherwise provided, commencing January 8, 2001, the provisions of this  
41 subsection shall apply to members of the legislature. For determination of  
42 the amount of compensation paid pursuant to this subsection, for members  
43 of the legislature, compensation shall include any amount paid as provided

1 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,  
2 or pursuant to K.S.A. 46-137b, and amendments thereto, **to the extent**  
3 **that any such amount paid is included in federal adjusted gross**  
4 **income and subject to federal income taxation.** Notwithstanding any  
5 provision of law to the contrary, when a member of the legislature is paid  
6 an amount of compensation of \$20,000 or more in any one calendar year,  
7 the member may continue to receive any amount provided in K.S.A. 46-  
8 137a(b) and (d), and amendments thereto, and still be entitled to receive  
9 such member's retirement benefit. Commencing July 1, 2005, the  
10 provisions of this subsection shall not apply to retirants who either retired  
11 under the provisions of subsection (1), or, if they retired under the  
12 provisions of subsection (4), were retired more than 30 days prior to the  
13 effective date of this act and are licensed professional nurses or licensed  
14 practical nurses employed by the state of Kansas in an institution as  
15 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments  
16 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing  
17 in this subsection shall be construed to create any right, or to authorize the  
18 creation of any right, which is not subject to amendment or nullification by  
19 act of the legislature. The participating employer of such retirant shall pay  
20 to the system the actuarially determined employer contribution based on  
21 the retirant's compensation during any such period of employment.

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

29 (7) (a) Except as provided in ~~K.S.A. 74-4937(3), (4), or (5), and~~  
30 ~~amendments thereto,~~ and the provisions of this subsection, commencing  
31 July 1, 2016, and ending July 1, ~~2020-2021~~ **2020**, any retirant who is  
32 employed or appointed in or to any position by a participating employer **or**  
33 **an independent contractor** or a third-party entity who contracts services  
34 with a participating employer to fill a position, without any prearranged  
35 agreement with such participating employer and not prior to 60 days after  
36 such retirant's retirement date, shall not receive any retirement benefit for  
37 any month in any calendar year in which the retirant receives  
38 compensation in an amount equal to \$25,000 or more, pursuant to this  
39 subsection. The provisions of this subsection shall apply to members of the  
40 legislature.

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

43 (i) Licensed professional nurses or licensed practical nurses employed

1 by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or  
2 38-2302(~~f~~)(*k*), and amendments thereto, the Kansas soldiers' home or the  
3 Kansas veterans' home. The participating employer of such retirant shall  
4 pay to the system the actuarially determined employer contribution based  
5 on the retirant's compensation and the statutorily prescribed employee  
6 contribution during any such period of employment;

7 ~~(ii)—employed by a school district in a position as provided in K.S.A.~~  
8 ~~74-4937(3), (4) or (5), and amendments thereto. Any retirant employed by~~  
9 ~~a school district in a position under K.S.A. 74-4937(3), (4) or (5), and~~  
10 ~~amendments thereto, shall be subject to the provisions of subsection (7)(h)~~  
11 ~~which relate to a limitation on the total term of employment with any~~  
12 ~~participating employer in which a retirant may receive such retirant's full~~  
13 ~~retirement benefit;~~

14 (iii) certified law enforcement officers employed by the law  
15 enforcement training center. Such law enforcement officers shall receive  
16 their benefits notwithstanding this subsection. The law enforcement  
17 training center shall pay to the system the ~~actuarial~~ *actuarially* determined  
18 employer contribution and the statutorily prescribed employee contribution  
19 based on the retirant's compensation during any such period of  
20 employment;

21 ~~(iv)~~ (iii) members of the Kansas police and firemen's retirement  
22 system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, ~~or~~  
23 members of the retirement system for judges pursuant to K.S.A. 20-2601  
24 et seq., and amendments thereto, **or members of the state board of**  
25 **regents retirement plan pursuant to K.S.A. 74-4925 et seq., and**  
26 **amendments thereto;**

27 ~~(v)~~ (iv) employed as substitute teachers or officers, employees or  
28 appointees of the legislature;

29 ~~(vi)~~ (v) a poll worker hired to work an election day for a county  
30 election officer responsible for conducting all official elections held in the  
31 county; ~~and~~

32 ~~(vii)~~ (vi) employed by, or have accepted employment from, a  
33 participating employer prior to May 1, 2015. Any break in continuous  
34 employment by a retirant or move to a different position by a retirant  
35 during the effective period of this subsection shall be deemed new  
36 employment and shall subject the retirant to the provisions of this  
37 subsection; **and**

38 (vii) **employed by a school district in a position that requires a**  
39 **license under K.S.A. 72-1388, and amendments thereto, or other**  
40 **provision of law requiring a similar license and subject to the**  
41 **provisions of K.S.A. 74-4940, and amendments thereto, and who**  
42 **retired on or after July 1, 2017, at age 62 or later. The school district**  
43 **shall pay to the system a 30% employer contribution based on the**

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

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

30 (d) A participating employer may employ a retirant without regard to  
31 the compensation limitation in this subsection for a period of ~~one~~ **three**  
32 ~~calendar-year~~ **years** or ~~one~~ **three** ~~school-year~~ **years**, as the case may be, if  
33 the following requirements are met:

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

37 (ii) the employer pays to the system a 30% employer contribution  
38 based on the retirant's compensation during any such period of  
39 employment. On or before July 1, 2019, and at least every three years  
40 thereafter, the board, in consultation with the system's consulting actuary,  
41 shall evaluate the plan's experience with employment of such retirants and  
42 the corresponding employer contribution rate to assess whether the  
43 employer contribution rate can be expected to fund adverse experience or

1 higher liabilities accruing under the system in connection with  
2 employment of such retirees, to the extent that such liability can be  
3 ascertained or estimated. Based on this evaluation of the plan's experience,  
4 the board may certify to the division of the budget, in the case of the state,  
5 and to the agent for each other participating employer, a new rate if needed  
6 to more fully fund such adverse experience or additional liabilities, but  
7 such rate shall not be less than 30%; and

8 (iii) the employer maintains documentation of its efforts to fill the  
9 position with a non-retiree and provides such documentation to the joint  
10 committee on pensions, investments and benefits upon request of the  
11 committee.

12 (e) **Retirees who are independent contractors or employees of**  
13 **third-party entities who contract with a participating employer shall**  
14 **not be subject to the compensation limitation in this subsection or the**  
15 **requirements of subsection (7)(c) regarding enrollment and employer**  
16 **contributions, so long as all of the following apply:**

17 (i) **The contractual relationship was not created to allow the**  
18 **retiree to continue employment with the participating employer after**  
19 **retirement in a position similar to the one such retiree held prior to**  
20 **retirement;**

21 (ii) **the activities performed by the independent contractor or**  
22 **third-party entity are not normally performed exclusively by**  
23 **employees of that participating employer; and**

24 (iii) **the retiree meets the classification of independent contractor**  
25 **as provided in K.S.A. 2016 Supp. 44-768, and amendments thereto, or**  
26 **activities performed by the third-party entity that employs the**  
27 **retiree are performed on a limited-term basis and the third-party**  
28 **entity is not a participating employer in the system.**

29 (f) An employer may submit a written assurance protocol to the  
30 system to extend the exception provided for in subsection (7)(d) by ~~one-~~  
31 ~~year increments for a total extension not to exceed three years. A written~~  
32 ~~assurance protocol shall be submitted to the system for each one-year~~  
33 ~~increment extension~~ **one year**. If a school district submits a written  
34 assurance protocol, such written assurance protocol shall be signed by the  
35 superintendent and the board president of such school district. If a  
36 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other  
37 than a school district, submits a written assurance protocol, such written  
38 assurance protocol shall be signed by the governing body or such  
39 governing body's designee for such municipality. Such written assurance  
40 protocol shall state that the position was advertised on multiple platforms  
41 for a minimum of 30 calendar days and that at least one of the following  
42 conditions occurred:

43 (i) No applications were submitted for the position;

1 (ii) if applications were submitted, none of the applicants met the  
2 reference screening criteria of the employer; or

3 (iii) if applications were submitted, none of the applicants possessed  
4 the appropriate licensure, certification or other necessary credentials for  
5 the position.

6 ~~(f)~~ **(g)** On July 1, 2021, and at least every five years thereafter, the  
7 joint committee on pensions, investments and benefits shall study the issue  
8 of whether the compensation limitation prescribed in this subsection  
9 should be adjusted. The committee shall consider the effect of inflation  
10 and data on member retirement benefits and active employee  
11 compensation.

12 ~~(g)~~ **(h)** Nothing in this subsection shall be construed to create any  
13 right, or to authorize the creation of any right, which is not subject to  
14 amendment or nullification by act of the legislature.

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

25 **(j) Any retirant who was hired by a participating employer under**  
26 **the provisions of K.S.A. 74-4937(3), (4) or (5), as such subsections**  
27 **existed immediately prior to July 1, 2017, shall be deemed to be hired**  
28 **under the provisions of subsection (7)(d) and shall continue to be**  
29 **exempt from the compensation limitation in this subsection, subject to**  
30 **the requirements of subsection (7)(d). Any service by a retirant under**  
31 **K.S.A. 74-4937(3), (4) or (5), as such subsections existed immediately**  
32 **prior to July 1, 2017, shall be subject to the provisions of subsection**  
33 **(7)(i) that relate to a limitation on the total term of employment with**  
34 **any participating employer in which a retirant may receive such**  
35 **retirant's full retirement benefit.**

36 (8) If determined by the retirement system that a retirant entered into  
37 a prearranged agreement for employment with a participating employer  
38 prior to such retirant's retirement and prior to the end of the subsequent 60-  
39 day waiting period, the monthly retirement benefit of such retirant shall be  
40 suspended during the period that begins on the month in which the retirant  
41 is re-employed and ends six months after the retirant's termination of such  
42 employment. The retirant shall repay to the retirement system all monthly  
43 retirement benefits paid to the retirant by the retirement system that the



1   retirant received after such employment began. The participating employer  
2   which hired such retirant shall be required to pay to the system any fees,  
3   fines, penalties or any other cost imposed by the internal revenue service  
4   and indemnify the system for any cost incurred by the system to defend  
5   any action brought by the internal revenue service based on in-service  
6   distributions which are a result of any determined prearranged agreement  
7   and for any cost incurred by the system to collect any monthly retirement  
8   benefit required to be repaid by such retirant pursuant to this subsection.

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

14   Sec. 2. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as  
15   follows: 74-4937. (1) The normal retirement date of a member of the  
16   system who is in school employment and who is subject to K.S.A. 74-  
17   4940, and amendments thereto, shall be the first day of the month  
18   coinciding with or following termination of employment not followed by  
19   employment with any participating employer within 60 days and without  
20   any prearranged agreement for employment with any participating  
21   employer, and the attainment of age 65 or, commencing July 1, 1986, age  
22   65 or age 60 with the completion of 35 years of credited service or at any  
23   age with the completion of 40 years of credited service, or commencing  
24   July 1, 1993, any alternative normal retirement date already prescribed by  
25   law or age 62 with the completion of 10 years of credited service or the  
26   first day of the month coinciding with or following the date that the total  
27   of the number of years of credited service and the number of years of  
28   attained age of the member is equal to or more than 85. Each member  
29   upon giving prior notice to the appointing authority and the retirement  
30   system may retire on the normal retirement date or the first day of any  
31   month thereafter. Such member's application for retirement shall contain a  
32   certification by the member that the member will not be employed with  
33   any participating employer within 60 days of retirement and the member  
34   has not entered into a prearranged agreement for employment with any  
35   participating employer.

36   (2) Any member who is in school employment and who is subject to  
37   K.S.A. 74-4940, and amendments thereto, may retire before such  
38   member's normal retirement date on the first day of the month coinciding  
39   with or following termination of employment not followed by employment  
40   with any participating employer within 60 days and the attainment of age  
41   55 with the completion of 10 years of credited service, upon the filing with  
42   the office of the retirement system of an application for retirement in such  
43   form and manner as the board shall prescribe. The member's application

1 for retirement shall contain a certification by the member that the member  
2 will not be employed with any participating employer within 60 days of  
3 retirement and the member has not entered into a prearranged agreement  
4 for employment with any participating employer.

5 ~~(3) Before July 1, 2020 2021, the provisions of K.S.A. 74-4914(5),~~  
6 ~~and amendments thereto, which relate to an earnings limitation which~~  
7 ~~when met or exceeded requires that the retirant not receive a retirement~~  
8 ~~benefit for any month for which such retirant serves in a position as~~  
9 ~~described herein shall not apply to retirants who either retired under the~~  
10 ~~provisions of K.S.A. 74-4914(1), and amendments thereto, related to~~  
11 ~~normal retirement, or, if they retired under the provisions of K.S.A. 74-~~  
12 ~~4914(4), and amendments thereto, related to early retirement, were retired~~  
13 ~~more than 60 days prior to May 28, 2009, and are subsequently hired in a~~  
14 ~~position that requires a license under K.S.A. 72-1388, and amendments~~  
15 ~~thereto, or other provision of law. The provisions of this subsection shall~~  
16 ~~only apply to retirants who retired prior to May 1, 2015. The provisions of~~  
17 ~~this subsection do not apply to retirants who retired under K.S.A. 74-~~  
18 ~~4914(4), and amendments thereto, which relates to early retirement prior~~  
19 ~~to age 62. Except as otherwise provided, when a retirant is employed by~~  
20 ~~the same school district or a different school district with which such~~  
21 ~~retirant was employed during the final two years of such retirant's~~  
22 ~~participation or employed by a third-party entity who contracts services~~  
23 ~~with a school district to fill a position as described in this subsection, the~~  
24 ~~participating employer of such retirant shall pay to the system the~~  
25 ~~actuarially determined employer contribution based on the retirant's~~  
26 ~~compensation during any such period of employment plus 8%. The~~  
27 ~~participating employer shall enroll all retirants and report to the system~~  
28 ~~when compensation is paid to a retirant as provided in this subsection.~~  
29 ~~Such notice shall contain a certification by the appointing authority of the~~  
30 ~~participating employer that any hired retirant has not been employed by~~  
31 ~~the participating employer within 60 days of such retirant's retirement and~~  
32 ~~that there was no prearranged agreement for employment between the~~  
33 ~~participating employer and the hired retirant. Upon request of the~~  
34 ~~executive director of the system, the participating employer shall provide~~  
35 ~~such information as may be needed by the executive director to carry out~~  
36 ~~the provisions of this subsection. The provisions of this subsection shall~~  
37 ~~not apply to retirants employed as substitute teachers. The provisions of~~  
38 ~~K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~  
39 ~~retirants employed as described in this subsection, except as specifically~~  
40 ~~provided in this subsection. Nothing in this subsection shall be construed~~  
41 ~~to create any right, or to authorize the creation of any right, which is not~~  
42 ~~subject to amendment or nullification by act of the legislature. The~~  
43 ~~provisions of this subsection shall expire on June 30, 2020 2021. After~~

1 such date the Kansas public employees retirement system and its actuary  
2 shall report the experience to the joint committee on pensions, investments  
3 and benefits.

4 (4) (a) ~~On and after July 1, 2016, a school district may hire a retired~~  
5 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~  
6 ~~72-962, and amendments thereto, if such retirant is hired not prior to 60~~  
7 ~~days after such retirant's retirement date without any prearrangement with~~  
8 ~~such school district in the manner prescribed in this subsection. The~~  
9 ~~participating employer shall enroll all retirants and report to the system~~  
10 ~~when compensation is paid to a retirant as provided in this subsection.~~  
11 ~~Such notice shall contain a certification by the appointing authority of the~~  
12 ~~participating employer that any hired retirant has not been employed by~~  
13 ~~the participating employer within 60 days of such retirant's retirement and~~  
14 ~~that there was no prearranged agreement for employment between the~~  
15 ~~participating employer and the hired retirant. Upon request of the~~  
16 ~~executive director of the system, the participating employer shall provide~~  
17 ~~such information as may be needed by the executive director to carry out~~  
18 ~~the provisions of this subsection.~~

19 ~~(b) A retirant hired under the provisions of this subsection may~~  
20 ~~continue to receive such retirant's full retirement benefit for a period not to~~  
21 ~~exceed three school years or 36 months, whichever is less, and shall not be~~  
22 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~  
23 ~~which relate to a compensation limitation which when met or exceeded~~  
24 ~~requires that the retirant not receive a retirement benefit for any month for~~  
25 ~~which such retirant serves in a position as described herein. Such retirant~~  
26 ~~may be employed by such employer for some or all of a school year, and~~  
27 ~~in subsequent school years if the employer is unable to permanently fill the~~  
28 ~~position with active members, so long as the retirant's total term of~~  
29 ~~employment with all employers under this subsection does not exceed 36~~  
30 ~~months or three school years, whichever is less. After such period, the~~  
31 ~~retirant shall be subject to the provisions of K.S.A. 74-4914(7), and~~  
32 ~~amendments thereto, which relate to a compensation limitation which~~  
33 ~~when met or exceeded requires that the retirant not receive a retirement~~  
34 ~~benefit for any month for which such retirant serves in a position as~~  
35 ~~described herein. The participating employer of such retirant shall pay to~~  
36 ~~the system a 30% employer contribution based on the retirant's~~  
37 ~~compensation during any such period of employment. On or before July 1,~~  
38 ~~2019, and at least every three years thereafter, the board, in consultation~~  
39 ~~with the system's consulting actuary, shall evaluate the plan's experience~~  
40 ~~with employment of such retirants and the corresponding employer~~  
41 ~~contribution rate to assess whether the employer contribution rate can be~~  
42 ~~expected to fund adverse experience or higher liabilities accruing under~~  
43 ~~the system in connection with employment of such retirants, to the extent~~

1 that such liability can be ascertained or estimated. Based on this evaluation  
2 of the plan's experience, the board may certify to the division of the  
3 budget, in the case of the state, and to the agent for each other participating  
4 employer, a new rate if needed to more fully fund such adverse experience  
5 or additional liabilities, but such rate shall not be less than 30%. The  
6 provisions of this subsection shall not apply to retirants employed as  
7 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments  
8 thereto, shall be applicable to retirants employed as special teachers,  
9 except as specifically provided in this subsection.

10 (e) Each school district that uses the provisions of this subsection to  
11 hire retirants shall maintain documentation describing their recruiting  
12 efforts to obtain non-retirant employees to fill the special teacher positions.  
13 Upon request of the joint committee on pensions, investments and  
14 benefits, an employer shall provide such documentation to the committee.  
15 If the committee finds that an employer has not made sufficient efforts to  
16 hire a non-retirant for the position or if the committee finds evidence of  
17 prearrangement in violation of this section, the three-year exemption  
18 provided pursuant to this subsection may be revoked. The committee shall  
19 notify the executive director of the system that a retirant's exemption has  
20 been revoked within 30 days of making such a determination.

21 (d) An employer may submit a written assurance protocol to the  
22 system to make a one-time extension to the exception provided for in this  
23 subsection by one year. Such written assurance protocol shall be signed by  
24 the superintendent and the board president of the school district. Such  
25 written assurance protocol shall state that the position was advertised on  
26 multiple platforms for a minimum of 30 calendar days and that at least one  
27 of the following conditions occurred:

28 (i) No applications were submitted for the position;

29 (ii) if applications were submitted, none of the applicants met the  
30 reference screening criteria of the employer; or

31 (iii) if applications were submitted, none of the applicants possessed  
32 an appropriate teaching license for the state of Kansas or possessed the  
33 appropriate credentials to receive any type of teaching license from the  
34 state of Kansas.

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

38 (f) The provisions of this subsection shall expire on July 1, 2020  
39 2021.

40 (5) (a) On and after July 1, 2016, a school district may hire a retired  
41 licensed professional to fill a non-special teacher position if such retirant is  
42 hired not prior to 60 days after such retirant's retirement date without any  
43 prearrangement with such school district, and if such school district hires a

1   retirant for a hard-to-fill position in the manner prescribed in this  
2   subsection. The participating employer shall enroll all retirants and report  
3   to the system when compensation is paid to a retirant as provided in this  
4   subsection. Such notice shall contain a certification by the appointing  
5   authority of the participating employer that any hired retirant has not been  
6   employed by the participating employer within 60 days of such retirant's  
7   retirement and that there was no prearranged agreement for employment  
8   between the participating employer and the hired retirant. Upon request of  
9   the executive director of the system, the participating employer shall  
10  provide such information as may be needed by the executive director to  
11  carry out the provisions of this subsection.

12   (b) The state board of education shall annually certify the top five  
13  types of licensed positions that are hard to fill. A school district may hire a  
14  retirant to fill a hard-to-fill position for some or all of a school year and in  
15  subsequent school years if the employer is unable to permanently fill the  
16  position with an active member. A retirant first hired under the provisions  
17  of this subsection may be retained by an employer even if such retirant's  
18  type of position is no longer one of the five types of positions certified by  
19  the state board of education. A retirant hired under the provisions of this  
20  subsection may continue to receive such retirant's full retirement benefit  
21  for a period not to exceed three school years or 36 months, whichever is  
22  less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and  
23  amendments thereto, which relate to a compensation limitation which  
24  when met or exceeded requires that the retirant not receive a retirement  
25  benefit for any month for which such retirant serves in a position as  
26  described herein. Such retirant may be employed by such employer for  
27  some or all of a school year, and in subsequent school years if the  
28  employer is unable to permanently fill the position with active members,  
29  so long as the retirant's total term of employment with all employers under  
30  this subsection does not exceed 36 months or three school years,  
31  whichever is less. After such period, the retirant shall be subject to the  
32  provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to  
33  a compensation limitation which when met or exceeded requires that the  
34  retirant not receive a retirement benefit for any month for which such  
35  retirant serves in a position as described herein. The participating  
36  employer of such retirant shall pay to the system a 30% employer  
37  contribution based on the retirant's compensation during any such period  
38  of employment. On or before July 1, 2019, and at least every three years  
39  thereafter, the board, in consultation with the system's consulting actuary,  
40  shall evaluate the plan's experience with employment of such retirants and  
41  the corresponding employer contribution rate to assess whether the  
42  employer contribution rate can be expected to fund adverse experience or  
43  higher liabilities accruing under the system in connection with

1 employment of such retirants, to the extent that such liability can be  
2 ascertained or estimated. Based on this evaluation of the plan's experience,  
3 the board may certify to the division of the budget, in the case of the state,  
4 and to the agent for each other participating employer, a new rate if needed  
5 to more fully fund such adverse experience or additional liabilities, but  
6 such rate shall not be less than 30%. The provisions of this subsection shall  
7 not apply to retirants employed as substitute teachers. The provisions of  
8 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to  
9 retirants employed as described in this subsection, except as specifically  
10 provided in this subsection.

11 (e) Each school district that uses the provisions of this subsection to  
12 hire retirants for hard-to-fill positions shall maintain documentation  
13 describing their recruiting efforts to obtain non-retirant employees to fill  
14 the hard-to-fill positions. Upon request of the joint committee on pensions,  
15 investments and benefits, a school district shall provide such  
16 documentation to the committee. If the committee finds that a school  
17 district has not made sufficient efforts to hire a non-retirant for the position  
18 or if the committee finds evidence of prearrangement in violation of this  
19 section, the three-year exemption provided pursuant to this subsection may  
20 be revoked. The committee shall notify the executive director of the  
21 system that a retirant's exemption has been revoked within 30 days of  
22 making such a determination.

23 (d) An employer may submit a written assurance protocol to the  
24 system to make a one-time extension to the exception provided for in this  
25 subsection by one year. Such written assurance protocol shall be signed by  
26 the superintendent and the board president of the school district. Such  
27 written assurance protocol shall state that the position was advertised on  
28 multiple platforms for a minimum of 30 calendar days and that at least one  
29 of the following conditions occurred:

30 (i) No applications were submitted for the position;

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

33 (iii) if applications were submitted, none of the applicants possessed  
34 an appropriate teaching license for the state of Kansas or possessed the  
35 appropriate credentials to receive any type of teaching license from the  
36 state of Kansas.

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

40 (f) The provisions of this subsection shall expire on July 1, 2020  
41 2021.

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

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

11       ~~(8)~~ (3) For the purposes of this section a prearranged agreement for  
12 employment may be determined by whether the facts and circumstances of  
13 the situation indicate that the employer and employee reasonably  
14 anticipated that further services would be performed after the employee's  
15 retirement.

16       **Sec. 3. K.S.A. 2016 Supp. 74-49,123 is hereby amended to read as**  
17 **follows: 74-49,123. (a) This section applies to the Kansas public**  
18 **employees retirement system and to all other public retirement plans**  
19 **administered by the board of trustees.**

20       **(b) As used in this section:**

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

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

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

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

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

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

7       **(A) Benefits must begin by the required beginning date, which is**  
8 **the later of April 1 of the calendar year following the calendar year in**  
9 **which the member reaches 70½ years of age or April 1 of the calendar**  
10 **year following the calendar year in which the member terminates**  
11 **employment. If a member fails to apply for retirement benefits by**  
12 **April 1 of the calendar year following the calendar year in which such**  
13 **member reaches 70½ years of age or April 1 of the calendar year**  
14 **following the calendar year in which such member terminates**  
15 **employment, whichever is later, the board will begin distributing the**  
16 **benefit as required by this section.**

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

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

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

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

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

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

43       **(F) The amount of an annuity paid to a member's beneficiary**



1 may not exceed the maximum determined under the incidental death  
2 benefit requirement of the federal internal revenue code.

3 (G) The death and disability benefits provided by a retirement  
4 plan are limited by the incidental benefit rule set forth in section  
5 401(a)(9)(G) of the federal internal revenue code and treasury  
6 regulation 1.401-1(b)(1)(i).

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

9 (5) The board or its designee may not:

10 (A) Determine eligibility for benefits;

11 (B) compute rates of contribution; or

12 (C) compute benefits of members or beneficiaries, in a manner  
13 that discriminates in favor of members who are considered officers,  
14 supervisors or highly compensated, as prohibited under section 401(a)  
15 (4) of the federal internal revenue code.

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

21 (A) Before January 1, 1995, a member may not receive an annual  
22 benefit that exceeds the limits specified in section 415(b) of the federal  
23 internal revenue code, subject to the applicable adjustments in that  
24 section. Beginning January 1, 1995, a participant may not receive an  
25 annual benefit that exceeds the dollar amount specified in section  
26 415(b)(1)(A) of the federal internal revenue code, subject to the  
27 applicable adjustments in section 415 of the federal internal revenue  
28 code.

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

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

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

43 (C) Effective for permissive service credit contributions made in

1 limitation years beginning after December 31, 1997, if an active  
2 member makes one or more contributions to purchase permissive  
3 service credit under a retirement plan, then the requirements of this  
4 section shall be treated as met only if:

5 (i) The requirements of section 415(b) of the federal internal  
6 revenue code are met, determined by treating the accrued benefit  
7 derived from all such contributions as an annual benefit for purposes  
8 of such section; or

9 (ii) the requirements of section 415(c) of the federal internal  
10 revenue code are met, determined by treating all such contributions as  
11 annual additions for purposes of such section. For purposes of  
12 applying ~~subparagraph clause~~ (i) a retirement plan shall not fail to meet  
13 the reduced limit under section 415(b)(2)(C) of the federal internal  
14 revenue code solely by reason of this ~~paragraph subparagraph~~ (C), and  
15 for purposes of applying ~~subparagraph clause~~ (ii), a retirement plan  
16 shall not fail to meet the percentage limitation under section 415(c)(1)  
17 (B) of the federal internal revenue code solely by reason of this  
18 paragraph.

19 (iii) For purposes of this ~~paragraph clause~~, the term "permissive  
20 service credit" means service credit:

21 (a) Specifically recognized by a retirement plan's law for  
22 purposes of calculating a member's benefit under that retirement  
23 plan;

24 (b) which such member has not received under a retirement plan;  
25 and

26 (c) which such member may receive under a retirement plan's  
27 law only by making a voluntary additional contribution, in an amount  
28 determined under the retirement plan's law and procedures  
29 established by the board, which does not exceed the amount necessary  
30 to fund the benefit attributable to such service credit.

31 (iv) A retirement plan shall fail to meet the requirements of this  
32 ~~paragraph clause~~ if the retirement plan's law specifically provides for a  
33 purchase of nonqualified service purchase, and if:

34 (a) More than five years of nonqualified service credit are taken  
35 into account for purposes of this ~~paragraph subclause~~; or

36 (b) any nonqualified service credit is taken into account under  
37 this ~~paragraph subclause~~ before the member has at least five years of  
38 participation under a retirement plan. For purposes of this ~~paragraph~~  
39 ~~subclause~~, effective for permissive service credit contributions made in  
40 limitation years beginning after December 31, 1997, the term  
41 "nonqualified service credit" means the same as provided in section  
42 415(n)(3)(C) of the federal internal revenue code.

43 (v) In the case of a trustee-to-trustee transfer after December 31,

1 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal  
2 internal revenue code applies, without regard to whether the transfer  
3 is made between plans maintained by the same employer:

4 (a) The limitations of ~~subparagraph~~ clause (iv) shall not apply in  
5 determining whether the transfer is for the purchase of permissive  
6 service credit; and

7 (b) the distribution rules applicable under federal law to a  
8 retirement plan shall apply to such amounts and any benefits  
9 attributable to such amounts.

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

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

31 (i) The benefit arrangement shall be maintained solely for the  
32 purpose of providing to participants in the retirement plans that part  
33 of the participant's annual benefit otherwise payable under the terms  
34 of the act that exceeds the limitations on benefits imposed by section  
35 415 of the federal internal revenue code; and

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

38 (E) For purposes of applying these limits only and for no other  
39 purpose, the definition of compensation where applicable shall be  
40 compensation actually paid or made available during a limitation  
41 year, except as noted below and as permitted by treasury regulation  
42 section 1.415(c)-2. Specifically, compensation shall be defined as wages  
43 within the meaning of section 3401(a) of the federal internal revenue

1 code and all other payments of compensation to an employee by an  
2 employer for which the employer is required to furnish the employee a  
3 written statement under sections 6041(d), 6051(a)(3) and 6052 of the  
4 federal internal revenue code. Compensation shall be determined  
5 without regard to any rules under section 3401(a) of the federal  
6 internal revenue code that limit the remuneration included in wages  
7 based on the nature or location of the employment or the services  
8 performed, such as the exception for agricultural labor in section  
9 3401(a)(2) of the federal internal revenue code.

10 (i) However, for limitation years beginning after December 31,  
11 1997, compensation shall also include amounts that would otherwise  
12 be included in compensation but for an election under sections 125(a),  
13 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue  
14 code. For limitation years beginning after December 30, 2000,  
15 compensation shall also include any elective amounts that are not  
16 includable in the gross income of the employee by reason of section  
17 132(f)(4) of the federal internal revenue code.

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

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

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

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

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

42 (iv) Any payments not described in ~~paragraph~~ clause (iii) are not  
43 considered compensation if paid after severance from employment,

1 even if they are paid within two and a half months following severance  
2 from employment, except for payments to the individual who does not  
3 currently perform services for the employer by reason of qualified  
4 military service, within the meaning of section 414(u)(1) of the federal  
5 internal revenue code, to the extent these payments do not exceed the  
6 amounts the individual would have received if the individual had  
7 continued to perform services for the employer rather than entering  
8 qualified military service.

9 (v) An employee who is in qualified military service, within the  
10 meaning of section 414(u)(1) of the federal internal revenue code, shall  
11 be treated as receiving compensation from the employer during such  
12 period of qualified military service equal to: (a) The compensation the  
13 employee would have received during such period if the employee  
14 were not in qualified military service, determined based on the rate of  
15 pay the employee would have received from the employer but for the  
16 absence during the period of qualified military service; or (b) if the  
17 compensation the employee would have received during such period  
18 was not reasonably certain, the employee's average compensation  
19 from the employer during the twelve-month period immediately  
20 preceding the qualified military service, or if shorter, the period of  
21 employment immediately preceding the qualified military service.

22 (vi) Back pay, within the meaning of treasury regulation section  
23 1.415(c)-2(g)(8), shall be treated as compensation for the limitation  
24 year to which the back pay relates to the extent the back pay  
25 represents wages and compensation that would otherwise be included  
26 under this definition.

27 (7) On and after January 1, 2009, for purposes of applying the  
28 limits under section 415(b) of the federal internal revenue code, the  
29 following shall apply:

30 (A) A member's applicable limit shall be applied to the member's  
31 annual benefit in the first limitation year without regard to any  
32 automatic cost-of-living increases;

33 (B) to the extent the member's annual benefit equals or exceeds  
34 such limit, the member shall no longer be eligible for cost-of-living  
35 increases until such time as the benefit plus the accumulated increases  
36 are less than such limit;

37 (C) thereafter, in any subsequent limitation year, the member's  
38 annual benefit including any automatic cost-of-living increase  
39 applicable shall be tested under the then applicable benefit limit  
40 including any adjustment to the dollar limit under section 415(b)(1)  
41 (A) or 415(d) of the federal internal revenue code and the regulations  
42 thereunder; and

43 (D) in no event shall a member's annual benefit payable from a

1 retirement plan in any limitation year be greater than the limit  
2 applicable at the annuity starting date, as increased in subsequent  
3 years pursuant to section 415(d) of the federal internal revenue code  
4 and the regulations thereunder. If the form of benefit without regard  
5 to the automatic benefit increase feature is not a straight life annuity,  
6 then the preceding sentence is applied by reducing the limit under  
7 section 415(b) of the federal internal revenue code applicable at the  
8 annuity starting date to an actuarially equivalent amount determined  
9 using the assumptions specified in treasury regulation section  
10 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the  
11 form of benefit. This subsection applies to distributions made on and  
12 after January 1, 1993. A distributee may elect to have any portion of  
13 an eligible rollover distribution paid directly to an eligible retirement  
14 plan specified by the distributee in a transfer made from the  
15 retirement system.

16 (i) An eligible rollover distribution is any distribution of all or  
17 any portion of the balance to the credit of the distributee, except that  
18 an eligible rollover distribution does not include: (a) Any distribution  
19 that is one of a series of substantially equal periodic payments, not less  
20 frequently than annually, made for the life or the life expectancy of the  
21 distributee or the joint lives or joint life expectancies of the distributee  
22 and the distributee's designated beneficiary or for a specified period of  
23 10 years or more; (b) any distribution to the extent such distribution is  
24 required under section 401(a)(9) of the federal internal revenue code;  
25 (c) the portion of any distribution that is not includable in gross  
26 income; and (d) any other distribution that is reasonably expected to  
27 total less than \$200 during the year. Effective January 1, 2002, a  
28 portion of a distribution shall not fail to be an eligible rollover  
29 distribution merely because the portion consists of after-tax employee  
30 contributions that are not includable in gross income. However, such  
31 portion may be transferred only to an individual retirement account  
32 or annuity described in section 408(a) or (b) of the federal internal  
33 revenue code, or to a qualified defined contribution plan described in  
34 section 401(a) of the federal internal revenue code or to a qualified  
35 plan described in section 403(a) of the federal internal revenue code,  
36 that agrees to separately account for amounts so transferred and  
37 earnings on such amounts, including separately accounting for the  
38 portion of the distribution that is includable in gross income and the  
39 portion of the distribution that is not so includable, or on or after  
40 January 1, 2007, to a qualified defined benefit plan described in  
41 section 401(a) of the federal internal revenue code or to an annuity  
42 contract described in section 403(b) of the federal internal revenue  
43 code, that agrees to separately account for amounts so transferred and

1 earnings thereon, including separately accounting for the portion of  
2 the distribution that is includable in gross income and the portion of  
3 the distribution that is not so includable.

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

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

8 (b) an individual retirement annuity described in section 408(b)  
9 of the federal internal revenue code;

10 (c) an annuity plan described in section 403(a) of the federal  
11 internal revenue code;

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

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

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

22 (g) effective January 1, 2008, a roth IRA described in section  
23 408(A) of the federal internal revenue code.

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

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

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

43 (8) Notwithstanding any law to the contrary, the board may

1 accept a direct or indirect eligible rollover distributions for the  
2 purpose of the purchase of service credit. In addition, the board may  
3 accept a direct trustee to trustee transfer from a deferred  
4 compensation plan under section 457(b) of the federal internal  
5 revenue code or a tax sheltered annuity under section 403(b) of the  
6 federal internal revenue code for: (A) The purchase of permissive  
7 service credit, as defined under section 415(n)(3)(A) of the federal  
8 internal revenue code; or (B) a repayment to which section 415 of the  
9 federal internal revenue code does not apply pursuant to section  
10 415(k)(3) of the federal internal revenue code. Any such transfer shall  
11 be allowed as provided in this subsection to the extent permitted by  
12 law, subject to any conditions, proofs or acceptance established or  
13 required by the board or the board's designee.

14 (9) Where required by the act, an employer shall pick up and pay  
15 contributions that would otherwise be payable by members of a  
16 retirement plan in accordance with section 414(h)(2) of the federal  
17 internal revenue code as follows:

18 (A) The contributions, although designated as employee  
19 contributions, are being paid by the employer in lieu of contributions  
20 by the employee;

21 (B) the employee must not have been given the option of receiving  
22 the amounts directly instead of having them paid to the retirement  
23 plan; and

24 (C) the pickup shall apply to amounts that a member elects to  
25 contribute to receive credit for prior or participating service if the  
26 election is irrevocable and applies to amounts contributed before  
27 retirement.

28 (10) (A) Notwithstanding any provision of this plan to the  
29 contrary, contributions, benefits and service credit with respect to  
30 qualified military service will be provided in accordance with section  
31 414(u) of the federal internal revenue code and the uniformed services  
32 employment and reemployment rights act of 1994.

33 (B) Effective with respect to deaths occurring on or after January  
34 1, 2007, while a member is performing qualified military service, as  
35 defined in chapter 43 of title 38, United States code, to the extent  
36 required by section 401(a)(37) of the federal internal revenue code,  
37 survivors of a member in the system, are entitled to any additional  
38 benefits that the system would provide if the member had resumed  
39 employment and then died, such as accelerated vesting or survivor  
40 benefits that are contingent on the member's death while employed. A  
41 deceased member's period of qualified military service must be  
42 counted for vesting purposes.

43 (C) Effective with respect to deaths or disabilities, or both,



1 occurring on or after January 1, 2007, while a member is performing  
2 qualified military service, as defined in chapter 43 of title 38, United  
3 States code, to the extent permitted by section 414(u)(9) of the federal  
4 internal revenue code, for the benefit accrual purposes and in the case  
5 of death, for vesting purposes, the member will be treated as having  
6 earned years of service for the period of qualified military service,  
7 having returned to employment on the day before the death or  
8 disability, or both, and then having terminated on the date of death or  
9 disability. This provision shall be applied to all similarly situated  
10 individuals in a reasonably equivalent manner.

11 (D) Beginning January 1, 2009, to the extent required by section  
12 414(u)(12) of the federal internal revenue code, an individual receiving  
13 differential wage payments, as defined under section 3401(h)(2) of the  
14 federal internal revenue code, from an employer shall be treated as  
15 employed by that employer, and the differential wage payment shall  
16 be treated as compensation for purposes of applying the limits on  
17 annual additions under section 415(c) of the federal internal revenue  
18 code. This provision shall be applied to all similarly situated  
19 individuals in a reasonably equivalent manner.

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

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

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

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

30 (g) (1) For purposes of determining an "actuarial equivalent" or  
31 of an "actuarial computation" for members hired prior to July 1,  
32 2009, the board shall use the following:

33 (A) The applicable mortality table is specified in revenue ruling  
34 2001-62 or revenue ruling 2007-67, as applicable; and

35 (B) the applicable interest factor is ~~8% per year~~ *the actuarially*  
36 *assumed rate of return established by the board.*

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

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

42 (B) the applicable interest factor is ~~8% per year~~ *the actuarially*  
43 *assumed rate of return established by the board.*

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

3       **(A) The applicable mortality table is a <sup>50/50</sup> male/female blend of**  
4 **the 1983 group annuity mortality table; and**

5       **(B) the applicable interest factor is ~~8% per year~~ *the actuarially***  
6 ***assumed rate of return established by the board.***

7       **(4) For benefit testing under section 415(b) of the federal internal**  
8 **revenue code, the factors required by treasury regulations shall be**  
9 **used. The applicable mortality table is specified in revenue ruling**  
10 **2001-62 for years prior to January 1, 2009, and notice 2008-85 for**  
11 **years after December 31, 2008.**

12       ~~Sec. 4.~~ **4.** K.S.A. 2016 Supp. 74-4914, 74-4914f and, 74-4937 and  
13 **74-49,123** are hereby repealed.

14       ~~Sec. 4.~~ **5.** This act shall take effect and be in force from and after its  
15 publication in the statute book.