

HOUSE BILL No. 2075

By Joint Committee on Pensions, Investments and Benefits

1-18

9 AN ACT concerning death and disability benefits for certain public em-
10 ployees; relating to plan design and contributions; amending K.S.A.
11 74-4932 and 74-4952 and K.S.A. 2004 Supp. 74-4902 and 74-4927 and
12 repealing the existing sections.
13

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

15 Section 1. K.S.A. 2004 Supp. 74-4902 is hereby amended to read as
16 follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amend-
17 ments thereto, unless otherwise provided or the context otherwise
18 requires:

19 (1) “Accumulated contributions” means the sum of all contributions
20 by a member to the system which are credited to the member’s account,
21 with interest allowed thereon;

22 (2) “acts” means the provisions of articles 49 and 49a of the Kansas
23 Statutes Annotated and amendments thereto;

24 (3) “actuarial equivalent” means an annuity or benefit of equal value
25 to the accumulated contributions, annuity or benefit, when computed
26 upon the basis of the actuarial tables in use by the system. Whenever the
27 amount of any benefit is to be determined on the basis of actuarial as-
28 sumptions, the assumptions shall be specified in a way that precludes
29 employer discretion;

30 (4) “actuarial tables” means the actuarial tables approved and in use
31 by the board at any given time;

32 (5) “actuary” means the actuary or firm of actuaries employed or
33 retained by the board at any given time;

34 (6) “agent” means the individual designated by each participating em-
35 ployer through whom system transactions and communication are
36 directed;

37 (7) “beneficiary” means, subject to the provisions of K.S.A. 74-4927,
38 and amendments thereto, any natural person or persons or estate named
39 by a member to receive any benefits as provided for by this act. Desig-
40 nations of beneficiaries by a member who is a member of more than one
41 retirement system made on or after July 1, 1987, shall be the basis of any
42 benefits payable under all systems unless otherwise provided by law. Ex-
43 cept as otherwise provided by subsection (33) of this section, if there is

1 no named beneficiary living at time of member's death, any benefits pro-
2 vided for by this act shall be paid to: (A) The member's surviving spouse;
3 (B) the member's dependent child or children; (C) the member's de-
4 pendent parent or parents; (D) the member's nondependent child or
5 children; (E) the member's nondependent parent or parents; (F) the es-
6 tate of the deceased member; in the order of preference as specified in
7 this subsection.

8 (8) "board of trustees," "board" or "trustees" means the managing
9 body of the system which is known as the Kansas public employees re-
10 tirement system board of trustees;

11 (9) "compensation" means, except as otherwise provided, all salary,
12 wages and other remuneration payable to a member for personal services
13 performed for a participating employer, including maintenance or any
14 allowance in lieu thereof provided a member as part of compensation,
15 but not including reimbursement for travel or moving expenses or on and
16 after July 1, 1994, payment pursuant to an early retirement incentive
17 program made prior to the retirement of the member. Beginning with
18 the employer's fiscal year which begins in calendar year 1991 or for em-
19 ployers other than the state of Kansas, beginning with the fiscal year
20 which begins in calendar year 1992, when the compensation of a member
21 who remains in substantially the same position during any two consecutive
22 years of participating service used in calculating final average salary is
23 increased by an amount which exceeds 15%, then the amount of such
24 increase which exceeds 15% shall not be included in compensation, ex-
25 cept that (A) any amount of compensation for accumulated sick leave or
26 vacation or annual leave paid to the member, (B) any increase in com-
27 pensation for any member due to a reclassification or reallocation of such
28 member's position or a reassignment of such member's job classification
29 to a higher range or level and (C) any increase in compensation as pro-
30 vided in any contract entered into prior to January 1, 1991, and still in
31 force on the effective date of this act, pursuant to an early retirement
32 incentive program as provided in K.S.A. 72-5395 *et seq.* and amendments
33 thereto, shall be included in the amount of compensation of such member
34 used in determining such member's final average salary and shall not be
35 subject to the 15% limitation provided in this subsection. Any contribu-
36 tions by such member on the amount of such increase which exceeds
37 15% which is not included in compensation shall be returned to the mem-
38 ber. Unless otherwise provided by law, beginning with the employer's
39 fiscal year coinciding with or following July 1, 1985, compensation shall
40 include any amounts for tax sheltered annuities or deferred compensation
41 plans. Beginning with the employer's fiscal year which begins in calendar
42 year 1991, compensation shall include amounts under sections 403b, 457
43 and 125 of the federal internal revenue code of 1986 and, as the board

1 deems appropriate, any other section of the federal internal revenue code
2 of 1986 which defers or excludes amounts from inclusion in income. For
3 purposes of applying limits under the federal internal revenue code “com-
4 pensation” shall have the meaning as provided in K.S.A. 74-49,123 and
5 amendments thereto;

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

10 (11) “dependent” means a parent or child of a member who is de-
11 pendent upon the member for at least ½ of such parent or child’s support;

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

14 (13) “eligible employer” means the state of Kansas, and any county,
15 city, township, special district or any instrumentality of any one or several
16 of the aforementioned or any noncommercial public television or radio
17 station located in this state which receives state funds allocated by the
18 Kansas public broadcasting commission whose employees are covered by
19 social security. If a class or several classes of employees of any above
20 defined employer are not covered by social security, such employer shall
21 be deemed an eligible employer only with respect to such class or those
22 classes of employees who are covered by social security;

23 (14) “employee” means any appointed or elective officer or employee
24 of a participating employer whose employment is not seasonal or tem-
25 porary and whose employment requires at least 1,000 hours of work per
26 year, and any such officer or employee who is concurrently employed
27 performing similar or related tasks by two or more participating employ-
28 ers, who each remit employer and employee contributions on behalf of
29 such officer or employee to the system, and whose combined employment
30 is not seasonal or temporary, and whose combined employment requires
31 at least 1,000 hours of work per year, but not including: (A) Any employee
32 who is a contributing member of the United States civil service retirement
33 system; (B) any employee who is a contributing member of the federal
34 employees retirement system; (C) any employee who is a leased employee
35 as provided in section 414 of the federal internal revenue code of a par-
36 ticipating employer; and (D) any employee or class of employees specif-
37 ically exempted by law. After June 30, 1975, no person who is otherwise
38 eligible for membership in the Kansas public employees retirement sys-
39 tem shall be barred from such membership by reason of coverage by,
40 eligibility for or future eligibility for a retirement annuity under the pro-
41 visions of K.S.A. 74-4925 and amendments thereto, except that no person
42 shall receive service credit under the Kansas public employees retirement
43 system for any period of service for which benefits accrue or are granted

1 under a retirement annuity plan under the provisions of K.S.A. 74-4925
2 and amendments thereto. After June 30, 1982, no person who is otherwise
3 eligible for membership in the Kansas public employees retirement sys-
4 tem shall be barred from such membership by reason of coverage by,
5 eligibility for or future eligibility for any benefit under another retirement
6 plan authorized under any law of this state, except that no such person
7 shall receive service credit under the Kansas public employees retirement
8 system for any period of service for which any benefit accrues or is
9 granted under any such retirement plan. Employee shall include persons
10 who are in training at or employed by, or both, a sheltered workshop for
11 the blind operated by the secretary of social and rehabilitation services.
12 The entry date for such persons shall be the beginning of the first pay
13 period of the fiscal year commencing in calendar year 1986. Such persons
14 shall be granted prior service credit in accordance with K.S.A. 74-4913
15 and amendments thereto. However, such persons classified as home in-
16 dustry employees shall not be covered by the retirement system. Em-
17 ployees shall include any member of a board of county commissioners of
18 any county and any council member or commissioner of a city whose
19 compensation is equal to or exceeds \$5,000 per year;

20 (15) "entry date" means the date as of which an eligible employer
21 joins the system. The first entry date pursuant to this act is January 1,
22 1962;

23 (16) "executive director" means the managing officer of the system
24 employed by the board under this act;

25 (17) "final average salary" means in the case of a member who retires
26 prior to January 1, 1977, and in the case of a member who retires after
27 January 1, 1977, and who has less than five years of participating service
28 after January 1, 1967, the average highest annual compensation paid to
29 such member for any five years of the last 10 years of participating service
30 immediately preceding retirement or termination of employment, or in
31 the case of a member who retires on or after January 1, 1977, and who
32 has five or more years of participating service after January 1, 1967, the
33 average highest annual compensation paid to such member on or after
34 January 1, 1967, for any five years of participating service preceding re-
35 tirement or termination of employment, or, in any case, if participating
36 service is less than five years, then the average annual compensation paid
37 to the member during the full period of participating service, or, in any
38 case, if the member has less than one calendar year of participating service
39 such member's final average salary shall be computed by multiplying such
40 member's highest monthly salary received in that year by 12; in the case
41 of a member who became a member under subsection (3) of K.S.A. 74-
42 4925 and amendments thereto, or who became a member with a partic-
43 ipating employer as defined in subsection (3) of K.S.A. 74-4931 and

1 amendments thereto and who elects to have compensation paid in other
2 than 12 equal installments, such compensation shall be annualized as if
3 the member had elected to receive 12 equal installments for any such
4 periods preceding retirement; in the case of a member who retires after
5 July 1, 1987, the average highest annual compensation paid to such mem-
6 ber for any four years of participating service preceding retirement or
7 termination of employment; in the case of a member who retires on or
8 after July 1, 1993, whose date of membership in the system is prior to
9 July 1, 1993, and any member who is in such member's membership
10 waiting period on July 1, 1993, and whose date of membership in the
11 system is on or after July 1, 1993, the average highest annual compen-
12 sation, as defined in subsection (9), paid to such member for any four
13 years of participating service preceding retirement or termination of em-
14 ployment or the average highest annual salary, as defined in subsection
15 (34), paid to such member for any three years of participating service
16 preceding retirement or termination of employment, whichever is
17 greater; and in the case of a member who retires on or after July 1, 1993,
18 and whose date of membership in the system is on or after July 1, 1993,
19 the average highest annual salary, as defined in subsection (34), paid to
20 such member for any three years of participating service preceding re-
21 tirement or termination of employment. Final average salary shall not
22 include any purchase of participating service credit by a member as pro-
23 vided in subsection (2) of K.S.A. 74-4919h and amendments thereto
24 which is completed within five years of retirement. For any application
25 to purchase or repurchase service credit for a certain period of service as
26 provided by law received by the system after May 17, 1994, for any mem-
27 ber who will have contributions deducted from such member's compen-
28 sation at a percentage rate equal to two or three times the employee's
29 rate of contribution or will begin paying to the system a lump-sum amount
30 for such member's purchase or repurchase and such deductions or lump-
31 sum payment commences after the commencement of the first payroll
32 period in the third quarter, "final average salary" shall not include any
33 amount of compensation or salary which is based on such member's pur-
34 chase or repurchase. Any application to purchase or repurchase multiple
35 periods of service shall be treated as multiple applications. For purposes
36 of this subsection, the date that such member is first hired as an employee
37 for members who are employees of employers that elected to participate
38 in the system on or after January 1, 1994, shall be the date that such
39 employee's employer elected to participate in the system. In the case of
40 any former member who was eligible for assistance pursuant to K.S.A.
41 74-4925 and amendments thereto prior to July 1, 1998, for the purpose
42 of calculating final average salary of such member, such member's final
43 average salary shall be based on such member's salary while a member

1 of the system or while eligible for assistance pursuant to K.S.A. 74-4925
2 and amendments thereto, whichever is greater;

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

6 (19) “Kansas public employees retirement fund” means the fund cre-
7 ated by this act for payment of expenses and benefits under the system
8 and referred to as the fund;

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

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

19 (22) “military service” means service in the uniformed forces of the
20 United States, for which retirement benefit credit must be given under
21 the provisions of USERRA or service in the armed forces of the United
22 States or in the commissioned corps of the United States public health
23 service, which service is immediately preceded by a period of employ-
24 ment as an employee or by the entering into of an employment contract
25 with a participating employer and is followed by return to employment
26 as an employee with the same or another participating employer within
27 12 months immediately following discharge from such military service,
28 except that if the board determines that such return within 12 months
29 was made impossible by reason of a service-connected disability, the pe-
30 riod within which the employee must return to employment with a par-
31 ticipating employer shall be extended not more than two years from the
32 date of discharge or separation from military service;

33 (23) “normal retirement date” means the date on or after which a
34 member may retire with full retirement benefits pursuant to K.S.A. 74-
35 4914 and amendments thereto;

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

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

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

43 (27) “prior service annual salary” means the highest annual salary,

1 not including any amounts received as payment for overtime or as re-
2 imbursement for travel or moving expense, received for personal services
3 by the member from the current employer in any one of the three cal-
4 endar years immediately preceding January 1, 1962, or the entry date of
5 the employer, whichever is later, except that if a member entered the
6 employment of the state during the calendar year 1961, the prior service
7 annual salary shall be computed by multiplying such member's highest
8 monthly salary received in that year by 12;

9 (28) "retirant" means a member who has retired under this system;

10 (29) "retirement benefit" means a monthly income or the actuarial
11 equivalent thereof paid in such manner as specified by the member pur-
12 suant to this act or as otherwise allowed to be paid at the discretion of
13 the board, with benefits accruing from the first day of the month coin-
14 ciding with or following retirement and ending on the last day of the
15 month in which death occurs. Upon proper identification a surviving
16 spouse may negotiate the warrant issued in the name of the retirant. If
17 there is no surviving spouse, the last warrant shall be payable to the des-
18 ignated beneficiary;

19 (30) "retirement system" or "system" means the Kansas public em-
20 ployees retirement system as established by this act and as it may be
21 amended;

22 (31) "social security" means the old age, survivors and disability in-
23 surance section of the federal social security act;

24 (32) ~~"total disability" means a physical or mental disability which pre-~~
25 ~~vents the member from engaging, for remuneration or profit, in any oc-~~
26 ~~cupation for which the member is reasonably suited by education, training~~
27 ~~or experience;~~

28 ~~(33)~~ "trust" means an express trust, created by a trust instrument,
29 including a will, designated by a member to receive payment of the in-
30 sured death benefit under K.S.A. 74-4927 and amendments thereto and
31 payment of the member's accumulated contributions under subsection
32 (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust
33 shall be filed with the board. If there is a designated trust at the time of
34 the member's death, the insured death benefit for the member under
35 K.S.A. 74-4927 and amendments thereto and the member's accumulated
36 contributions under subsection (1) of K.S.A. 74-4916 and amendments
37 thereto shall be paid to the trust in lieu of the member's beneficiary. If
38 no will is admitted to probate within six months after the death of the
39 member or no trustee qualifies within such six months or if the designated
40 trust fails, for any reason whatsoever, the insured death benefit under
41 K.S.A. 74-4927 and amendments thereto and the member's accumulated
42 contributions under subsection (1) of K.S.A. 74-4916 and amendments
43 thereto shall be paid in accordance with the provisions of subsection (7)

1 of this section as in other cases where there is no named beneficiary living
2 at the time of the member's death and any payments so made shall be a
3 full discharge and release to the system from any further claims;
4 ~~(34)~~ (33) "salary" means all salary and wages payable to a member
5 for personal services performed for a participating employer, including
6 maintenance or any allowance in lieu thereof provided a member as part
7 of salary. Salary shall not include reimbursement for travel or moving
8 expenses, payment for accumulated sick leave or vacation or annual leave,
9 severance pay or any other payments to the member determined by the
10 board to not be payments for personal services performed for a partici-
11 pating employer constituting salary or on and after July 1, 1994, payment
12 pursuant to an early retirement incentive program made prior to the
13 retirement of the member. When the salary of a member who remains
14 in substantially the same position during any two consecutive years of
15 participating service used in calculating final average salary is increased
16 by an amount which exceeds 15%, then the amount of such increase
17 which exceeds 15% shall not be included in salary. Any contributions by
18 such member on the amount of such increase which exceeds 15% which
19 is not included in compensation shall be returned to the member. Unless
20 otherwise provided by law, salary shall include any amounts for tax shel-
21 tered annuities or deferred compensation plans. Salary shall include
22 amounts under sections 403b, 457 and 125 of the federal internal revenue
23 code of 1986 and, as the board deems appropriate, any other section of
24 the federal internal revenue code of 1986 which defers or excludes
25 amounts from inclusion in income. For purposes of applying limits under
26 the federal internal revenue code "salary" shall have the meaning as pro-
27 vided in K.S.A. 74-49,123 and amendments thereto. In any case, if par-
28 ticipating service is less than three years, then the average annual salary
29 paid to the member during the full period of participating service, or, in
30 any case, if the member has less than one calendar year of participating
31 service such member's final average salary shall be computed by multi-
32 plying such member's highest monthly salary received in that year by 12;
33 ~~(35)~~ (34) "federal internal revenue code" means the federal internal
34 revenue code of 1954 or 1986, as in effect on July 1, 2002, and as appli-
35 cable to a governmental plan; and
36 ~~(36)~~ (35) "USERRA" means the federal uniformed services employ-
37 ment and reemployment rights act of 1994 as in effect on July 1, 1998.
38 Sec. 2. K.S.A. 2004 Supp. 74-4927 is hereby amended to read as
39 follows: 74-4927. (1) The board may establish a plan of death and long-
40 term disability benefits to be paid to the members of the retirement
41 system as provided by this section. The long-term disability benefit shall
42 not be payable until the member has been prevented from carrying out
43 each and every duty pertaining to the member's employment as a result

1 of sickness or injury for a period of 180 days and the annual benefit shall
2 not exceed an amount equal to 66²/₃% of the member's annual rate of
3 compensation on the date such disability commenced and shall be payable
4 in equal monthly installments. In the event that a member's compensation
5 is not fixed at an annual rate but on an hourly, weekly, biweekly, monthly
6 or any other basis than annual, the board shall prescribe by rule and
7 regulation a formula for establishing a reasonable rate of annual compen-
8 sation to be used in determining the amount of the death or long-term
9 disability benefit for such member *in accordance with the terms of such*
10 *plan as established by the board, except that for any member who is*
11 *disabled prior to the effective date of this act, the annual disability benefit*
12 *amount shall be an amount equal to 66²/₃% of the member's annual rate*
13 *of compensation on the date such disability commenced.* Such plan shall
14 provide that:

15 (A) For deaths occurring prior to January 1, 1987, the right to receive
16 such death benefit shall cease upon the member's attainment of age 70
17 or date of retirement whichever first occurs. The right to receive such
18 long-term disability benefit shall cease (i) for a member who becomes
19 eligible for such benefit before attaining age 60, upon the date that such
20 member attains age 65 or the date of such member's retirement, which-
21 ever first occurs, (ii) for a member who becomes eligible for such benefit
22 at or after attaining age 60, the date that such member has received such
23 benefit for a period of five years, upon the date that such member attains
24 age 70, or upon the date of such member's retirement, whichever first
25 occurs, (iii) for all disabilities incurred on or after January 1, 1987, for a
26 member who becomes eligible for such benefit at or after attaining age
27 70, the date that such member has received such benefit for a period of
28 12 months or upon the date of such member's retirement, whichever first
29 occurs, and (iv) for all disabilities incurred on or after January 1, 1987,
30 for a member who becomes eligible for such benefit at or after attaining
31 age 75, the date that such member has received such benefit for a period
32 of six months or upon the date of such member's retirement, whichever
33 first occurs.

34 (B) Long-term disability benefit payments shall be in lieu of any ac-
35 cidental total disability benefit that a member may be eligible to receive
36 under subsection (3) of K.S.A. 74-4916 and amendments thereto. The
37 member must make an initial application for social security disability ben-
38 efits and, if denied such benefits, the member must pursue and exhaust
39 all administrative remedies of the social security administration which
40 include, but are not limited to, reconsideration and hearings. Such plan
41 may provide that any amount which a member receives as a social security
42 benefit or a disability benefit or compensation from any source by reason
43 of any employment including, but not limited to, workers compensation

1 benefits may be deducted from the amount of long-term disability benefit
2 payments under such plan. During the period in which such member is
3 pursuing such administrative remedies prior to a final decision of the
4 social security administration, social security disability benefits may be
5 estimated and may be deducted from the amount of long-term disability
6 benefit payments under such plan. ~~Such long-term disability payments~~
7 ~~shall accrue from the later of the 181st day of total disability or the first~~
8 ~~day upon which the member ceases to draw compensation from the em-~~
9 ~~ployer.~~ If the social security benefit, workers compensation benefit, other
10 income or wages or other disability benefit by reason of employment, or
11 any part thereof, is paid in a lump-sum, the amount of the reduction shall
12 be calculated on a monthly basis over the period of time for which the
13 lump-sum is given. ~~In no case shall a member who is entitled to receive~~
14 ~~long-term disability benefits receive less than \$50 per month.~~ As used in
15 this section, “workers compensation benefits” means the total award of
16 disability benefit payments under the workers compensation act notwith-
17 standing any payment of attorney fees from such benefits as provided in
18 the workers compensation act.

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

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

40 ~~—(E)~~ Any visually impaired person who is in training at and employed
41 by a sheltered workshop for the blind operated by the secretary of social
42 and rehabilitation services and who would otherwise be eligible for the
43 long-term disability benefit as described in this section shall not be eli-

1 gible to receive such benefit due to visual impairment as such impairment
2 shall be determined to be a preexisting condition.

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

10 (B) In the event that a member eligible for a long-term disability
11 benefit under the plan authorized by this section shall be disabled for a
12 period of five years or more immediately preceding retirement, such
13 member's final average salary shall be adjusted upon retirement by the
14 actuarial salary assumption rates in existence during such period of dis-
15 ability. Effective July 1, 1993, such member's final average salary shall be
16 adjusted upon retirement by 5% for each year of disability after July 1,
17 1993, but before July 1, 1998. Effective July 1, 1998, such member's final
18 average salary shall be adjusted upon retirement by an amount equal to
19 the lesser of: (i) The percentage increase in the consumer price index for
20 all urban consumers as published by the bureau of labor statistics of the
21 United States department of labor minus 1%; or (ii) four percent per
22 annum, measured from the member's last day on the payroll to the month
23 that is two months prior to the month of retirement, for each year of
24 disability after July 1, 1998.

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

39 (3) (A) To carry out the legislative intent to provide, within the funds
40 made available therefor, the broadest possible coverage for members who
41 are in active employment or involuntarily absent from such active em-
42 ployment, the plan of death and long-term disability benefits shall be
43 subject to adjustment from time to time by the board within the limita-

1 tions of this section. The plan may include terms and provisions which
2 are consistent with the terms and provisions of group life and long-term
3 disability policies usually issued to those employers who employ a large
4 number of employees. The board shall have the authority to establish and
5 adjust from time to time the procedures for financing and administering
6 the plan of death and long-term disability benefits authorized by this
7 section. Either the insured death benefit or the insured disability benefit
8 or both such benefits may be financed directly by the system or by one
9 or more insurance companies authorized and licensed to transact group
10 life and group accident and health insurance in this state.

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

19 (i) In the event the board purchases one or more policies of group
20 insurance from such company or companies to provide either the insured
21 death benefit or the long-term disability benefit or both such benefits,
22 the board shall have the authority to subsequently cancel one or more of
23 such policies and, notwithstanding any other provision of law, to release
24 each company which issued any such canceled policy from any liability
25 for future benefits under any such policy and to have the reserves estab-
26 lished by such company under any such canceled policy returned to the
27 system for deposit in the group insurance reserve of the fund.

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

39 (4) (A) There is hereby created in the state treasury the group in-
40 surance reserve fund. Investment income of the fund shall be added or
41 credited to the fund as provided by law. The cost of the plan of death
42 and long-term disability benefits shall be paid from the group insurance
43 reserve fund, which shall be administered by the board. Except as oth-

1 erwise provided by this subsection, *for the period commencing July 1,*
2 *2005, and all periods thereafter,* each participating employer shall appro-
3 priate and pay to the system in such manner as the board shall prescribe
4 in addition to the employee and employer retirement contributions an
5 amount equal to ~~6%~~ .8% of the amount of compensation on which the
6 members' contributions to the Kansas public employees retirement sys-
7 tem are based for deposit in the group insurance reserve fund. ~~Notwith-~~
8 ~~standing the provisions of this subsection, no participating employer shall~~
9 ~~appropriate and pay to the system any amount provided for by this sub-~~
10 ~~section for deposit in the group insurance reserve fund for the period~~
11 ~~commencing on April 1, 2000, and ending on December 31, 2001, for~~
12 ~~the period commencing July 1, 2002, and ending December 31, 2002, or~~
13 ~~for the period commencing April 1, 2003, and ending on June 30, 2004.~~

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

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

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

27 (5) The death benefit provided under the plan of death and long-
28 term disability benefits authorized by this section shall be known and
29 referred to as insured death benefit. The long-term disability benefit pro-
30 vided under the plan of death and long-term disability benefits authorized
31 by this section shall be known and referred to as long-term disability
32 benefit.

33 (6) *Commencing on January 1, 2006, the insured death benefit pro-*
34 *vided pursuant to this section shall not exceed 100% of the member's*
35 *annual rate of compensation on the date of the member's death, except*
36 *that for any member, who becomes disabled prior to January 1, 2006,*
37 *who dies, such member shall receive an insured death benefit in an*
38 *amount equal to 150% of such member's annual rate of compensation on*
39 *the date such member's disability commenced. A member whose insured*
40 *death benefit does not exceed 100% of such member's annual rate of com-*
41 *penetration may purchase additional death benefit in an amount not to*
42 *exceed 50% of the member's annual rate of compensation. The cost of such*
43 *additional death benefit shall be paid by the member either by means of*

1 *a system of payroll deductions or direct payment to the board.*
2 (7) The board is hereby authorized to establish an optional death
3 benefit plan. Except as provided in subsection ~~(7)~~ (8), such optional death
4 benefit plan shall be made available to all employees who are covered or
5 may hereafter become covered by the plan of death and long-term disa-
6 bility benefits authorized by this section. The cost of the optional death
7 benefit plan shall be paid by the applicant either by means of a system
8 of payroll deductions or direct payment to the board. The board shall
9 have the authority and discretion to establish such terms, conditions, spec-
10 ifications and coverages as it may deem to be in the best interest of the
11 state of Kansas and its employees which should include term death ben-
12 efits for the person's period of active state employment regardless of age,
13 but in no case, shall the maximum allowable coverage be less than
14 \$200,000. The cost of the optional death benefit plan shall not be estab-
15 lished on such a basis as to unreasonably discriminate against any partic-
16 ular age group. The board shall have full administrative responsibility,
17 discretion and authority to establish and continue such optional death
18 benefit plan and the director of accounts and reports of the department
19 of administration shall when requested by the board and from funds ap-
20 propriated or available for such purpose establish a system to make pe-
21 riodic deductions from state payrolls to cover the cost of the optional
22 death benefit plan coverage under the provisions of this subsection ~~(6)~~
23 (7) and shall remit all deductions together with appropriate accounting
24 reports to the system. There is hereby created in the state treasury the
25 optional death benefit plan reserve fund. Investment income of the fund
26 shall be added or credited to the fund as provided by law. All funds
27 received by the board, whether in the form of direct payments, payroll
28 deductions or otherwise, shall be accounted for separately from all other
29 funds of the retirement system and shall be paid into the optional death
30 benefit plan reserve fund, from which the board is authorized to make
31 the appropriate payments and to pay the ongoing costs of administration
32 of such optional death benefit plan as may be incurred in carrying out
33 the provisions of this subsection ~~(6)~~ (7).
34 ~~(7)~~ (8) Any employer other than the state of Kansas which is currently
35 a participating employer of the Kansas public employees retirement sys-
36 tem or is in the process of affiliating with the Kansas public employees
37 retirement system may also elect to affiliate for the purposes of subsection
38 ~~(6)~~ (7). All such employers shall make application for affiliation with such
39 system, to be effective on January 1 next following application.
40 ~~(8)~~ (9) For purposes of the death benefit provided under the plan of
41 death and long-term disability benefits authorized by this section and the
42 optional death benefit plan authorized by subsection ~~(6)~~ (7), commencing
43 on the effective date of this act, in the case of medical or financial hardship

1 of the member as determined by the executive director, or otherwise
2 commencing January 1, 2005, the member may name a beneficiary or
3 beneficiaries other than the beneficiary or beneficiaries named by the
4 member to receive other benefits as provided by the provisions of K.S.A.
5 74-4901 *et seq.*, and amendments thereto.

6 Sec. 3. K.S.A. 74-4932 is hereby amended to read as follows: 74-
7 4932. As used in this act, unless the context otherwise requires:

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

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

15 (3) "school year" means the twelve-month period beginning Septem-
16 ber 1 and ending August 31;

17 (4) "employee" means any employee of a participating employer
18 which is an eligible employer, as specified in K.S.A. 74-4931 and amend-
19 ments thereto, whose employment is not seasonal or temporary and
20 whose employment requires at least 630 hours of work per year or 3.5
21 hours of work per day for at least 180 days or any employee who is con-
22 currently employed by two or more eligible employers, as specified in
23 K.S.A. 74-4931 and amendments thereto, whose combined employment
24 is not seasonal or temporary and whose combined employment requires
25 at least 630 hours of work per year or 3.5 hours of work per day for at
26 least 180 days. Employee shall not include:

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

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

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

38 (d) any employee who on entry date is covered by or eligible for or
39 will become eligible for retirement benefits under a separate retirement
40 system authorized or established under K.S.A. 72-1758 to 72-1769, inclu-
41 sive, and amendments thereto, or K.S.A. 72-6780 and amendments
42 thereto, except that this paragraph (d) shall not include any employee,
43 who before September 1, 1974, elects to become a member of the Kansas

1 public employees retirement system as provided in K.S.A. 74-4935a and
2 amendments thereto; or

3 (e) on and after July 1, 1975, no person who is otherwise eligible for
4 membership in the Kansas public employees retirement system shall be
5 barred from such membership by reason of coverage by, eligibility for or
6 future eligibility for a retirement annuity under the provisions of K.S.A.
7 74-4925 and amendments thereto. However, no person shall receive serv-
8 ice credit under the Kansas public employees retirement system for any
9 period of service for which benefits accrue or are granted under a retire-
10 ment annuity plan under the provisions of K.S.A. 74-4925 and amend-
11 ments thereto;

12 (5) “executive director” means the managing officer of the system as
13 defined in subsection (16) of K.S.A. 74-4902 and amendments thereto;

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

19 (7) “normal retirement date” means the same as defined in subsec-
20 tion (23) of K.S.A. 74-4902 and amendments thereto, as modified by
21 subsection (1) of K.S.A. 74-4937 and amendments thereto;

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

25 (9) “USERRA” means the same as defined in subsection ~~(35)~~ (34) of
26 K.S.A. 74-4902 and amendments thereto.

27 Sec. 4. K.S.A. 74-4952 is hereby amended to read as follows: 74-
28 4952. As used in K.S.A. 74-4951 et seq. and amendments thereto:

29 (1) “Accumulated contributions” means the sum of all contributions
30 by a member to the system which shall be credited to the member’s
31 account with interest allowed thereon after June 30, 1982.

32 (2) “Disability” means the total inability to perform permanently the
33 duties of the position of a policeman or fireman.

34 (3) “Eligible employer” means any city, county, township or other
35 political subdivision of the state employing one or more employees as
36 firemen or policemen.

37 (4) “Employee” means any policeman or fireman employed by a par-
38 ticipating employer whose employment for police or fireman purposes is
39 not seasonal or temporary and requires at least 1,000 hours of work per
40 year.

41 (5) “Entry date” means the date as of which an eligible employer
42 joins the system; the first entry date pursuant to this act is January 1,
43 1967.

1 (6) “Final average salary” means:

2 (a) For members who are first hired as an employee, as defined in
3 subsection (4), before July 1, 1993, the average highest annual compen-
4 sation paid to a member for any three of the last five years of participating
5 service immediately preceding retirement or termination of employment,
6 or if participating service is less than three years, then the average annual
7 compensation paid to the member during the full period of participating
8 service, or if a member has less than one calendar year of participating
9 service, then the member’s final average salary shall be computed by
10 multiplying the member’s highest monthly salary received in that year by
11 12;

12 (b) for members who are first hired as an employee, as defined in
13 subsection (4), on and after July 1, 1993, the average highest annual salary,
14 as defined in subsection ~~(34)~~ (33) of K.S.A. 74-4902 and amendments
15 thereto, paid to a member for any three of the last five years of partici-
16 pating service immediately preceding retirement or termination of em-
17 ployment, or if participating service is less than three years, then the
18 average annual salary, as defined in subsection (34) of K.S.A. 74-4902 and
19 amendments thereto, paid to the member during the full period of par-
20 ticipating service, or if a member has less than one calendar year of par-
21 ticipating service, then the member’s final average salary shall be com-
22 puted by multiplying the member’s highest monthly salary received in
23 that year by 12;

24 (c) for purposes of subparagraphs (a) and (b) of this subsection, the
25 date that such member is first hired as an employee for members who
26 are employees of employers that elected to participate in the system on
27 or after January 1, 1994, shall be the date that such employee’s employer
28 elected to participate in the system; and

29 (d) for any application to purchase or repurchase service credit for a
30 certain period of service as provided by law received by the system after
31 May 17, 1994, for any member who will have contributions deducted from
32 such member’s compensation at a percentage rate equal to two or three
33 times the employee’s rate of contribution or who will have contributions
34 deducted from such member’s compensation at an additional rate of con-
35 tribution, in addition to the employee’s rate of contribution as provided
36 in K.S.A. 74-4919 and amendments thereto or will begin paying to the
37 system a lump-sum amount for such member’s purchase or repurchase,
38 and such deductions or lump-sum payment commences after the com-
39 mencement of the first payroll period in the third quarter, “final average
40 salary” shall not include any amount of compensation or salary which is
41 based on such member’s purchase or repurchase. Any application to pur-
42 chase or repurchase multiple periods of service shall be treated as mul-
43 tiple applications.

- 1 (e) Notwithstanding any other provision of this section, for purposes
2 of applying limits as provided by the federal internal revenue code, salary
3 shall have the meaning as determined pursuant to K.S.A. 74-49,123 and
4 amendments thereto.
- 5 (7) "Retirement benefit" means a monthly income or the actuarial
6 equivalent thereof paid in such manner as specified by the member as
7 provided under the system or as otherwise allowed to be paid at the
8 discretion of the board, with benefits accruing from the first day of the
9 month coinciding with or following retirement and ending on the last day
10 of the month in which death occurs. Upon proper identification such
11 surviving spouse may negotiate the warrant issued in the name of the
12 retiree.
- 13 (8) "Normal retirement date" means the date on or after which a
14 member may retire with eligibility for retirement benefits for age and
15 service as provided in subsections (1) and (3) of K.S.A. 74-4957 and
16 amendments thereto;
- 17 (9) "Retirement system" or "system" means the Kansas police and
18 firemen's retirement system as established by this act and as it may be
19 hereafter amended.
- 20 (10) "Service-connected" means with regard to a death or any phys-
21 ical or mental disability, any such death or disability resulting from ex-
22 ternal force, violence or disease occasioned by an act of duty as a police-
23 man or fireman and, for any member after five years of credited service,
24 there shall be a rebuttable presumption, that any death or disability re-
25 sulting from a heart disease or disease of the lung or respiratory tract or
26 cancer as provided in this subsection, except that in the event that the
27 member ceases to be a contributing member by reason of a service-con-
28 nected disability for a period of six months or more and then again be-
29 comes a contributing member, the provision relating to death or disability
30 resulting from a heart disease, disease of the lung or respiratory tract or
31 cancer as provided in this subsection shall not apply until such member
32 has again become a contributing member for a period of not less than
33 two years or unless clear and precise evidence is presented that the heart
34 disease, disease of the lung or respiratory tract or cancer as provided in
35 this subsection was in fact occasioned by an act of duty as a policeman or
36 fireman. If the retirement system receives evidence to the contrary of
37 such presumption, the burden of proof shall be on the member or other
38 party to present evidence that such death or disability was service-con-
39 nected. The provisions of this section relating to the presumption that
40 the death or disability resulting from cancer is service-connected shall
41 only apply if the condition that caused the death or disability is a type of
42 cancer which may, in general, result from exposure to heat, radiation or
43 a known carcinogen.

1 (11) Prior to July 1, 1998, “fireman” or “firemen” means an employee
2 assigned to the fire department and engaged in the fighting and extin-
3 guishment of fires and the protection of life and property therefrom or
4 in support thereof and who is specifically designated, appointed, com-
5 missioned or styled as such by the governing body or city manager of the
6 participating employer and certified to the retirement system as such. On
7 and after July 1, 1998, “fireman” or “firemen” means an employee as-
8 signed to the fire department whose principal duties are engagement in
9 the fighting and extinguishment of fires and the protection of life and
10 property therefrom and who is specifically designated, appointed, com-
11 missioned or styled as such by the governing body or city manager of the
12 participating employer and certified to the retirement system as such.

13 (12) Prior to July 1, 1998, “police,” “policeman” or “policemen”
14 means an employee assigned to the police department and engaged in
15 the enforcement of law and maintenance of order within the state and its
16 political subdivisions, including sheriffs and sheriffs’ deputies, or in sup-
17 port thereof and who is specifically designated, appointed, commissioned
18 or styled as such by the governing body or city manager of the partici-
19 pating employer and certified to the retirement system as such. On and
20 after July 1, 1998, “police,” “policeman” or “policemen” means an em-
21 ployee assigned to the police department whose principal duties are en-
22 gagement in the enforcement of law and maintenance of order within the
23 state and its political subdivisions, including sheriffs and sheriffs’ deputies;
24 who has successfully completed the required course of instruction for law
25 enforcement officers approved by the Kansas law enforcement training
26 center and is certified pursuant to the provisions of K.S.A. 74-5607a and
27 amendments thereto; and who is specifically designated, appointed, com-
28 missioned or styled as such by the governing body or city manager of the
29 participating employer and certified to the retirement system as such.
30 Notwithstanding any other provisions of this subsection, “police,” “po-
31 liceman” or “policemen” shall include a city or county correctional officer
32 who is specifically designated, appointed, commissioned or styled as such
33 by the governing body or city manager of the participating employer and
34 certified to the retirement system as such commencing on July 1, 1998,
35 and ending on June 30, 1999.

36 (13) Except as otherwise defined in this act, words and phrases used
37 in K.S.A. 74-4951 et seq. and amendments thereto, shall have the same
38 meanings ascribed to them as are defined in K.S.A. 74-4902 and amend-
39 ments thereto.

40 Sec. 5. K.S.A. 74-4932 and 74-4952 and K.S.A. 2004 Supp. 74-4902
41 and 74-4927 are hereby repealed.

42 Sec. 6. This act shall take effect and be in force from and after its
43 publication in the statute book.