

As Amended by House Committee

As Amended by Senate Committee

Session of 2017

SENATE BILL No. 205

By Committee on Ways and Means

2-20

1 AN ACT concerning retirement and pensions; relating to the Kansas public  
2 employees retirement system and systems thereunder; participating  
3 service credit; **providing certain death benefits to surviving spouses;**  
4 **exempting state board of regents retirement plan members from**  
5 **certain employment after retirement provisions; determining**  
6 **actuarial equivalent or actuarial computation interest factor;**  
7 amending K.S.A. 74-4913 ~~and~~, 74-4956 and 74-4959 and K.S.A. 2016  
8 **Supp. 74-4914 and 74-49,123** and repealing the existing sections; also  
9 **repealing K.S.A. 2016 Supp. 74-4914f.**

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 74-4913 is hereby amended to read as follows: 74-  
13 4913. (1) Prior service shall be credited as follows:

14 (a) A member shall receive full credit for continuous employment  
15 prior to the entry date with such member's employer on the entry date. If  
16 the employee was also employed on March 15 of the year immediately  
17 preceding the entry date of that employer, then all such previous  
18 employment, whether or not continuous, shall be credited; otherwise no  
19 credit shall be granted for employment prior to a break in continuous  
20 employment. Any member or retirant who was employed by any  
21 participating employer on March 15 of the year immediately preceding the  
22 entry date of that employer, may apply to the board on such forms as it  
23 may prescribe for prior service credit with a participating employer other  
24 than the member's entry date employer. Upon receipt of written  
25 verification of such employment from the participating employer, the  
26 board shall grant such additional prior service credit and with respect to a  
27 retirant, shall adjust the amount of the retirement benefit accordingly  
28 commencing with the next monthly benefit payment due following receipt  
29 of the written verification, except that such retirant shall not be entitled to  
30 any retroactive adjustment in the amount of such retirement benefit as a  
31 result of the board granting such additional prior service credit. In the case  
32 of any person other than a retirant receiving a retirement benefit, such  
33 person may make application for an adjustment in the benefit amount in  
34 the same manner as a member or retirant, and in such case the adjustment

1 in the benefit amount shall be determined by the board upon the advice of  
2 the actuary, and shall commence with the next monthly benefit payment  
3 due following receipt of the written verification;

4 (b) leaves of absence and military service shall not be counted as  
5 breaks in continuous employment; however, military service which is  
6 immediately preceded and followed by employment with a participating  
7 employer shall be credited, except that after July 1, 1974, not more than  
8 five years' credit for military service shall be granted hereunder to the  
9 extent required under USERRA, but leaves of absence shall not be  
10 credited;

11 (c) any member who was employed in the Kansas state employment  
12 service, now a section of the Kansas division of employment security,  
13 during any of the time the Kansas state employment service was loaned by  
14 the state to the federal government (January 1, 1942, for the duration of the  
15 emergency period of world war II, which service was returned to the state  
16 by the federal government effective November 16, 1946) shall be entitled  
17 to prior service credit for the time so employed during the period stated for  
18 any service rendered under the jurisdiction of the United States  
19 employment service for the federal government in like manner as if the  
20 employment service had remained under the jurisdiction of the state of  
21 Kansas;

22 (d) any member who is not otherwise eligible for service credit as  
23 provided for in subsection (1)(a) may be granted credit for the service  
24 upon the attainment of 38 quarters of participating service;

25 (e) any member who was employed by the university of Wichita prior  
26 to July 1, 1964, shall be entitled to prior service credit for such time of  
27 employment under the Kansas public employees retirement system, when  
28 such employment is not the basis for other pension rights.

29 (2) Participating service shall be credited as follows: (a) A member  
30 shall receive credit for participating service with a participating employer  
31 in accordance with the rules and regulations established by the board of  
32 trustees, ~~except that. Any period of time~~ **member employed as a fireman**  
33 **or policeman, as described in K.S.A. 74-4952(11) and (12), who is away**  
34 **from work or normal duties while in a paid status authorized and**  
35 **approved by a participating employer on and after July 1, 2014, including,**  
36 **without limitation, any administrative leave with pay and any paid**  
37 **vacation leave, sick leave, personal leave, worker's compensation leave,**  
38 **light duty or temporary duty assignment, shall constitute participating**  
39 **service and any member shall receive full credit for such participating**  
40 **service with a participating employer for any such period of time away**  
41 **from work or normal duties. If the member does not return to work for**  
42 **the participating employer in the same or a similar position at the**  
43 **conclusion of such leave, except for reasons of death or disability, the**

1 *period of the leave shall be removed from service credit, and the*  
2 *employer and employee contributions for such period of leave shall be*  
3 *reimbursed by the system to the employee and the employer unless*  
4 *otherwise provided herein. In the case of a decision to voluntarily*  
5 *terminate employment, the period of leave exceeding 365 days shall be*  
6 *removed from service credit, and the employer and employee*  
7 *contributions for such period of leave shall be reimbursed by the system*  
8 *to the employee and the employer. However, no more than one calendar*  
9 *quarter of participating service shall be credited for any employment*  
10 *within any one calendar quarter;*

11 (b) leaves of absence and military service shall not count as a break in  
12 continuous employment. In the case of a leave of absence, the member  
13 shall leave such member's accumulated contribution on deposit with the  
14 fund; however, the period of military service shall be credited, except that  
15 after July 1, 1974, not more than five years' credit for military service shall  
16 be granted hereunder to the extent required under USERRA, but leaves of  
17 absence shall not be credited. Employees who enter the military service  
18 from their employment after the employer's entry date and who have not  
19 completed one year of service at the time of their entry into the military  
20 service, shall not become members of the retirement system until they  
21 return to the employment of that or another participating employer. In the  
22 case of such employee whose combined public employment and military  
23 service does not equal one year at the time of such employee's return to  
24 employment, the date of membership shall be the first day of the payroll  
25 period coinciding with or following the completion of one combined  
26 public employment and military year of service. Such service shall be  
27 granted in accordance with this section;

28 (c) a period of retirement under the system or a period of total  
29 disability, immediately followed by employment with a participating  
30 employer, shall not count as a break in continuous employment, except  
31 that such periods while not employed shall not be credited as participating  
32 service;

33 (d) termination of employment, followed by employment with a  
34 participating employer within five years after such termination, does not  
35 constitute a break in continuous employment if such person has not  
36 withdrawn such person's accumulated contribution. Such period while not  
37 employed shall not be credited as participating service.

38 (3) In determining the number of years of credited prior service or  
39 participating service a fractional year of six months or more shall be  
40 considered as one year and a fractional year of less than six months shall  
41 be disregarded.

42 Sec. 2. K.S.A. 74-4956 is hereby amended to read as follows: 74-  
43 4956. (1) Prior service shall be credited as follows:

1 (a) Each member shall receive:

2 (i) Full credit for all employment, whether or not continuous, as  
3 either a policeman or fireman prior to the entry date with such member's  
4 employer who is such member's employer on the entry date;

5 (ii) full credit for all employment, whether or not continuous, as  
6 either a police or fireman prior to the entry date of such police or firemen's  
7 employer, with a participating employer, if such member has at least 20  
8 years of credited service; and

9 (iii) for all continuous employment with the same employer other  
10 than either as policeman or fireman, immediately preceding such service  
11 as a policeman or fireman, one month of credit for each two months of  
12 service. Any member or retirant who has been credited with prior service  
13 as provided in this section may apply to the board on such forms as the  
14 board prescribes for prior service credit with a participating employer  
15 under the Kansas police and firemen's retirement system other than such  
16 member's entry date employer. Each member shall receive full credit for  
17 all employment as either a policeman or fireman with such other  
18 participating employers and shall receive one month of credit for each two  
19 months of continuous service with other participating employers for  
20 continuous employment preceding service as a policeman or fireman.  
21 Upon receipt of written verification of such employment from such other  
22 participating employer, the board may grant such additional prior service  
23 credit. With respect to a retirant, the board shall adjust the amount of the  
24 retirement benefit accordingly commencing with the next monthly benefit  
25 payment due following receipt of written verification. In the case of any  
26 person other than a retirant receiving a retirement benefit, such person may  
27 make application for an adjustment in the benefit amount in the same  
28 manner as a member or retirant, and in such case the adjustment in the  
29 benefit amount shall be determined by the board upon the advice of the  
30 actuary, and shall commence with the next monthly benefit payment due  
31 following receipt of written verification, except that no additional prior  
32 service credit shall be granted for any service with another participating  
33 employer for which benefits are being received or will be received. A  
34 retirant or any other person receiving a retirement benefit shall not be  
35 entitled to any retroactive adjustment in the amount of retirement benefit  
36 as a result of the board granting such additional prior service credit.

37 If a member was employed as a fireman, other than as a volunteer  
38 fireman, by a township which is annexed by a participating employer the  
39 member's retirement benefits and death and disability benefits shall be  
40 computed on the basis of credited service. Continuous service as a fireman  
41 with a township prior to annexation by a member, who became a member  
42 immediately following the annexation, shall be considered credited  
43 service.

1 No such service shall be considered credited service for the purpose of  
2 computing years of service if such fireman is receiving or will become  
3 eligible to receive benefits as a result of such service with the township.

4 (b) Leaves of absence and military service shall not be counted as  
5 breaks in continuous employment; however, military service which is  
6 preceded within 30 days and followed by employment with a participating  
7 employer shall be credited, except that after July 1, 1974, not more than  
8 five years credit for military service shall be granted hereunder to the  
9 extent required by the provisions of USERRA, but leaves of absence shall  
10 not be credited.

11 (2) Participating service shall be credited as follows: (a) A member  
12 shall receive credit for participating service with a participating employer  
13 in accordance with the rules and regulations established by the board. *Any*  
14 *period of time away from work or normal duties while in a paid status*  
15 *authorized and approved by a participating employer on and after July 1,*  
16 *2014, including, without limitation, any administrative leave with pay and*  
17 *any paid vacation leave, sick leave, personal leave, worker's*  
18 *compensation leave, light duty or temporary duty assignment, shall*  
19 *constitute participating service and any member shall receive full credit*  
20 *for such participating service with a participating employer for any such*  
21 *period of time away from work or normal duties. **If the member does not***  
22 *return to work for the participating employer in the same or a similar*  
23 *position at the conclusion of such leave, except for reasons of death or*  
24 *disability, the period of the leave shall be removed from service credit,*  
25 *and the employer and employee contributions for such period of leave*  
26 *shall be reimbursed by the system to the employee and the employer*  
27 *unless otherwise provided herein. In the case of a decision to voluntarily*  
28 *terminate employment, the period of leave exceeding 365 days shall be*  
29 *removed from service credit, and the employer and employee*  
30 *contributions for such period of leave shall be reimbursed by the system*  
31 *to the employee and the employer.* No more than one calendar quarter of  
32 participating service shall be credited for employment within any one  
33 calendar quarter.

34 (b) Leaves of absence shall not be counted as a termination of  
35 employment provided the member leaves such member's accumulated  
36 contributions on deposit with the system and returns to employment with  
37 the employer granting such leave; however, the period of leave of absence  
38 shall not be credited service.

39 (c) To the extent required under the provisions of USERRA, military  
40 service shall not count as a break in continuous employment.

41 (d) Termination of employment with a participating employer  
42 followed by employment with the same or another participating employer  
43 within two years shall not constitute a termination of membership

1 provided the member leaves such member's accumulated contributions on  
2 deposit with the system; however, the period while not employed shall not  
3 be credited.

4 (3) In determining the number of years of credited service for  
5 calculation of retirement benefits a fractional year of six months or more  
6 of credited service shall be considered as one year and a fractional year of  
7 less than six months of credited service shall be disregarded.

8 **Sec. 3. K.S.A. 74-4959 is hereby amended to read as follows: 74-**  
9 **4959. (1) Upon the death from service-connected causes as defined in**  
10 **this act, of an active contributing member prior to retirement, the**  
11 **following benefits shall be payable if a report of the event, in a form**  
12 **acceptable to the board, is filed in the office of the executive director**  
13 **of the board within 200 days after the date of the act of duty causing**  
14 **such death and an application for such benefits, in such form and**  
15 **manner as prescribed by the board, is filed in the office of the**  
16 **executive director of the board within two years of the date of death,**  
17 **but the board may waive such time limits for a reasonable period if in**  
18 **the judgment of the board the failure to meet these limits was due to**  
19 **lack of knowledge or incapacity:**

20 (a) **To the member's spouse, if lawfully wedded to the member at**  
21 **the time of the member's death, an annual spouse's benefit equal to**  
22 **50% of the member's final average salary; or, for deaths occurring on or**  
23 **after July 1, 2016, the greater of: (i) 50% of the member's final average**  
24 **salary; or (ii) the amount that would have been paid had the member**  
25 **elected the option provided for in K.S.A. 74-4964(5)(B), and amendments**  
26 **thereto, and retired as of the first day of the month coinciding with or**  
27 **following the date of death,**~~which~~ **Such spouse's benefit shall accrue**  
28 **from the first day of the month coinciding with or following the**  
29 **member's death and shall end on the first day of the month in which**  
30 **the spouse's death occurs. Commencing on the effective date of this**  
31 **act, any surviving spouse, who was receiving benefits pursuant to this**  
32 **section and who had such benefits terminated by reason of such**  
33 **spouse's remarriage, shall be entitled to once again receive benefits**  
34 **pursuant to this section, except that such surviving spouse shall not be**  
35 **entitled to recover any benefits not received after the termination of**  
36 **benefits by reason of such surviving spouse's remarriage but before**  
37 **the effective date of this act.**

38 (b) **Subject to the provisions of K.S.A. 74-49,123, and**  
39 **amendments thereto, to the member's children under the age of 18**  
40 **years or under the age of 23 years, if such children are full-time**  
41 **students as provided in K.S.A. 74-49,117, and amendments thereto, an**  
42 **annual children's benefit equal to 10% of the member's final average**  
43 **salary for each such child, which shall accrue from the first day of the**

1 month coinciding with or following the member's death and shall end  
2 on the last day of the month in which such child attains the age of 18  
3 years or dies, whichever occurs earlier or in which such child attains  
4 the age of 23 years, if such child is a full-time student as provided in  
5 K.S.A. 74-49,117, and amendments thereto, except that if there is no  
6 eligible spouse, or if upon the death of the spouse there remain one or  
7 more children under the age of 18 years or under the age of 23 years,  
8 if such children are full-time students as provided in K.S.A. 74-49,117,  
9 and amendments thereto, the annual spouse's benefit shall be paid in  
10 equal shares to such children and each child's share shall end on the  
11 last day of the month in which such child attains the age of 18 years or  
12 dies, whichever occurs earlier or in which such child attains the age of  
13 23 years, if such child is a full-time student as provided in K.S.A. 74-  
14 49,117, and amendments thereto. Commencing on the effective date of  
15 this act, any child who was receiving benefits pursuant to this section  
16 and who had such benefits terminated by reason of such child's  
17 marriage, shall be entitled to once again receive benefits pursuant to  
18 this section subject to the limitations contained in this section, except  
19 that such child shall not be entitled to recover any benefits not  
20 received after the termination of benefits by reason of such child's  
21 marriage but before the effective date of this act.

22 (c) In no case shall benefits payable under the provisions of  
23 paragraphs (a) and (b) of this subsection (1) ~~and (b) exceed 75%~~ 90%  
24 of the member's final average salary.

25 (2) Pursuant to the provisions of K.S.A. 74-49,128, and  
26 amendments thereto, upon the death from causes not service-  
27 connected of an active contributing member prior to retirement, the  
28 member's spouse, if lawfully wedded to the member at the time of the  
29 member's death, shall receive immediately a lump-sum benefit equal  
30 to 100% of the member's final average salary and shall be entitled to  
31 receive an annual death benefit equal to the member's retirement  
32 benefit calculated as if the member had retired on the member's  
33 normal retirement date, but based upon the member's final average  
34 salary and years of credited service on the date of death but not to  
35 ~~exceed the amount of the annual spouse's benefit provided in paragraph (a)~~  
36 ~~of subsection (1) an amount equal to 50% of the member's final average~~  
37 ~~salary.~~ An application for such benefits in such form and manner as  
38 prescribed by the board must be filed in the office of the executive  
39 director of the board within two years of the date of death, but the  
40 board may waive such time limit for a reasonable period if in the  
41 judgment of the board the failure to meet this limit was due to the lack  
42 of knowledge or incapacity. On and after July 1, 1993, the annual  
43 spouse's benefit under this subsection (2) shall accrue from the first

1 day of the month coinciding with or following the member's death and  
2 shall continue until the spouse's death. Commencing on the effective  
3 date of this act, any surviving spouse, who was receiving benefits  
4 pursuant to this section and who had such benefits terminated by  
5 reason of such spouse's remarriage, shall be entitled to once again  
6 receive benefits pursuant to this section, except that such surviving  
7 spouse shall not be entitled to recover any benefits not received after  
8 the termination of benefits by reason of such surviving spouse's  
9 remarriage but before the effective date of this act. If there is no  
10 eligible spouse or if after the death of the spouse there remain one or  
11 more children of the member under the age of 18 years or one or more  
12 children of the member under the age of 23 years, if such children are  
13 full-time students as provided in K.S.A. 74-49,117, and amendments  
14 thereto, the spouse's benefit shall be payable, subject to the provisions  
15 of K.S.A. 74-49,123, and amendments thereto, in equal shares to such  
16 children and each child's share shall end on the last day of the month  
17 in which such child attains the age of 18 years or dies, whichever  
18 occurs earlier or in which such child attains the age of 23 years, if such  
19 child is a full-time student as provided in K.S.A. 74-49,117, and  
20 amendments thereto. Commencing on the effective date of this act,  
21 any child who was receiving benefits pursuant to this section and who  
22 had such benefits terminated by reason of such child's marriage, shall  
23 be entitled to once again receive benefits pursuant to this section  
24 subject to the limitations contained in this section, except that such  
25 child shall not be entitled to recover any benefits not received after the  
26 termination of benefits by reason of such child's marriage but before  
27 the effective date of this act.

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

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

38 Sec. 4. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as  
39 follows: 74-4914. (1) The normal retirement date for a member of the  
40 system shall be the first day of the month coinciding with or following  
41 termination of employment with any participating employer not  
42 followed by employment with any participating employer within 60  
43 days and without any prearranged agreement for employment with



1 any participating employer, and the attainment of age 65 or,  
2 commencing July 1, 1993, age 62 with the completion of 10 years of  
3 credited service or the first day of the month coinciding with or  
4 following the date that the total of the number of years of credited  
5 service and the number of years of attained age of the member is  
6 equal to or more than 85. In no event shall a normal retirement date  
7 for a member be before six months after the entry date of the  
8 participating employer by whom such member is employed. A  
9 member may retire on the normal retirement date or on the first day  
10 of any month thereafter upon the filing with the office of the  
11 retirement system of an application in such form and manner as the  
12 board shall prescribe. Such application shall contain a certification by  
13 the member that the member will not be employed with any  
14 participating employer within 60 days of retirement and the member  
15 has not entered into a prearranged agreement for employment with  
16 any participating employer. Nothing herein shall prevent any person,  
17 member or retirant from being employed, appointed or elected as an  
18 employee, appointee, officer or member of the legislature. Elected  
19 officers may retire from the system on any date on or after the  
20 attainment of the normal retirement date, but no retirement benefits  
21 payable under this act shall be paid until the member has terminated  
22 such member's office.

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

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

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

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

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

1 employed by the state of Kansas in an institution as defined in K.S.A.  
2 76-12a01(b) or K.S.A. 38-2302(~~f~~)(k), and amendments thereto, the  
3 Kansas soldiers' home or the Kansas veterans' home. Nothing in this  
4 subsection shall be construed to create any right, or to authorize the  
5 creation of any right, which is not subject to amendment or  
6 nullification by act of the legislature. The participating employer of  
7 such retirant shall pay to the system the actuarially determined  
8 employer contribution based on the retirant's compensation during  
9 any such period of employment.

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

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

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

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

39 (ii) employed by a school district in a position as provided in  
40 K.S.A. 74-4937(3), (4) or (5), and amendments thereto. Any retirant  
41 employed by a school district in a position under K.S.A. 74-4937(3),  
42 (4) or (5), and amendments thereto, shall be subject to the provisions  
43 of subsection (7)(h) which relate to a limitation on the total term of

1 employment with any participating employer in which a retirant may  
2 receive such retirant's full retirement benefit;

3 (iii) certified law enforcement officers employed by the law  
4 enforcement training center. Such law enforcement officers shall  
5 receive their benefits notwithstanding this subsection. The law  
6 enforcement training center shall pay to the system the ~~actuarial~~  
7 *actuarially* determined employer contribution and the statutorily  
8 prescribed employee contribution based on the retirant's  
9 compensation during any such period of employment;

10 (iv) members of the Kansas police and firemen's retirement  
11 system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, ~~or~~  
12 members of the retirement system for judges pursuant to K.S.A. 20-  
13 2601 et seq., and amendments thereto, *or members of the state board of*  
14 *regents retirement plan pursuant to K.S.A. 74-4925 et seq., and*  
15 *amendments thereto;*

16 (v) employed as substitute teachers or officers, employees or  
17 appointees of the legislature;

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

21 (vii) employed by, or have accepted employment from, a  
22 participating employer prior to May 1, 2015. Any break in continuous  
23 employment by a retirant or move to a different position by a retirant  
24 during the effective period of this subsection shall be deemed new  
25 employment and shall subject the retirant to the provisions of this  
26 subsection.

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

43 (d) A participating employer may employ a retirant without

1 regard to the compensation limitation in this subsection for a period of  
2 one calendar year or one school year, as the case may be, if the  
3 following requirements are met:

4 (i) The employer certifies to the board that the position being  
5 filled has been vacated due to an unexpected emergency or the  
6 employer has been unsuccessful in filling the position;

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

22 (iii) the employer maintains documentation of its efforts to fill the  
23 position with a non-retirant and provides such documentation to the  
24 joint committee on pensions, investments and benefits upon request of  
25 the committee.

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

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

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

43 (iii) if applications were submitted, none of the applicants

1 possessed the appropriate licensure, certification or other necessary  
2 credentials for the position.

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

9 (g) Nothing in this subsection shall be construed to create any  
10 right, or to authorize the creation of any right, which is not subject to  
11 amendment or nullification by act of the legislature.

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

22 (8) If determined by the retirement system that a retirant entered  
23 into a prearranged agreement for employment with a participating  
24 employer prior to such retirant's retirement and prior to the end of  
25 the subsequent 60-day waiting period, the monthly retirement benefit  
26 of such retirant shall be suspended during the period that begins on  
27 the month in which the retirant is re-employed and ends six months  
28 after the retirant's termination of such employment. The retirant shall  
29 repay to the retirement system all monthly retirement benefits paid to  
30 the retirant by the retirement system that the retirant received after  
31 such employment began. The participating employer which hired such  
32 retirant shall be required to pay to the system any fees, fines, penalties  
33 or any other cost imposed by the internal revenue service and  
34 indemnify the system for any cost incurred by the system to defend  
35 any action brought by the internal revenue service based on in-service  
36 distributions which are a result of any determined prearranged  
37 agreement and for any cost incurred by the system to collect any  
38 monthly retirement benefit required to be repaid by such retirant  
39 pursuant to this subsection.

40 (9) For the purposes of this section a prearranged agreement for  
41 employment may be determined by whether the facts and  
42 circumstances of the situation indicate that the employer and  
43 employee reasonably anticipated that further services would be

1 performed after the employee's retirement.

2 Sec. 5. K.S.A. 2016 Supp. 74-49,123 is hereby amended to read as  
3 follows: 74-49,123. (a) This section applies to the Kansas public  
4 employees retirement system and to all other public retirement plans  
5 administered by the board of trustees.

6 (b) As used in this section:

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

10 (2) "retirement plan" includes the Kansas public employees  
11 retirement system and all other Kansas public retirement plans and  
12 benefit structures, which are administered by the board.

13 (c) In addition to the federal internal revenue code provisions  
14 otherwise noted in each retirement plan's law, and in order to satisfy  
15 the applicable requirements under the federal internal revenue code,  
16 the retirement plans shall be subject to the following provisions,  
17 notwithstanding any other provision of the retirement plan's law:

18 (1) The board shall distribute the corpus and income of the  
19 retirement plan to the members and their beneficiaries in accordance  
20 with the retirement plan's law. At no time prior to the satisfaction of  
21 all liabilities with respect to members and their beneficiaries shall any  
22 part of the corpus and income be used for, or diverted to, purposes  
23 other than the exclusive benefit of the members and their  
24 beneficiaries.

25 (2) Forfeitures arising from severance of employment, death or  
26 for any other reason may not be applied to increase the benefits any  
27 member would otherwise receive under the retirement plan's law.  
28 However, forfeitures may be used to reduce an employer's  
29 contribution.

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

36 (A) Benefits must begin by the required beginning date, which is  
37 the later of April 1 of the calendar year following the calendar year in  
38 which the member reaches 70½ years of age or April 1 of the calendar  
39 year following the calendar year in which the member terminates  
40 employment. If a member fails to apply for retirement benefits by  
41 April 1 of the calendar year following the calendar year in which such  
42 member reaches 70½ years of age or April 1 of the calendar year  
43 following the calendar year in which such member terminates



1 employment, whichever is later, the board will begin distributing the  
2 benefit as required by this section.

3 (B) The member's entire interest must be distributed over the  
4 member's life or the lives of the member and a designated beneficiary,  
5 or over a period not extending beyond the life expectancy of the  
6 member or of the member and a designated beneficiary. Death  
7 benefits must be distributed in accordance with section 401(a)(9)  
8 of the federal internal revenue code, including the incidental death  
9 benefit requirement in section 401(a)(9)(G) of the federal internal  
10 revenue code, and the regulations implementing that section.

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

14 (D) If a member dies after the required distribution of benefits  
15 has begun, the remaining portion of the member's interest must be  
16 distributed at least as rapidly as under the method of distribution  
17 before the member's death and no longer than the remaining period  
18 over which distributions commenced.

19 (E) If a member dies before required distribution of the  
20 member's benefits has begun, the member's entire interest must be  
21 either:

22 (i) In accordance with federal regulations, distributed over the  
23 life or life expectancy of the designated beneficiary, with the  
24 distributions beginning no later than December 31 of the calendar  
25 year immediately following the calendar year of the member's death;  
26 or

27 (ii) distributed by December 31 of the calendar year containing  
28 the fifth anniversary of the member's death.

29 (F) The amount of an annuity paid to a member's beneficiary  
30 may not exceed the maximum determined under the incidental death  
31 benefit requirement of the federal internal revenue code.

32 (G) The death and disability benefits provided by a retirement  
33 plan are limited by the incidental benefit rule set forth in section  
34 401(a)(9)(G) of the federal internal revenue code and treasury  
35 regulation 1.401-1(b)(1)(i).

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

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

39 (A) Determine eligibility for benefits;

40 (B) compute rates of contribution; or

41 (C) compute benefits of members or beneficiaries, in a manner  
42 that discriminates in favor of members who are considered officers,  
43 supervisors or highly compensated, as prohibited under section 401(a)

1 (4) of the federal internal revenue code.

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

7 (A) Before January 1, 1995, a member may not receive an annual  
8 benefit that exceeds the limits specified in section 415(b) of the federal  
9 internal revenue code, subject to the applicable adjustments in that  
10 section. Beginning January 1, 1995, a participant may not receive an  
11 annual benefit that exceeds the dollar amount specified in section  
12 415(b)(1)(A) of the federal internal revenue code, subject to the  
13 applicable adjustments in section 415 of the federal internal revenue  
14 code.

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

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

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

29 (C) Effective for permissive service credit contributions made in  
30 limitation years beginning after December 31, 1997, if an active  
31 member makes one or more contributions to purchase permissive  
32 service credit under a retirement plan, then the requirements of this  
33 section shall be treated as met only if:

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

38 (ii) the requirements of section 415(c) of the federal internal  
39 revenue code are met, determined by treating all such contributions as  
40 annual additions for purposes of such section. For purposes of  
41 ~~applying subparagraph~~ *clause* (i) a retirement plan shall not fail to meet  
42 the reduced limit under section 415(b)(2)(C) of the federal internal  
43 revenue code solely by reason of this ~~paragraph~~ *subparagraph* (C), and

1 for purposes of applying ~~subparagraph~~ *clause* (ii), a retirement plan  
2 shall not fail to meet the percentage limitation under section 415(c)(1)  
3 (B) of the federal internal revenue code solely by reason of this  
4 paragraph.

5 (iii) For purposes of this ~~paragraph~~ *clause*, the term "permissive  
6 service credit" means service credit:

7 (a) Specifically recognized by a retirement plan's law for  
8 purposes of calculating a member's benefit under that retirement  
9 plan;

10 (b) which such member has not received under a retirement plan;  
11 and

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

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

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

22 (b) any nonqualified service credit is taken into account under  
23 this ~~paragraph~~ *subclause* before the member has at least five years of  
24 participation under a retirement plan. For purposes of this ~~paragraph~~  
25 *subclause*, effective for permissive service credit contributions made in  
26 limitation years beginning after December 31, 1997, the term  
27 "nonqualified service credit" means the same as provided in section  
28 415(n)(3)(C) of the federal internal revenue code.

29 (v) In the case of a trustee-to-trustee transfer after December 31,  
30 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal  
31 internal revenue code applies, without regard to whether the transfer  
32 is made between plans maintained by the same employer:

33 (a) The limitations of ~~subparagraph~~ *clause* (iv) shall not apply in  
34 determining whether the transfer is for the purchase of permissive  
35 service credit; and

36 (b) the distribution rules applicable under federal law to a  
37 retirement plan shall apply to such amounts and any benefits  
38 attributable to such amounts.

39 (vi) For an eligible member, the limitation of section 415(c)(1) of  
40 the federal internal revenue code shall not be applied to reduce the  
41 amount of permissive service credit which may be purchased to an  
42 amount less than the amount which was allowed to be purchased  
43 under the terms of the statute as in effect on August 5, 1997. For

1 purposes of this ~~subparagraph~~ clause, an eligible member is an  
2 individual who first became a member in the retirement plan before  
3 January 1, 1998.

4 (D) Subject to approval by the internal revenue service, the board  
5 shall maintain a qualified governmental excess benefit arrangement  
6 under section 415(m) of the federal internal revenue code. The board  
7 shall establish the necessary and appropriate procedures for the  
8 administration of such benefit arrangement under the federal internal  
9 revenue code. The amount of any annual benefit that would exceed the  
10 limitations imposed by section 415 of the federal internal revenue code  
11 shall be paid from this benefit arrangement. The amount of any  
12 contribution that would exceed the limitations imposed by section 415  
13 of the federal internal revenue code shall be credited to this benefit  
14 arrangement. The qualified excess benefit arrangement shall be a  
15 separate portion of the retirement plan. The qualified excess benefit  
16 arrangement is subject to the following requirements:

17 (i) The benefit arrangement shall be maintained solely for the  
18 purpose of providing to participants in the retirement plans that part  
19 of the participant's annual benefit otherwise payable under the terms  
20 of the act that exceeds the limitations on benefits imposed by section  
21 415 of the federal internal revenue code; and

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

24 (E) For purposes of applying these limits only and for no other  
25 purpose, the definition of compensation where applicable shall be  
26 compensation actually paid or made available during a limitation  
27 year, except as noted below and as permitted by treasury regulation  
28 section 1.415(c)-2. Specifically, compensation shall be defined as wages  
29 within the meaning of section 3401(a) of the federal internal revenue  
30 code and all other payments of compensation to an employee by an  
31 employer for which the employer is required to furnish the employee a  
32 written statement under sections 6041(d), 6051(a)(3) and 6052 of the  
33 federal internal revenue code. Compensation shall be determined  
34 without regard to any rules under section 3401(a) of the federal  
35 internal revenue code that limit the remuneration included in wages  
36 based on the nature or location of the employment or the services  
37 performed, such as the exception for agricultural labor in section  
38 3401(a)(2) of the federal internal revenue code.

39 (i) However, for limitation years beginning after December 31,  
40 1997, compensation shall also include amounts that would otherwise  
41 be included in compensation but for an election under sections 125(a),  
42 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue  
43 code. For limitation years beginning after December 30, 2000,

1 compensation shall also include any elective amounts that are not  
2 includable in the gross income of the employee by reason of section  
3 132(f)(4) of the federal internal revenue code.

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

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

12 (a) The payment is regular compensation for services during the  
13 employee's regular working hours or compensation for services  
14 outside the employee's regular working hours, such as overtime or  
15 shift differential, commissions, bonuses or other similar payments, and  
16 absent a severance from employment, the payments would have been  
17 paid to the employee while the employee continues in employment  
18 with the employer;

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

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

28 (iv) Any payments not described in ~~paragraph~~ clause (iii) are not  
29 considered compensation if paid after severance from employment,  
30 even if they are paid within two and a half months following severance  
31 from employment, except for payments to the individual who does not  
32 currently perform services for the employer by reason of qualified  
33 military service, within the meaning of section 414(u)(1) of the federal  
34 internal revenue code, to the extent these payments do not exceed the  
35 amounts the individual would have received if the individual had  
36 continued to perform services for the employer rather than entering  
37 qualified military service.

38 (v) An employee who is in qualified military service, within the  
39 meaning of section 414(u)(1) of the federal internal revenue code, shall  
40 be treated as receiving compensation from the employer during such  
41 period of qualified military service equal to: (a) The compensation the  
42 employee would have received during such period if the employee  
43 were not in qualified military service, determined based on the rate of

1 pay the employee would have received from the employer but for the  
2 absence during the period of qualified military service; or (b) if the  
3 compensation the employee would have received during such period  
4 was not reasonably certain, the employee's average compensation  
5 from the employer during the twelve-month period immediately  
6 preceding the qualified military service, or if shorter, the period of  
7 employment immediately preceding the qualified military service.

8 (vi) Back pay, within the meaning of treasury regulation section  
9 1.415(c)-2(g)(8), shall be treated as compensation for the limitation  
10 year to which the back pay relates to the extent the back pay  
11 represents wages and compensation that would otherwise be included  
12 under this definition.

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

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

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

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

29 (D) in no event shall a member's annual benefit payable from a  
30 retirement plan in any limitation year be greater than the limit  
31 applicable at the annuity starting date, as increased in subsequent  
32 years pursuant to section 415(d) of the federal internal revenue code  
33 and the regulations thereunder. If the form of benefit without regard  
34 to the automatic benefit increase feature is not a straight life annuity,  
35 then the preceding sentence is applied by reducing the limit under  
36 section 415(b) of the federal internal revenue code applicable at the  
37 annuity starting date to an actuarially equivalent amount determined  
38 using the assumptions specified in treasury regulation section  
39 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the  
40 form of benefit. This subsection applies to distributions made on and  
41 after January 1, 1993. A distributee may elect to have any portion of  
42 an eligible rollover distribution paid directly to an eligible retirement  
43 plan specified by the distributee in a transfer made from the

1 retirement system.

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

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

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

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

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

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

43 (e) effective January 1, 2002, an annuity contract described in

1 section 403(b) of the federal internal revenue code;

2 (f) effective January 1, 2002, a plan eligible under section 457(b)  
3 of the federal internal revenue code that is maintained by a state,  
4 political subdivision of a state or any agency or instrumentality of a  
5 state or a political subdivision of a state that agrees to separately  
6 account for amounts transferred into the plan from a retirement plan;  
7 or

8 (g) effective January 1, 2008, a roth IRA described in section  
9 408(A) of the federal internal revenue code.

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

15 (iv) A distributee includes an employee or former employee. It  
16 also includes the employee's or former employee's surviving spouse  
17 and the employee's or former employee's spouse or former spouse who  
18 is the alternate payee under a qualified domestic relations order, as  
19 defined in section 414(p) of the federal internal revenue code. Effective  
20 July 1, 2007, a distributee further includes a nonspouse beneficiary  
21 who is a designated beneficiary as defined by section 401(a)(9)(E) of  
22 the federal internal revenue code. However, a nonspouse beneficiary  
23 may rollover the distribution only to an individual retirement account  
24 or individual retirement annuity established for the purpose of  
25 receiving the distribution and the account or annuity will be treated as  
26 an "inherited" individual retirement account or annuity.

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

29 (8) Notwithstanding any law to the contrary, the board may  
30 accept a direct or indirect eligible rollover distributions for the  
31 purpose of the purchase of service credit. In addition, the board may  
32 accept a direct trustee to trustee transfer from a deferred  
33 compensation plan under section 457(b) of the federal internal  
34 revenue code or a tax sheltered annuity under section 403(b) of the  
35 federal internal revenue code for: (A) The purchase of permissive  
36 service credit, as defined under section 415(n)(3)(A) of the federal  
37 internal revenue code; or (B) a repayment to which section 415 of the  
38 federal internal revenue code does not apply pursuant to section  
39 415(k)(3) of the federal internal revenue code. Any such transfer shall  
40 be allowed as provided in this subsection to the extent permitted by  
41 law, subject to any conditions, proofs or acceptance established or  
42 required by the board or the board's designee.

43 (9) Where required by the act, an employer shall pick up and pay



1 contributions that would otherwise be payable by members of a  
2 retirement plan in accordance with section 414(h)(2) of the federal  
3 internal revenue code as follows:

4 (A) The contributions, although designated as employee  
5 contributions, are being paid by the employer in lieu of contributions  
6 by the employee;

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

10 (C) the pickup shall apply to amounts that a member elects to  
11 contribute to receive credit for prior or participating service if the  
12 election is irrevocable and applies to amounts contributed before  
13 retirement.

14 (10) (A) Notwithstanding any provision of this plan to the  
15 contrary, contributions, benefits and service credit with respect to  
16 qualified military service will be provided in accordance with section  
17 414(u) of the federal internal revenue code and the uniformed services  
18 employment and reemployment rights act of 1994.

19 (B) Effective with respect to deaths occurring on or after January  
20 1, 2007, while a member is performing qualified military service, as  
21 defined in chapter 43 of title 38, United States code, to the extent  
22 required by section 401(a)(37) of the federal internal revenue code,  
23 survivors of a member in the system, are entitled to any additional  
24 benefits that the system would provide if the member had resumed  
25 employment and then died, such as accelerated vesting or survivor  
26 benefits that are contingent on the member's death while employed. A  
27 deceased member's period of qualified military service must be  
28 counted for vesting purposes.

29 (C) Effective with respect to deaths or disabilities, or both,  
30 occurring on or after January 1, 2007, while a member is performing  
31 qualified military service, as defined in chapter 43 of title 38, United  
32 States code, to the extent permitted by section 414(u)(9) of the federal  
33 internal revenue code, for the benefit accrual purposes and in the case  
34 of death, for vesting purposes, the member will be treated as having  
35 earned years of service for the period of qualified military service,  
36 having returned to employment on the day before the death or  
37 disability, or both, and then having terminated on the date of death or  
38 disability. This provision shall be applied to all similarly situated  
39 individuals in a reasonably equivalent manner.

40 (D) Beginning January 1, 2009, to the extent required by section  
41 414(u)(12) of the federal internal revenue code, an individual receiving  
42 differential wage payments, as defined under section 3401(h)(2) of the  
43 federal internal revenue code, from an employer shall be treated as

1 employed by that employer, and the differential wage payment shall  
2 be treated as compensation for purposes of applying the limits on  
3 annual additions under section 415(c) of the federal internal revenue  
4 code. This provision shall be applied to all similarly situated  
5 individuals in a reasonably equivalent manner.

6 (11) Upon the complete or partial termination of a retirement  
7 plan, the rights of members to benefits accrued to the date of  
8 termination, to the extent funded, or to the amounts in their accounts  
9 are nonforfeitable, and amounts in their accounts may be distributed  
10 to them.

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

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

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

16 (g) (1) For purposes of determining an "actuarial equivalent" or  
17 of an "actuarial computation" for members hired prior to July 1,  
18 2009, the board shall use the following:

19 (A) The applicable mortality table is specified in revenue ruling  
20 2001-62 or revenue ruling 2007-67, as applicable; and

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

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

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

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

30 (3) For converting amounts payable under the partial lump sum  
31 option, the board shall use the following:

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

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

36 (4) For benefit testing under section 415(b) of the federal internal  
37 revenue code, the factors required by treasury regulations shall be  
38 used. The applicable mortality table is specified in revenue ruling  
39 2001-62 for years prior to January 1, 2009, and notice 2008-85 for  
40 years after December 31, 2008.

41 Sec. ~~3~~. 6. K.S.A. 74-4913 ~~and~~, 74-4956 and 74-4959 and K.S.A.  
42 2016 Supp. 74-4914, 74-4914f and 74-49,123 are hereby repealed.

43 Sec. ~~4~~. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.