

Substitute for SENATE BILL No. 662

By Committee on Ways and Means

3-24

10 AN ACT concerning retirement and pensions; relating to the Kansas
11 public employees retirement system and systems thereunder; the Kan-
12 sas public employees act of 2009; retirement plan compliance with
13 federal law; withdrawal of contributions; service credit between sys-
14 tems; state taxation of certain retirement benefits; amending K.S.A.
15 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02, 14-10a13, 20-2601,
16 20-2623, 72-5501, 74-4912, 74-4919b, 74-4924, 74-4988, 74-4998c, 74-
17 49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007 Supp.
18 74-4902, 74-49,202, 74-49,203, 74-49,207, 74-49,208 and 79-32,117
19 and repealing the existing sections; also repealing K.S.A. 74-4917a.
20

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

22 Section 1. K.S.A. 12-5005 is hereby amended to read as follows: 12-
23 5005. (a) Every retired member of a local police or fire pension plan and
24 every active member of the plan who is entitled to make an election to
25 become a member of the Kansas police and firemen's retirement system
26 pursuant to K.S.A. 12-5003 or 74-4955 and amendments thereto and who
27 does not so elect shall become a special member of the Kansas police and
28 firemen's retirement system on the entry date of the city which is affili-
29 ating with the Kansas police and firemen's retirement system with regard
30 to all active members and retired members of the local police or fire
31 pension plan under K.S.A. 74-4954 and amendments thereto.

32 (b) Beginning with the first payroll for services as a policeman or
33 fireman after an active member of a local police or fire pension plan
34 becomes a special member of the Kansas police and firemen's retirement
35 system under this section, the city shall deduct from the compensation
36 of each special member the greater of 7% or the percentage rate of con-
37 tribution which the active member was required to contribute to the local
38 police or fire pension plan preceding the entry date of the city, as em-
39 ployee contributions. The deductions shall be remitted quarterly, or as
40 the board of trustees otherwise provides, to the executive secretary of the
41 Kansas public employees retirement system for credit to the Kansas pub-
42 lic employees retirement fund. All deductions shall be credited to the
43 special members' individual accounts beginning on July 1 of the year

1 following the entry date of the city for purposes of all active and retired
2 members of the local police and fire pension plan.

3 (c) Except as otherwise provided in this act, each active member of
4 a local police or fire pension plan who becomes a special member of the
5 Kansas police and firemen's retirement system under this section shall be
6 subject to the provisions of and entitled to pensions and other benefits,
7 rights and privileges to the extent provided under the local police and fire
8 pension plan on the day immediately preceding the entry date of the city
9 which is affiliating with the Kansas police and firemen's retirement system
10 with regard to all active members and retired members of the plan.

11 (d) Each retired member of a local police or fire pension plan who
12 becomes a special member of the Kansas police and firemen's retirement
13 system under this section shall be entitled to receive from the Kansas
14 police and firemen's retirement system a pension or any other benefit to
15 the same extent and subject to the same conditions as existed under the
16 local police or fire pension plan on the day immediately preceding the
17 entry date of the city which is affiliating with the system with regard to
18 all active members and retired members of the plan under K.S.A. 74-
19 4954 and amendments thereto, except no retired special member shall
20 be appointed in or to a position or office for which compensation is paid
21 for service to the same state agency, or the same police or fire department
22 of a city, township, special district or county or the same sheriff's office
23 of a county. This subsection shall not apply to service rendered by a
24 retiree as a juror, as a witness in any legal proceeding or action, as an
25 election board judge or clerk or in any other office or position of a similar
26 nature. However, all such benefits paid shall be paid in accordance with
27 the applicable requirements under section 401 (a)(9) of the federal in-
28 ternal revenue code of 1986 as applicable to governmental plans, as in
29 effect on July 1, ~~1998~~ 2008, and the regulations thereto, as in effect on
30 July 1, ~~1998~~ 2008, *and in accordance with the provisions of K.S.A. 74-*
31 *49,123, and amendments thereto.* Any retiree employed by a participating
32 employer in the Kansas police and firemen's retirement system shall not
33 make contributions or receive additional credit under the system for that
34 service. This subsection, except as it relates to contributions and addi-
35 tional credit, shall not apply to the employment of any retiree by the state
36 of Kansas, or any county, city, township, special district, political subdivi-
37 sion or instrumentality of any one or several of the aforementioned for
38 a period of not exceeding 30 days in any one calendar year.

39 (e) (1) Every pension or other benefit received by any special mem-
40 ber pursuant to subsection (c) or (d) is hereby made and declared exempt
41 from any tax of the state of Kansas or any political subdivision or taxing
42 body of this state; shall not be subject to execution, garnishment, attach-
43 ment or any other process or claim whatsoever, except such pension or

1 benefit or any accumulated contributions due and owing from the system
2 to such special member are subject to decrees for child support or main-
3 tenance, or both, as provided in K.S.A. 60-1610 and amendments thereto;
4 and shall be unassignable, except that within 30 days after the death of a
5 retirant the lump-sum death benefit payable to a retirant pursuant to the
6 provisions of K.S.A. 74-4989 and amendments thereto may be assignable
7 to a funeral establishment providing funeral services to such retirant by
8 the beneficiary of such retirant. The Kansas public employees retirement
9 system shall not be a party to any action under article 16 of chapter 60
10 of the Kansas Statutes Annotated, and amendments thereto, and is subject
11 to orders from such actions issued by the district court of the county
12 where such action was filed. Such orders from such actions shall specify
13 either a specific amount or specific percentage of the amount of the pen-
14 sion or benefit or any accumulated contributions due and owing from the
15 system to be distributed by the system pursuant to this act.

16 (2) Every pension or other benefit received by any special member
17 pursuant to subsection (c) or (d) is hereby made and declared exempt
18 from any tax of the state of Kansas or any political subdivision or taxing
19 body of this state; shall not be subject to execution, garnishment, attach-
20 ment or any other process or claim whatsoever, except such pension or
21 benefit or any accumulated contributions due and owing from the system
22 to such special members are subject to claims of an alternate payee under
23 a qualified domestic relations order. As used in this subsection, the terms
24 “alternate payee” and “qualified domestic relations order” shall have the
25 meaning ascribed to them in section 414(p) of the federal internal reve-
26 nue code of 1986, as in effect on July 1, ~~1998~~ 2008. The provisions of this
27 subsection shall apply to any qualified domestic relations order which is
28 in effect on or after July 1, 1994.

29 (f) (1) Subject to the provisions of K.S.A. 2001 Supp. 74-49,123 and
30 amendments thereto, each participating employer, pursuant to the pro-
31 visions of section 414(h)(2) of the federal internal revenue code of 1986,
32 as in effect on July 1, ~~1998~~ 2008, shall pick up and pay the contributions
33 which would otherwise be payable by members as prescribed in subsec-
34 tion (b) commencing with the third quarter of 1984. The contributions
35 so picked up shall be treated as employer contributions for purposes of
36 determining the amounts of federal income taxes to withhold from the
37 member’s compensation.

38 (2) Member contributions picked up by the employer shall be paid
39 from the same source of funds used for the payment of compensation to
40 a member. A deduction shall be made from each member’s compensation
41 equal to the amount of the member’s contributions picked up by the
42 employer, provided that such deduction shall not reduce the member’s
43 compensation for purposes of computing benefits under K.S.A. 12-5001

1 to 12-5007, inclusive, and amendments thereto.

2 (3) Member contributions picked up by the employer shall be re-
3 mitted quarterly, or as the board may otherwise provide, to the executive
4 secretary for credit to the Kansas public employees retirement fund. Such
5 contributions shall be credited to a separate account within the member's
6 individual account so that amounts contributed by the member com-
7 mencing with the third quarter of 1984 may be distinguished from the
8 member contributions picked up by the employer. Interest shall be added
9 annually to members' individual accounts.

10 Sec. 2. K.S.A. 13-14a02 is hereby amended to read as follows: 13-
11 14a02. The governing body of all cities of the first class, maintaining an
12 organized police department and a fire department, shall establish, main-
13 tain and fund a separate pension fund for each department, which shall
14 be set aside and used exclusively for the payment of pensions and disa-
15 bility benefits as authorized in K.S.A. 13-14a01 et seq. and amendments
16 thereto. Whenever the amount of any benefit is to be determined on the
17 basis of actuarial assumptions, the assumptions shall be specified in a way
18 that precludes employer discretion. Each such pension fund shall be
19 maintained and funded in accordance with the minimum funding stan-
20 dards prescribed in K.S.A. 12-5002 and amendments thereto. For the
21 purpose of creating, maintaining and funding such pension funds, the
22 governing body of each city of first class is hereby authorized and shall:

23 (a) Accept gifts, grants, bequests, gratuities or any other money and
24 credit the same to the pension fund designated by the donor;

25 (b) levy an assessment against each officer and member of each de-
26 partment equal to 7% of such officer's or member's monthly salary or
27 compensation, such assessment amount to be deducted from the regular
28 payroll and to be transferred into such pension fund;

29 (c) place into such funds the proceeds of all lost or stolen securities,
30 money or personal property which remains unclaimed in possession of
31 any department of the city for six months, together with the proceeds of
32 all unclaimed or confiscated property of any nature which has been in
33 custody of the police department for a period of six months. The city is
34 authorized to sell at public auction such property and place the proceeds
35 into such pension funds in equal shares;

36 (d) transfer into such pension funds the unencumbered balance, in-
37 cluding investments, in any existing pension fund or funds, except that if
38 there is more than one pension fund existing in such city, then each of
39 such existing funds, other than the firemen's and policemen's relief funds,
40 shall be transferred into the new pension fund of a like classification.
41 Upon the termination of any pension fund or funds, the rights of members
42 to benefits accrued at the date of termination to the extent funded or to
43 the amount in members' accounts at the date of termination are

1 nonforfeitable;

2 (e) carry forward the balance in such funds at the close of each budget
3 year as revenue for the next ensuing year;

4 (f) levy annually at the time for the levying of taxes for city purposes,
5 a tax upon all of the taxable tangible property in such city for each pension
6 fund to make annual contributions to each pension fund as required un-
7 der K.S.A. 12-5002 and amendments thereto and to maintain and fund
8 each pension fund on an actuarial reserve basis in accordance with the
9 provisions of K.S.A. 13-14a05 and amendments thereto. In lieu of levying
10 the tax authorized in this section, the annual contribution required of the
11 city may be paid from any employee benefits contribution fund estab-
12 lished pursuant to K.S.A. 12-16,102 and amendments thereto; and

13 (g) administer such funds in the manner required to satisfy the ap-
14 plicable qualification requirements for governmental plans as specified in
15 the federal internal revenue code of 1954 or 1986, as in effect on July 1,
16 ~~1998~~ 2008, and as applicable for a governmental plan in accordance with
17 the provisions of K.S.A. ~~2001 Supp.~~ 74-49,123 and amendments thereto.

18 Sec. 3. K.S.A. 13-14a10 is hereby amended to read as follows: 13-
19 14a10. Except as provided further, any annuity, benefits, funds, property
20 or rights created by or accruing to any person under the provisions of
21 K.S.A. 13-14a01 et seq. or K.S.A. 14-10a01 et seq., and amendments
22 thereto, are hereby made and declared exempt from any tax of the state
23 of Kansas or any political subdivision or taxing body thereof, and shall not
24 be subject to execution, garnishment or attachment, or any other process
25 or claim whatsoever, and shall be unassignable, except as specifically pro-
26 vided by law.

27 Any pension benefits or annuities accruing under the provisions of
28 K.S.A. 13-14a01 et seq. or K.S.A. 14-10a01 et seq., and amendments
29 thereto, shall not be exempt from claims of an alternate payee under a
30 qualified domestic relations order. As used in this section, the terms “al-
31 ternate payee” and “qualified domestic relations order” shall have the
32 meaning ascribed to them in section 414(p) of the federal internal reve-
33 nue code of 1986, as in effect on July 1, ~~1998~~ 2008. The provisions of this
34 section shall apply to any qualified domestic relations order which is in
35 effect on or after July 1, 1994.

36 Sec. 4. K.S.A. 13-14a13 is hereby amended to read as follows: 13-
37 14a13. Any officer or member of such police department or fire depart-
38 ment, who leaves such department and serves in the uniformed services
39 of the United States shall be credited by the respective board of trustees,
40 with time or any part thereof so served, in computing such officer’s or
41 member’s retirement time for pension purposes, as required by federal
42 law, including, but not limited to, when applicable, the uniformed services
43 employment and reemployment rights act of 1994, as in effect on July 1,

1 ~~1998~~ 2008.

2 Sec. 5. K.S.A. 14-10a02 is hereby amended to read as follows: 14-
3 10a02. The governing bodies of all cities of the second class, with a pop-
4 ulation in excess of 6,000 located in counties having a population of 10,000
5 or more, maintaining an organized police and fire department, may es-
6 tablish and maintain a separate pension fund for each department, which
7 shall be set aside and used exclusively for the payment of pensions and
8 disability benefits as authorized in K.S.A. 14-10a01 et seq. and amend-
9 ments thereto. Whenever the amount of any benefit is to be determined
10 on the basis of actuarial assumptions, the assumptions shall be specified
11 in a way that precludes employer discretion. Each such pension fund shall
12 be maintained and funded in accordance with the minimum funding stan-
13 dards prescribed in K.S.A. 12-5002 and amendments thereto. For the
14 purpose of creating, maintaining and funding such pension funds, the
15 governing body of each such city of the second class is hereby authorized
16 and shall:

17 (a) Accept gifts, grants, bequests, gratuities or any other money and
18 credit the same to the pension fund designated by the donor;

19 (b) levy an assessment against each officer and member of each de-
20 partment equal to 7% of such officer's or member's monthly salary or
21 compensation, such assessment amount to be deducted from the regular
22 payroll and to be transferred into such pension fund;

23 (c) place into such funds the proceeds of all lost or stolen securities,
24 money or personal property which shall remain unclaimed in possession
25 of any department of the city for six months, together with the proceeds
26 of all unclaimed or confiscated property of any nature which shall have
27 been in custody of the police department for a period of six months. The
28 city is authorized to sell at public auction such property and place the
29 proceeds into such pension funds in equal shares;

30 (d) transfer into such pension funds the unencumbered balance, in-
31 cluding investments, in any existing pension fund or funds, except that if
32 there is more than one pension fund existing in such city then each of
33 such existing funds, other than the firemen's and policemen's relief funds,
34 shall be transferred into the new pension fund of a like classification.
35 Upon the termination of any pension fund or funds, the rights of members
36 to benefits accrued at the date of termination to the extent funded or to
37 the amount in members' accounts at the date of termination are
38 nonforfeitable;

39 (e) carry forward the balance in such funds at the close of each budget
40 year as revenue for the next ensuing year;

41 (f) transfer into said fund any proceeds from any municipally owned
42 utility at the discretion of the governing body;

43 (g) levy annually at the time for the levying of taxes for city purposes,

1 a tax upon all of the taxable tangible property in such city for each pension
2 fund to make annual contributions to each pension fund as required un-
3 der K.S.A. 12-5002 and amendments thereto and to maintain and fund
4 each pension fund on an actuarial reserve basis in accordance with the
5 provisions of K.S.A. 14-10a05 and amendments thereto and to pay a por-
6 tion of the principal and interest on bonds issued by such city under the
7 authority of K.S.A. 12-1774, and amendments thereto. In lieu of levying
8 the tax authorized in this section, the annual contribution required of the
9 city may be paid from any employee benefits contribution fund estab-
10 lished pursuant to K.S.A. 12-16,102 and amendments thereto; and

11 (h) administer such funds in the manner required to satisfy the ap-
12 plicable qualification requirements for governmental plans as specified in
13 the federal internal revenue code of 1954 or 1986, as in effect on July 1,
14 ~~1998~~ 2008, and as applicable for a governmental plan in accordance with
15 the provisions of K.S.A. ~~2001 Supp.~~ 74-49,123 and amendments thereto.

16 Sec. 6. K.S.A. 14-10a13 is hereby amended to read as follows: 14-
17 10a13. Any officer or member of such police department or fire depart-
18 ment, who leaves such department and serves in the uniformed services
19 of the United States shall be credited by the respective board of trustees,
20 with time or any part thereof so served, in computing such officer's or
21 member's retirement time for pension purposes, as required by federal
22 law, including, not limited to, when applicable, the uniformed services
23 employment and reemployment rights act of 1994, as in effect on July 1,
24 ~~1998~~ 2008.

25 Sec. 7. K.S.A. 20-2601 is hereby amended to read as follows: 20-
26 2601. As used in K.S.A. 20-2601 et seq. and amendments thereto, unless
27 the context otherwise requires:

28 (a) "Fund" means the Kansas public employees retirement fund cre-
29 ated by K.S.A. 74-4921 and amendments thereto;

30 (b) "retirement system for judges" means the system provided for in
31 the acts contained in article 26 of chapter 20 of the Kansas Statutes An-
32 notated and any acts amendatory thereof or supplemental thereto;

33 (c) "judge" means any duly elected or appointed justice of the su-
34 preme court, judge of the court of appeals or judge of any district court
35 of Kansas, who serves in such capacity on and after the effective date of
36 this act and commencing with the first day of the first payroll period of
37 the fiscal year ending June 30, 1994, any district magistrate judge who
38 makes an election as provided in K.S.A. 20-2620 and amendments thereto
39 or who is elected or appointed on or after July 1, 1993;

40 (d) "member" means a judge who is making the required contribu-
41 tions to the fund, or any former judge who has made the required contribu-
42 tions to the fund and has not received a refund of the judge's ac-
43 cumulated contributions;

- 1 (e) “prior service” means all the periods of time any judge has served
2 in such capacity prior to the effective date of this act except that district
3 magistrate judges who have service credit under the Kansas public em-
4 ployees retirement system must make application to the board and, sub-
5 ject to the provisions of K.S.A. 74-49,123 and amendments thereto, make
6 payment as required by the board to transfer service credit from the
7 Kansas public employees retirement system to the retirement system for
8 judges;
- 9 (f) “current service” means the period of service any judge serves in
10 such capacity from and after the effective date of this act;
- 11 (g) “military service” means service of any judge for which retirement
12 benefit credit must be given as provided in the uniformed services em-
13 ployment and reemployment rights act of 1994, as in effect on July 1,
14 ~~1998~~ 2008;
- 15 (h) “total years of service” means the total number of years served as
16 a judge, including prior service, military service and current service as
17 defined by this section, computed to the nearest quarter;
- 18 (i) “salary” means the statutory salary of a judge;
- 19 (j) “final average salary” means that determined as provided in sub-
20 section (b) of K.S.A. 20-2610 and amendments thereto;
- 21 (k) “beneficiary” means any natural person or persons or estate des-
22 ignated by a judge in the latest designation of beneficiary received in the
23 retirement system office to receive any benefits as provided for by this
24 act. Except as provided in subsection (n), if there is no named beneficiary
25 living at the time of the judge’s death, any benefits provided for by this
26 act shall be paid to: (1) The judge’s surviving spouse; (2) the judge’s
27 dependent child or children; (3) the judge’s dependent parent or parents;
28 (4) the judge’s nondependent child or children; (5) the judge’s nonde-
29 pendent parent or parents; or (6) the estate of the deceased member; in
30 the order of preference as specified in this subsection. Designations of
31 beneficiaries by a member who is a member of more than one retirement
32 system made on or after July 1, 1987, shall be the basis of any benefits
33 payable under all systems unless otherwise provided by law;
- 34 (l) “annuity” means a series of equal monthly payments, payable at
35 the end of each calendar month during the life of a retired judge, of
36 which payments the first payment shall be made as of the end of the
37 calendar month in which such annuity was awarded and the last payment
38 shall be at the end of the calendar month in which such judge dies. The
39 first payment shall include all amounts accrued since the effective date
40 of the award of annuities, including a pro rata portion of the monthly
41 amount of any fraction of a month elapsing between the effective date of
42 such annuity and the end of the calendar month in which such annuity
43 began;

- 1 (m) “board” means the board of trustees of the Kansas public em-
2 ployees retirement system;
- 3 (n) “trust” means an express trust created by any trust instrument,
4 including a will, and designated by a member to receive benefits and other
5 amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and
6 amendments thereto, instead of a beneficiary. A designation of a trust
7 shall be filed with the board. If there is a designated trust at the time of
8 the member’s death, all benefits and other amounts payable under K.S.A.
9 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid
10 to the trust instead of the member’s beneficiary. If no will is admitted to
11 probate within six months after the death of the member or no trustee
12 qualifies within such six months or if the designated trust fails, for any
13 reason whatsoever, any benefits and other amounts payable under K.S.A.
14 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid
15 to the member’s beneficiary and any payments so made shall be a full
16 discharge and release to the retirement system for judges from any fur-
17 ther claims;
- 18 (o) “accumulated contributions” means the sum of all contributions
19 by a member to the retirement system for judges which are credited to
20 the member’s account, with interest allowed thereon after June 30, 1982;
- 21 (p) “federal internal revenue code” means the federal internal reve-
22 nue code of 1954 or 1986, as in effect on July 1, ~~1998~~ 2008, and as
23 applicable to a governmental plan; and
- 24 (q) except as otherwise provided in K.S.A. 20-2601 et seq. and
25 amendments thereto, words and phrases used in K.S.A. 20-2601 et seq.
26 and amendments thereto shall have the same meanings ascribed to them
27 as are defined in K.S.A. 74-4902 and amendments thereto.
- 28 Sec. 8. K.S.A. 20-2623 is hereby amended to read as follows: 20-
29 2623. The retirement system for judges shall be administered by the
30 board in the manner required to satisfy the applicable qualification
31 requirements for governmental plans as specified in the federal internal
32 revenue code of 1954 or 1986, as amended and as appropriate for a gov-
33 ernmental plan and as in effect on July 1, ~~1998~~ 2008. The provisions of
34 K.S.A. 74-49,123 and amendments thereto apply to the administration of
35 the system.
- 36 Sec. 9. K.S.A. 72-5501 is hereby amended to read as follows: 72-
37 5501. As used in this act, unless the context otherwise requires:
- 38 (a) “Retirement system” means the state school retirement system;
- 39 (b) “board” means the board of trustees of the Kansas public em-
40 ployees retirement system;
- 41 (c) “school year” means either the twelve-month period beginning on
42 September first, or the legal school term during such period. In case of
43 doubt the board shall decide what constitutes a school year. The board

1 shall not give credit for a school year that represents less than 140 days,
2 except that the board may give credit for a school year if not less than 80
3 days of actual service has been rendered and if continuance in school
4 service was prevented by illness or other emergency beyond the control
5 of the person entitled to such credit. No person shall receive credit for
6 more than one school year during any twelve-month period beginning on
7 September 1. The board shall give credit for $\frac{1}{2}$ of a school year for $\frac{1}{2}$
8 school year of continuous full-time service;

9 (d) “school employees” means persons who have performed or who
10 shall hereafter perform school services as classroom teachers, adminis-
11 trators, supervisors, librarians, nurses, clerks, janitors or in any other full-
12 time capacity in the public schools, area vocational-technical schools or
13 community junior colleges of the state of Kansas and who are citizens of
14 the United States and school employees shall include: (1) Persons who
15 have performed service as a county superintendent of public instruction
16 or as an employee appointed by and under the supervision of a county
17 superintendent; (2) persons who have performed service as a state su-
18 perintendent of public instruction or as an employee appointed by and
19 under supervision of a state superintendent; (3) persons who have per-
20 formed services as an employee appointed by the former state board for
21 vocational education, except that prior to the time of accepting such em-
22 ployment by such county superintendent, state superintendent or state
23 board for vocational education such employees had performed school
24 service in Kansas as a teacher, principal, supervisor, or superintendent;
25 (4) persons who are employees appointed by and under the supervision
26 of the constitutional state board of education, including those employees
27 transferred to the state department of education at its inception in January
28 of 1969, and who prior to the time of accepting such employment by the
29 state board of education had performed school service in Kansas as a
30 teacher, principal, supervisor, or superintendent; (5) the commissioner of
31 education if such commissioner exercises an irrevocable option to be cov-
32 ered by the state school retirement system in lieu of being covered by
33 the Kansas public employees retirement system, which option shall be
34 exercised by written notice of the commissioner of education at the time
35 of appointment. Such notice shall be directed to the state school retire-
36 ment board and the board of trustees of the Kansas public employees
37 retirement system; (6) all instructional employees for the school for the
38 blind and such employees shall be excluded from participation in any
39 other state retirement system; and (7) teachers and supervisors of instruc-
40 tion at the state institutions under the management of the director of
41 penal institutions and those under the management of the state board of
42 social welfare which provide regular classroom instruction for their in-
43 mates or patients if such instructional personnel have valid certificates

1 issued by the state board of education, except that the provisions of this
2 subsection shall not include such employees who have elected or shall
3 elect, irrevocably, at the time of employment by the institution to partic-
4 ipate in the Kansas public employees retirement system. The term
5 “school employees” shall not include any employee while a member of a
6 separate retirement system operated by any board of education but if any
7 such employee at any time becomes eligible to participate in the state
8 retirement as provided by this act, the years such person served in a school
9 system in Kansas which maintains a separate retirement system shall be
10 included in determining years of service of such person under this act.
11 An employee performing service in a school system maintaining its own
12 separate retirement system in Kansas may qualify for service credit in the
13 state system by discontinuing membership in such separate retirement
14 system prior to the time of retirement and accepting a position which is
15 covered by the state retirement system, and continuing in such service
16 for at least one school year. Subject to the provisions of K.S.A. 74-49,123
17 and amendments thereto, such employee shall contribute to the state
18 retirement system an amount of money equal to that which was deducted
19 from such employee’s salary for services rendered after September 1,
20 1941, in the city maintaining its own retirement system and this amount
21 shall be credited to the savings account of the employee. If such employee
22 was for any reason excluded from participation in the separate retirement
23 system, the board shall give credit for such nonmember service in the
24 public schools in the city maintaining a separate retirement system with-
25 out the required transfer of funds. After September 1, 1971, no person
26 shall be deemed a school employee for the purposes of this act;

27 (e) “school service” means: (1) Service performed as a school em-
28 ployee prior to September 1, 1941, if such years of service include at least
29 six months during the years 1938-39 or 1939-40 or 1940-41; service per-
30 formed by any employee who was not in school service in any of the school
31 years from 1938 to 1941, but who reentered school service after Septem-
32 ber 1, 1941, and continued in such service for at least five years; all service
33 prior to September 1, 1941, of any annuitant who retired prior to Sep-
34 tember 1, 1961, and who was granted a service annuity for one or more
35 years as a contributing member of the school retirement system; all serv-
36 ice prior to September 1, 1941, of any employee who served for at least
37 six months during one of the qualifying years from 1938 to 1941 in a
38 school system maintaining its own separate retirement system in Kansas,
39 if such employee has not qualified, nor will in the future qualify, for
40 retirement benefits under the separate retirement system; all service as
41 a school employee, including out-of-state service as a school employee,
42 for a period of 10 or more years prior to September 1, 1938, except that
43 service annuities paid by the state of Kansas to such school employees

1 shall not include such out-of-state service as a school employee, unless
2 otherwise provided by law; (2) service as a school employee after Septem-
3 ber 1, 1941, as a contributing member of the school retirement system.
4 No service credit shall be granted to a school employee who established
5 or shall hereafter establish membership later than September 1, 1941,
6 for a period of time between September 1, 1941, and the date of becom-
7 ing a contributing member of the retirement system. School service shall
8 include only full-time employees, except that $\frac{1}{2}$ year of credit shall be
9 given to instructional employees who perform school service on at least
10 a $\frac{1}{2}$ time basis throughout a school year. No school service credit shall
11 be given in fractional units of less than $\frac{1}{2}$ year. The board may grant
12 service credit to employees, who were performing school service at the
13 time of their induction into the armed forces of the United States, equal
14 to the time spent in the armed forces between September 1, 1940, and
15 September 1, 1947, and between June 25, 1950, and July 27, 1953 and
16 between August 5, 1964, and August 15, 1973, but no such service credit
17 shall be granted for a period of more than five years spent in the armed
18 forces between September 1, 1940, and September 1, 1947, or for a
19 period of more than two years spent in the armed forces between June
20 25, 1950, and July 27, 1953 or for a period of more than two years spent
21 in the armed forces between August 5, 1964 and August 15, 1973. In the
22 event the employee served during the periods between September 1,
23 1940, and September 1, 1947, and between June 25, 1950, and July 27,
24 1953, such employee shall be granted a service credit for the actual time
25 spent in the armed forces between June 25, 1950, and July 27, 1953, nor
26 shall such service credit be granted to any employee unless such employee
27 shall reenter school service and continue in such service for at least one
28 school year. The board may grant service credit to an employee who was
29 performing school service prior to the time of becoming employed as a
30 veterans' instructional on-the-farm training instructor equal to the time
31 spent as such instructor between the dates of September 1, 1946, and
32 September 1, 1961. The board may grant service credit to an employee
33 who prior to performing school service was a faculty member of the Kan-
34 sas vocational school at Topeka, known part of the time as the Kansas
35 technical institute, which operated under the Kansas state board of re-
36 gents prior to 1956 equal to the time spent as instructor at such school.
37 In case of doubt the board shall decide what constitutes school service;
38 and (3) service for which credit must be given under federal law, includ-
39 ing, but not limited to, when applicable, the uniformed services employ-
40 ment and reemployment rights act of 1994, as in effect on July 1, ~~1998~~
41 2008;
42 (f) "school annuitant" means any person who is entitled to receive a
43 school annuity;

- 1 (g) “school annuity” means the monthly payments due to any school
2 annuitant. Such payments shall continue for life, and be paid in monthly
3 installments;
- 4 (h) “service annuity” means that part of the school annuity which is
5 based upon the service record of the person concerned, and which is paid
6 by the state;
- 7 (i) “savings annuity” means that part of the school annuity which re-
8 sults from the accumulated contributions of the school employee and
9 interest thereon less the proportionate share of the expense of the ad-
10 ministration of this act;
- 11 (j) “disability annuity” means a school annuity granted to a school
12 employee who suffers such physical or mental disability as to be unable
13 to perform school service;
- 14 (k) “standard annuity” means the school annuity which is granted to
15 a school employee at the age of 65 years, as prescribed by this act. The
16 standard annuity shall be used as the basis in computing actuarially equiv-
17 alent annuities granted at ages prior to 65 years. Whenever the amount
18 of any benefit is to be determined on the basis of actuarial assumptions,
19 the assumption shall be specified in a way that precludes employer
20 discretion;
- 21 (l) “service record” means the individual record kept by the board
22 for each school employee. It shall show the number of school years of
23 school service, the salary or wages earned, the date of birth, and such
24 other data as the board may require;
- 25 (m) “age” and “attained age” shall be computed as of September 1
26 of the calendar year under consideration;
- 27 (n) “deductions” means the amounts withheld, as provided in this act,
28 from warrants issued in payment for school services;
- 29 (o) “actuarial computation” means computation in accordance with
30 some standard actuarial table. The board shall determine which one of
31 the standard actuarial tables shall be used. Whenever the amount of any
32 benefit is to be determined on the basis of actuarial assumptions, the
33 assumptions shall be specified in a way that precludes employer discre-
34 tion; and
- 35 (p) “compensation” means the same as provided in K.S.A. 74-49,123
36 and amendments thereto for purposes of nondiscrimination testing pur-
37 suant to the federal internal revenue code of 1986, as in effect on July 1,
38 ~~1998~~ 2008.
- 39 Sec. 10. K.S.A. 2007 Supp. 74-4902 is hereby amended to read as
40 follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amend-
41 ments thereto, unless otherwise provided or the context otherwise
42 requires:
- 43 (1) “Accumulated contributions” means the sum of all contributions

- 1 by a member to the system which are credited to the member's account,
2 with interest allowed thereon;
- 3 (2) "acts" means the provisions of articles 49 and 49a of the Kansas
4 Statutes Annotated and amendments thereto;
- 5 (3) "actuarial equivalent" means an annuity or benefit of equal value
6 to the accumulated contributions, annuity or benefit, when computed
7 upon the basis of the actuarial tables in use by the system. Whenever the
8 amount of any benefit is to be determined on the basis of actuarial as-
9 sumptions, the assumptions shall be specified in a way that precludes
10 employer discretion;
- 11 (4) "actuarial tables" means the actuarial tables approved and in use
12 by the board at any given time;
- 13 (5) "actuary" means the actuary or firm of actuaries employed or
14 retained by the board at any given time;
- 15 (6) "agent" means the individual designated by each participating em-
16 ployer through whom system transactions and communication are
17 directed;
- 18 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,
19 and amendments thereto, any natural person or persons, estate or trust,
20 or any combination thereof, named by a member to receive any benefits
21 as provided for by this act. Designations of beneficiaries by a member
22 who is a member of more than one retirement system made on or after
23 July 1, 1987, shall be the basis of any benefits payable under all systems
24 unless otherwise provided by law. Except as otherwise provided by sub-
25 section (33) of this section, if there is no named beneficiary living at time
26 of member's death, any benefits provided for by this act shall be paid to:
27 (A) The member's surviving spouse; (B) the member's dependent child
28 or children; (C) the member's dependent parent or parents; (D) the
29 member's nondependent child or children; (E) the member's nondepend-
30 ent parent or parents; (F) the estate of the deceased member; in the
31 order of preference as specified in this subsection;
- 32 (8) "board of trustees," "board" or "trustees" means the managing
33 body of the system which is known as the Kansas public employees re-
34 tirement system board of trustees;
- 35 (9) "compensation" means, except as otherwise provided, all salary,
36 wages and other remuneration payable to a member for personal services
37 performed for a participating employer, including maintenance or any
38 allowance in lieu thereof provided a member as part of compensation,
39 but not including reimbursement for travel or moving expenses or on and
40 after July 1, 1994, payment pursuant to an early retirement incentive
41 program made prior to the retirement of the member. Beginning with
42 the employer's fiscal year which begins in calendar year 1991 or for em-
43 ployers other than the state of Kansas, beginning with the fiscal year

1 which begins in calendar year 1992, when the compensation of a member
2 who remains in substantially the same position during any two consecutive
3 years of participating service used in calculating final average salary is
4 increased by an amount which exceeds 15%, then the amount of such
5 increase which exceeds 15% shall not be included in compensation, ex-
6 cept that (A) any amount of compensation for accumulated sick leave or
7 vacation or annual leave paid to the member, (B) any increase in com-
8 pensation for any member due to a reclassification or reallocation of such
9 member's position or a reassignment of such member's job classification
10 to a higher range or level and (C) any increase in compensation as pro-
11 vided in any contract entered into prior to January 1, 1991, and still in
12 force on the effective date of this act, pursuant to an early retirement
13 incentive program as provided in K.S.A. 72-5395 et seq., and amendments
14 thereto, shall be included in the amount of compensation of such member
15 used in determining such member's final average salary and shall not be
16 subject to the 15% limitation provided in this subsection. Any contribu-
17 tions by such member on the amount of such increase which exceeds
18 15% which is not included in compensation shall be returned to the mem-
19 ber. Unless otherwise provided by law, beginning with the employer's
20 fiscal year coinciding with or following July 1, 1985, compensation shall
21 include any amounts for tax sheltered annuities or deferred compensation
22 plans. Beginning with the employer's fiscal year which begins in calendar
23 year 1991, compensation shall include amounts under sections 403b, 457
24 and 125 of the federal internal revenue code of 1986 and, as the board
25 deems appropriate, any other section of the federal internal revenue code
26 of 1986 which defers or excludes amounts from inclusion in income. For
27 purposes of applying limits under the federal internal revenue code "com-
28 pensation" shall have the meaning as provided in K.S.A. 74-49,123 and
29 amendments thereto. For purposes of this subsection and application to
30 the provisions of subsection (4) of K.S.A. 74-4927, and amendments
31 thereto, "compensation" shall not include any payments made by the state
32 board of regents pursuant to the provisions of subsection (5) of K.S.A.
33 74-4927a, and amendments thereto, to a member of the faculty or other
34 person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments
35 thereto;

36 (10) "credited service" means the sum of participating service and
37 prior service and in no event shall credited service include any service
38 which is credited under another retirement plan authorized under any
39 law of this state;

40 (11) "dependent" means a parent or child of a member who is de-
41 pendent upon the member for at least ½ of such parent or child's support;

42 (12) "effective date" means the date upon which the system becomes
43 effective by operation of law;

1 (13) “eligible employer” means the state of Kansas, and any county,
2 city, township, special district or any instrumentality of any one or several
3 of the aforementioned or any noncommercial public television or radio
4 station located in this state which receives state funds allocated by the
5 Kansas public broadcasting commission whose employees are covered by
6 social security. If a class or several classes of employees of any above
7 defined employer are not covered by social security, such employer shall
8 be deemed an eligible employer only with respect to such class or those
9 classes of employees who are covered by social security;

10 (14) “employee” means any appointed or elective officer or employee
11 of a participating employer whose employment is not seasonal or tem-
12 porary and whose employment requires at least 1,000 hours of work per
13 year, and any such officer or employee who is concurrently employed
14 performing similar or related tasks by two or more participating employ-
15 ers, who each remit employer and employee contributions on behalf of
16 such officer or employee to the system, and whose combined employment
17 is not seasonal or temporary, and whose combined employment requires
18 at least 1,000 hours of work per year, but not including: (A) Any employee
19 who is a contributing member of the United States civil service retirement
20 system; (B) any employee who is a contributing member of the federal
21 employees retirement system; (C) any employee who is a leased employee
22 as provided in section 414 of the federal internal revenue code of a par-
23 ticipating employer; and (D) any employee or class of employees specifi-
24 cally exempted by law. After June 30, 1975, no person who is otherwise
25 eligible for membership in the Kansas public employees retirement sys-
26 tem shall be barred from such membership by reason of coverage by,
27 eligibility for or future eligibility for a retirement annuity under the pro-
28 visions of K.S.A. 74-4925 and amendments thereto, except that no person
29 shall receive service credit under the Kansas public employees retirement
30 system for any period of service for which benefits accrue or are granted
31 under a retirement annuity plan under the provisions of K.S.A. 74-4925
32 and amendments thereto. After June 30, 1982, no person who is otherwise
33 eligible for membership in the Kansas public employees retirement sys-
34 tem shall be barred from such membership by reason of coverage by,
35 eligibility for or future eligibility for any benefit under another retirement
36 plan authorized under any law of this state, except that no such person
37 shall receive service credit under the Kansas public employees retirement
38 system for any period of service for which any benefit accrues or is
39 granted under any such retirement plan. Employee shall include persons
40 who are in training at or employed by, or both, a sheltered workshop for
41 the blind operated by the secretary of social and rehabilitation services.
42 The entry date for such persons shall be the beginning of the first pay
43 period of the fiscal year commencing in calendar year 1986. Such persons

1 shall be granted prior service credit in accordance with K.S.A. 74-4913
2 and amendments thereto. However, such persons classified as home in-
3 dustry employees shall not be covered by the retirement system. Em-
4 ployees shall include any member of a board of county commissioners of
5 any county and any council member or commissioner of a city whose
6 compensation is equal to or exceeds \$5,000 per year;

7 (15) “entry date” means the date as of which an eligible employer
8 joins the system. The first entry date pursuant to this act is January 1,
9 1962;

10 (16) “executive director” means the managing officer of the system
11 employed by the board under this act;

12 (17) “final average salary” means in the case of a member who retires
13 prior to January 1, 1977, and in the case of a member who retires after
14 January 1, 1977, and who has less than five years of participating service
15 after January 1, 1967, the average highest annual compensation paid to
16 such member for any five years of the last 10 years of participating service
17 immediately preceding retirement or termination of employment, or in
18 the case of a member who retires on or after January 1, 1977, and who
19 has five or more years of participating service after January 1, 1967, the
20 average highest annual compensation paid to such member on or after
21 January 1, 1967, for any five years of participating service preceding re-
22 tirement or termination of employment, or, in any case, if participating
23 service is less than five years, then the average annual compensation paid
24 to the member during the full period of participating service, or, in any
25 case, if the member has less than one calendar year of participating service
26 such member’s final average salary shall be computed by multiplying such
27 member’s highest monthly salary received in that year by 12; in the case
28 of a member who became a member under subsection (3) of K.S.A. 74-
29 4925 and amendments thereto, or who became a member with a partic-
30 ipating employer as defined in subsection (3) of K.S.A. 74-4931 and
31 amendments thereto and who elects to have compensation paid in other
32 than 12 equal installments, such compensation shall be annualized as if
33 the member had elected to receive 12 equal installments for any such
34 periods preceding retirement; in the case of a member who retires after
35 July 1, 1987, the average highest annual compensation paid to such mem-
36 ber for any four years of participating service preceding retirement or
37 termination of employment; in the case of a member who retires on or
38 after July 1, 1993, whose date of membership in the system is prior to
39 July 1, 1993, and any member who is in such member’s membership
40 waiting period on July 1, 1993, and whose date of membership in the
41 system is on or after July 1, 1993, the average highest annual compen-
42 sation, as defined in subsection (9), paid to such member for any four
43 years of participating service preceding retirement or termination of em-

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

33 (18) "fiscal year" means, for the Kansas public employees retirement
34 system, the period commencing July 1 of any year and ending June 30 of
35 the next;

36 (19) "Kansas public employees retirement fund" means the fund cre-
37 ated by this act for payment of expenses and benefits under the system
38 and referred to as the fund;

39 (20) "leave of absence" means a period of absence from employment
40 without pay, authorized and approved by the employer, and which after
41 the effective date does not exceed one year;

42 (21) "member" means an eligible employee who is in the system and
43 is making the required employee contributions; any former employee who

1 has made the required contributions to the system and has not received
2 a refund if such member is within five years of termination of employment
3 with a participating employer; or any former employee who has made the
4 required contributions to the system, has not yet received a refund and
5 has been granted a vested benefit;

6 (22) “military service” means service in the uniformed forces of the
7 United States, for which retirement benefit credit must be given under
8 the provisions of USERRA or service in the armed forces of the United
9 States or in the commissioned corps of the United States public health
10 service, which service is immediately preceded by a period of employ-
11 ment as an employee or by the entering into of an employment contract
12 with a participating employer and is followed by return to employment
13 as an employee with the same or another participating employer within
14 12 months immediately following discharge from such military service,
15 except that if the board determines that such return within 12 months
16 was made impossible by reason of a service-connected disability, the pe-
17 riod within which the employee must return to employment with a par-
18 ticipating employer shall be extended not more than two years from the
19 date of discharge or separation from military service;

20 (23) “normal retirement date” means the date on or after which a
21 member may retire with full retirement benefits pursuant to K.S.A. 74-
22 4914 and amendments thereto;

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

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

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

30 (27) “prior service annual salary” means the highest annual salary,
31 not including any amounts received as payment for overtime or as re-
32 imbursement for travel or moving expense, received for personal services
33 by the member from the current employer in any one of the three cal-
34 endar years immediately preceding January 1, 1962, or the entry date of
35 the employer, whichever is later, except that if a member entered the
36 employment of the state during the calendar year 1961, the prior service
37 annual salary shall be computed by multiplying such member’s highest
38 monthly salary received in that year by 12;

39 (28) “retirant” means a member who has retired under this system;

40 (29) “retirement benefit” means a monthly income or the actuarial
41 equivalent thereof paid in such manner as specified by the member pur-
42 suant to this act or as otherwise allowed to be paid at the discretion of
43 the board, with benefits accruing from the first day of the month coin-

1 ciding with or following retirement and ending on the last day of the
2 month in which death occurs. Upon proper identification a surviving
3 spouse may negotiate the warrant issued in the name of the retirant. If
4 there is no surviving spouse, the last warrant shall be payable to the des-
5 ignated beneficiary;

6 (30) “retirement system” or “system” means the Kansas public em-
7 ployees retirement system as established by this act and as it may be
8 amended;

9 (31) “social security” means the old age, survivors and disability in-
10 surance section of the federal social security act;

11 (32) “trust” means an express trust, created by a trust instrument,
12 including a will, designated by a member to receive payment of the in-
13 sured death benefit under K.S.A. 74-4927 and amendments thereto and
14 payment of the member’s accumulated contributions under subsection
15 (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust
16 shall be filed with the board. If no will is admitted to probate within six
17 months after the death of the member or no trustee qualifies within such
18 six months or if the designated trust fails, for any reason whatsoever, the
19 insured death benefit under K.S.A. 74-4927 and amendments thereto and
20 the member’s accumulated contributions under subsection (1) of K.S.A.
21 74-4916 and amendments thereto shall be paid in accordance with the
22 provisions of subsection (7) of this section as in other cases where there
23 is no named beneficiary living at the time of the member’s death and any
24 payments so made shall be a full discharge and release to the system from
25 any further claims;

26 (33) “salary” means all salary and wages payable to a member for
27 personal services performed for a participating employer, including main-
28 tenance or any allowance in lieu thereof provided a member as part of
29 salary. Salary shall not include reimbursement for travel or moving ex-
30 penses, payment for accumulated sick leave or vacation or annual leave,
31 severance pay or any other payments to the member determined by the
32 board to not be payments for personal services performed for a partici-
33 pating employer constituting salary or on and after July 1, 1994, payment
34 pursuant to an early retirement incentive program made prior to the
35 retirement of the member. When the salary of a member who remains
36 in substantially the same position during any two consecutive years of
37 participating service used in calculating final average salary is increased
38 by an amount which exceeds 15%, then the amount of such increase
39 which exceeds 15% shall not be included in salary. Any contributions by
40 such member on the amount of such increase which exceeds 15% which
41 is not included in compensation shall be returned to the member. Unless
42 otherwise provided by law, salary shall include any amounts for tax shel-
43 tered annuities or deferred compensation plans. Salary shall include

1 amounts under sections 403b, 457 and 125 of the federal internal revenue
2 code of 1986 and, as the board deems appropriate, any other section of
3 the federal internal revenue code of 1986 which defers or excludes
4 amounts from inclusion in income. For purposes of applying limits under
5 the federal internal revenue code “salary” shall have the meaning as pro-
6 vided in K.S.A. 74-49,123 and amendments thereto. In any case, if par-
7 ticipating service is less than three years, then the average annual salary
8 paid to the member during the full period of participating service, or, in
9 any case, if the member has less than one calendar year of participating
10 service such member’s final average salary shall be computed by multi-
11 plying such member’s highest monthly salary received in that year by 12;

12 (34) “federal internal revenue code” means the federal internal rev-
13 enue code of 1954 or 1986, as in effect on July 1, ~~2002~~ 2008, and as
14 applicable to a governmental plan; and

15 (35) “USERRA” means the federal uniformed services employment
16 and reemployment rights act of 1994 as in effect on July 1, ~~1998~~ 2008.

17 Sec. 11. K.S.A. 74-4912 is hereby amended to read as follows: 74-
18 4912. (1) The state of Kansas or any county, city, township, special district
19 or instrumentality of any of the aforementioned whose employees or a
20 class of whose employees are members of any other retirement or pension
21 plan authorized by a statute of the state of Kansas may by resolution
22 adopted by the board, body or officer or officers authorized to apply for
23 application pursuant to K.S.A. 74-4910 and any amendments thereto,
24 request the board to submit a proposal for consolidation of such other
25 system with the Kansas public employees retirement system including an
26 estimate of the contribution rate necessary to comply with the actuarial
27 standard of this system. Such proposal shall provide that:

28 (a) The operation of such other pension system shall be discontinued;

29 (b) the existing retirants or annuitants of such other system shall con-
30 tinue to be paid by the Kansas public employees retirement system on
31 the basis of the benefits schedule applicable in such other system at the
32 date of proposed consolidation, except that all such benefits shall be paid
33 in accordance with the applicable requirements of section 401 (a)(9) of
34 the federal internal revenue code and the regulations thereto in effect on
35 July 1, ~~1998~~ 2008, *and in accordance with the provisions of K.S.A. 74-*
36 *49,123, and amendments thereto.* Active members of such other system
37 shall be deemed vested in such member’s accrued benefit under such
38 system;

39 (c) all cash and securities to the credit of such other system shall be
40 transferred to the Kansas public employees retirement system;

41 (d) funds of such other system which represent accumulated contri-
42 butions, if any, of members shall be credited to the employees accumu-
43 lated contribution reserve of each employee. The balance of the funds so

1 transferred to the Kansas public employees retirement system shall be
2 offset against the liability on account of existing retirants, annuitants and
3 active members;

4 (e) the resulting liability so determined shall be the basis for a rate
5 of contribution of such employer; and

6 (f) such consolidation shall take effect only on January 1 of any given
7 year.

8 (2) Before any employer shall adopt a resolution of affiliation which
9 shall propose to accept a proposal of the board as provided in this section,
10 at least 60% of the members, not retirants or annuitants, shall approve
11 such consolidation. The board shall prescribe the manner in which such
12 consent shall be exercised.

13 Sec. 12. K.S.A. 74-4919b is hereby amended to read as follows: 74-
14 4919b. (a) Any employee of a participating employer who becomes a
15 member of the system as provided in K.S.A. 74-4911 or 74-4935 and
16 amendments thereto, who has previously been a member of the system
17 and who has forfeited participating and prior service credit by reason of
18 termination of employment with a participating employer and withdrawal
19 of such member's accumulated contributions, may have all or a part of
20 such forfeited service reinstated as provided in K.S.A. 74-4901 through
21 74-4930 and amendments thereto.

22 ~~(b) Any member, if not actively employed, who has previously been~~
23 ~~a member of the system and who has forfeited participating and prior~~
24 ~~service credit by reason of termination of employment with a participating~~
25 ~~employer and withdrawal of such member's accumulated contributions~~
26 ~~may have all or a part of such forfeited service reinstated as provided in~~
27 ~~K.S.A. 74-4901 through 74-4930 and amendments thereto. Subject to the~~
28 ~~provisions of K.S.A. 74-49,123 and amendments thereto, such member~~
29 ~~may purchase such service credit by means of a single lump-sum payment.~~
30 ~~The lump-sum payment shall be an amount determined by the actuary~~
31 ~~using the member's annual rate of compensation when last participating,~~
32 ~~the actuarial assumptions and tables currently in use by the retirement~~
33 ~~system and the member's attained age. Any employee of a participating~~
34 ~~employer who becomes a member of the system as provided in K.S.A. 74-~~
35 ~~4911 or 74-4935, and amendments thereto, who has been a member of~~
36 ~~the system prior to July 1, 2009, and who has forfeited participating and~~
37 ~~prior service credit by reason of termination of employment with a par-~~
38 ~~ticipating employer and withdrawal of such member's accumulated con-~~
39 ~~tributions, may have all or a part of such forfeited service reinstated as~~
40 ~~provided in K.S.A. 74-4901 through 74-4930, and amendments thereto,~~
41 ~~upon return to covered employment after July 1, 2009, and shall have~~
42 ~~such service credited under the terms of K.S.A. 2007 Supp. 74-49,201 et~~
43 ~~seq., and amendments thereto.~~

1 Sec. 13. K.S.A. 74-4924 is hereby amended to read as follows: 74-
2 4924. (1) Any person who shall knowingly make any false statement, or
3 who shall falsify or permit to be falsified any record necessary for carrying
4 out the intent of this act for the purpose of committing fraud, shall be
5 subject to the provisions of K.S.A. 21-3904 and amendments thereto.

6 (2) Should any error in any records or in any calculation of the Kansas
7 public employees retirement system result in any member or beneficiary
8 receiving more or less than he would have been entitled to receive had
9 the records or calculations been correct, the board shall correct such
10 error, and, as far as practicable, make future payments in such a manner
11 that the actuarial equivalent of the benefit to which such member or
12 beneficiary was entitled shall be paid and may recover any overpayments.
13 In the event a member has withdrawn, all or part of, such member's
14 accumulated contributions in a manner not in compliance with the pro-
15 visions of this act or the regulations of the system, the ~~amount of such~~
16 ~~withdrawal, plus interest at a rate specified by the board, shall be de-~~
17 ~~ducted from any amounts, including group insurance benefits, which shall~~
18 ~~become due the member or such member's beneficiaries under the pro-~~
19 ~~visions of this act~~ *member shall forfeit all service credit related to such*
20 *withdrawn accumulated contributions.*

21 (3) (a) Notwithstanding the provisions of subsection (2) and except
22 as provided in subsection (3)(d), the board is not required to collect any
23 benefit overpayment that is of more than 60 months' standing when dis-
24 covered, if any errors in the records or calculations of the system that
25 resulted in such overpayment are attributable solely to incorrect proce-
26 dures or calculations by the system and there is no evidence of fraud or
27 misconduct on the part of the member or other person receiving the
28 benefit.

29 (b) The board shall make reasonable efforts to recover all benefit
30 overpayment of 60 months' standing or less, including the imposition of
31 an actuarially calculated reduction in an ongoing monthly benefit payment
32 or the deduction of the total overpaid amount from any refund of con-
33 tributions or group life insurance benefits that become due and payable
34 to the member or member's beneficiary.

35 (c) No monthly benefit reduction imposed under this section for the
36 purpose of collecting an overpayment shall result in a monthly benefit
37 payment that is more than 10% lower than the monthly benefit payment
38 would have been without such collection-related reduction, except that
39 the monthly benefit payment in all cases must first be reduced to the
40 correct amount as provided by the terms of this section before the 10%
41 cap on collection-related reductions is imposed.

42 (d) Notwithstanding the provisions of this section, on and after the
43 effective date of this act, the board shall not collect any benefit overpay-

1 ment, attributable to errors in the calculation of benefits by the system
2 that resulted in such overpayments to any person that first occurred after
3 and as a result of a statutory increase in benefits passed by the legislature
4 in 1993, and there is no evidence of fraud or other misconduct on the
5 part of the person receiving the benefit.

6 Sec. 14. K.S.A. 74-4988 is hereby amended to read as follows: 74-
7 4988. (1) (a) Each person who is a member of a retirement system and
8 who becomes a member of another retirement system shall receive credit
9 under each such retirement system for credited service under the other
10 retirement system for the purpose of satisfying any requirement for such
11 person to complete certain periods of service to become eligible to receive
12 a retirement benefit or disability benefit or for such person's beneficiaries
13 to receive a death benefit. The retirement benefit which a person be-
14 comes eligible to receive under a retirement system shall be based only
15 on credited service under such retirement system, except that the deter-
16 mination of final average salary under such retirement system shall in-
17 clude the compensation received as a member of each other retirement
18 system if such compensation is higher. Except as provided in subsection
19 (1)(b), such retirement benefit shall become payable upon the member
20 submitting an application to retire under each system, except that a mem-
21 ber who is not eligible to retire under the retirement system to which
22 such member is not currently making contributions because such mem-
23 ber does not meet the age requirements of the earliest retirement date
24 of such system may retire, upon meeting the requirements for retirement,
25 under the provisions of the retirement system which the member had
26 been most recently making contributions. No further rights and benefits
27 will accrue under the retirement system to which the member is not
28 currently making contributions after the date the member retires from
29 the system from which the member had been most recently making con-
30 tributions and the member will be retired and benefits shall commence
31 on the date that the member would first have attained retirement age
32 from the system to which the member is not currently making contri-
33 butions. *If the member does not meet the age requirements of the earliest*
34 *retirement date under the retirement system to which such member is not*
35 *currently making contributions but used credited service under such sys-*
36 *tem for the purpose of satisfying any requirement for such person to*
37 *complete certain periods of service to become eligible to receive a retire-*
38 *ment benefit from the member's current system, the member's account*
39 *under the system to which such member is not currently making contri-*
40 *butions shall be withdrawn the month immediately following the mem-*
41 *ber's retirement in a form and manner as determined by the board. Mem-*
42 *bers who are covered under the provisions of K.S.A. 2007 Supp. 74-49,201*
43 *et seq., and amendments thereto, may use service from any system under*

1 *the Kansas public employees retirement system, K.S.A. 74-4901 et seq.,*
2 *and amendments thereto, to attain a vested benefit pursuant to the pro-*
3 *visions of K.S.A. 2007 Supp. 74-49,201 et seq., and amendments thereto.*
4

5 (b) The requirement that a member shall submit an application to
6 retire under each system before becoming eligible to receive any retire-
7 ment system benefits shall not apply to any member who was active and
8 contributing to one retirement system and who was inactive in another
9 retirement system on July 1, 1995.

10 (2) Any member who is not otherwise eligible for service credit as
11 provided for in subsection (1)(a) of K.S.A. 74-4913 or subsection (1)(a)
12 of K.S.A. 74-4936 and amendments thereto, may be granted credit for
13 the service upon the attainment of 38 quarters of participating service in
14 any retirement system as defined in subsection (3)(b) or upon retirement.

15 (3) As used in this section:

16 (a) “Member” means a person who has attained membership in a
17 retirement system, who has not retired under such retirement system and
18 who has not withdrawn such person’s accumulated contributions for such
19 retirement system; and

20 (b) “retirement system” means the Kansas public employees retire-
21 ment system, the Kansas police and firemen’s retirement system and the
22 retirement system for judges.

23 Sec. 15. K.S.A. 74-4998c is hereby amended to read as follows: 74-
24 4998c. (a) Except as otherwise provided in this section, for all payroll
25 periods commencing on or after July 1, 1988, but prior to the end of the
26 term of office in which such elected official is serving on the effective
27 date of this act, each elected state official shall contribute 5% of the
28 elected state official’s salary for each payroll period to the fund. For all
29 payroll periods commencing on or after July 1, 1988, but prior to the end
30 of the term of office in which such elected official is serving on the ef-
31 fective date of this act, the employer shall deduct from the compensation
32 of each member who has received 30 years of credited service 2% of such
33 member’s compensation as employee contributions. Each elected state
34 official shall make contributions as provided in K.S.A. 74-4919 and
35 amendments thereto in lieu of contributions as provided in this section,
36 for all payroll periods during any term of office of such elected state
37 official which commences after the effective date of this act. The provi-
38 sions of K.S.A. 74-4919c, 74-4919d, 74-4919e, 74-4919h or 74-4919j and
39 amendments thereto shall apply to elected state officials, except that,
40 subject to the provisions of K.S.A. 74-49,123 and amendments thereto,
41 such elected state officials shall purchase prior and participating service
42 credit at the rate of 10% or 15% for the payroll periods commencing on
43 or after July 1, 1988, but prior to the end of the term of office in which

1 such elected official is serving on the effective date of this act.

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

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

14 (d) (1) Subject to the provisions of K.S.A. 74-49,123 and amend-
15 ments thereto, the state of Kansas pursuant to the provisions of section
16 414(h)(2) of the federal internal revenue code of 1986, as in effect on
17 July 1, ~~1998~~ 2008, shall pick up and pay the contributions which would
18 otherwise be payable by elected state officials as prescribed in subsection
19 (a) commencing with the effective date of this act. Contributions so
20 picked up shall be treated as employer contributions for purposes of de-
21 termining the amounts of federal income taxes to withhold from the
22 elected state official's compensation.

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

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

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

35 Sec. 16. K.S.A. 74-49,105 is hereby amended to read as follows: 74-
36 49,105. Every retirement benefit received by any person under subsec-
37 tion (b) of K.S.A. 74-49,104 and amendments thereto shall be exempt
38 from any tax of the state of Kansas or any political subdivision or taxing
39 body of the state; shall not be subject to execution, garnishment, attach-
40 ment or except as otherwise provided, any other process or claim what-
41 soever; and shall be unassignable. Any retirement benefit due and owing
42 to any person under subsection (b) of K.S.A. 74-49,104 and amendments
43 thereto is subject to claims of an alternate payee under a qualified do-

1 mestic relations order. As used in this subsection, the terms “alternate
2 payee” and “qualified domestic relations order” shall have the meaning
3 ascribed to them in section 414(p) of the internal revenue code of 1986,
4 as amended as in effect on July 1, ~~1998~~ 2008, and as applicable to a
5 governmental plan. The provisions of this act shall apply to any qualified
6 domestic relations order which was filed or amended either before or
7 after July 1, 1994.

8 Sec. 17. K.S.A. 74-49,122 is hereby amended to read as follows: 74-
9 49,122. (1) Notwithstanding any other provision of law, compensation
10 or salary in excess of the limitations set forth in section 401(a)(17) of the
11 internal revenue code shall not be taken into account under any system
12 of retirement benefits administered by the Kansas public employees re-
13 tirement system, except that for eligible employees, compensation or sal-
14 ary that may be taken into account shall not be less than that which was
15 allowed to be taken into account on July 1, 1993. For purposes of this
16 section, an “eligible employee” is an individual whose membership in any
17 retirement system administered by the Kansas public employees retire-
18 ment system was earlier than ~~January~~ July 1, 1996.

19 (2) Notwithstanding any other provision of law, employee contribu-
20 tions shall not be withheld or paid into any retirement system adminis-
21 tered by the Kansas public employees retirement system by reason of
22 compensation or salary in excess of the limitations set forth in section
23 401(a)(17) of the internal revenue code, except that for eligible employees
24 as defined in subsection (1). Compensation or salary on which contribu-
25 tions shall be withheld shall not be subject to any limitations other than
26 those that were in effect under the Kansas public employees retirement
27 system on July 1, 1993.

28 (3) Notwithstanding any other provision of law, and except for eligible
29 employees as defined in subsection (1), no benefit shall be paid based on
30 compensation or salary that is in excess of the limitations set forth in
31 section 401(a)(17) of the internal revenue code.

32 (4) *Effective with respect to plan years beginning on and after Jan-*
33 *uary 1, 2002, the annual compensation of a member which exceeds*
34 *\$200,000 as adjusted for cost-of-living increases in accordance with sec-*
35 *tion 401(a)(17)(B) of the federal internal revenue code, may not be taken*
36 *into account in determining benefits or employee contributions for any*
37 *plan year. Annual compensation for the determination period means com-*
38 *penensation during the plan year or such other consecutive 12-month period*
39 *over which compensation is otherwise determined under the plan. The*
40 *cost-of-living adjustment in effect for a calendar year applies to annual*
41 *compensation for the determination period that begins with or within*
42 *such calendar year. If the determination period consists of fewer than 12*
43 *months, the annual compensation limit is an amount equal to the other-*

1 *wise applicable annual compensation limit multiplied by a fraction, the*
2 *numerator of which is the number of months in the short determination*
3 *period, and the denominator of which is 12. If the compensation for any*
4 *prior determination period is taken into account in determining a mem-*
5 *ber's contributions or benefits for the current plan year, the compensation*
6 *for such prior determination period is subject to the applicable annual*
7 *compensation limit in effect for that prior period.*

8 (5) For purposes of this section, retirement system means the Kansas
9 public employees retirement system, the Kansas police and firemen's re-
10 tirement system and the retirement system for judges, *and any other*
11 *system administered by the board of trustees.*

12 Sec. 18. K.S.A. 74-49,123 is hereby amended to read as follows: 74-
13 49,123. (a) This section applies to the Kansas public employees retirement
14 system and to all other public retirement plans administered by the board
15 of trustees.

16 (b) As used in this section:

17 (1) "Federal internal revenue code" means the federal internal re-
18 venue code of 1954 or 1986, as amended and as applicable to a govern-
19 mental plan as in effect on July 1, ~~1998~~ 2008; and

20 (2) "retirement plan" includes the Kansas public employees retire-
21 ment system and all other Kansas public retirement plans and benefit
22 structures, which are administered by the board.

23 (c) In addition to the federal internal revenue code provisions oth-
24 erwise noted in each retirement plan's law, and in order to satisfy the
25 applicable requirements under the federal internal revenue code, the
26 retirement plans shall be subject to the following provisions, notwith-
27 standing any other provision of the retirement plan's law:

28 (1) The board shall distribute the corpus and income of the retire-
29 ment plan to the members and their beneficiaries in accordance with the
30 retirement plan's law. At no time prior to the satisfaction of all liabilities
31 with respect to members and their beneficiaries shall any part of the
32 corpus and income be used for, or diverted to, purposes other than the
33 exclusive benefit of the members and their beneficiaries.

34 (2) Forfeitures arising from severance of employment, death or for
35 any other reason may not be applied to increase the benefits any member
36 would otherwise receive under the retirement plan's law. However, for-
37 feitures may be used to reduce an employer's contribution.

38 (3) All benefits paid from the retirement plan shall be distributed in
39 accordance with the requirements of section 401(a)(9) of the federal in-
40 ternal revenue code and the regulations under that section. ~~In order to~~
41 ~~meet these requirements, the retirement plan shall be administered in~~
42 ~~accordance with the following provisions: (A) Distribution of a member's~~
43 ~~benefit must begin by the later of the April 1 following the calendar year~~

1 in which a participant attains age 70½ or the April 1 of the year following
2 the calendar year in which the member retires;
3 —(B)— the life expectancy of a member or the member’s spouse may not
4 be recalculated after the benefits commence;
5 —(C)— if a member dies before the distribution of the member’s benefits
6 has begun, distributions to beneficiaries must begin no later than Decem-
7 ber 31 of the calendar year immediately following the calendar year in
8 which the member died, except as provided in subsection (6) of K.S.A.
9 74-4918 and amendments thereto; and
10 —(D)— *Notwithstanding any other provision of these rules and regula-*
11 *tions, effective on and after January 1, 2003, the retirement plan is subject*
12 *to the following provisions:*
13 (A) *Benefits must begin by the required beginning date, which is the*
14 *later of April 1 of the calendar year following the calendar year in which*
15 *the member reaches 70½ years of age or April 1 of the calendar year*
16 *following the calendar year in which the member terminates employment.*
17 *If a member fails to apply for retirement benefits by April 1 of the calendar*
18 *year following the calendar year in which such member reaches 70½*
19 *years of age or April 1 of the calendar year following the calendar year*
20 *in which such member terminates employment, whichever is later, the*
21 *board will begin distributing the benefit as required by this section.*
22 (B) *The member’s entire interest must be distributed over the mem-*
23 *ber’s life or the lives of the member and a designated beneficiary, or over*
24 *a period not extending beyond the life expectancy of the member or of the*
25 *member and a designated beneficiary. Death benefits must be distributed*
26 *in accordance with section 401 (a)(9) of the federal internal revenue code,*
27 *including the incidental death benefit requirement in section 401 (a)(9)(G)*
28 *of the federal internal revenue code, and the regulations implementing*
29 *that section.*
30 (C) *The life expectancy of a member, the member’s spouse or the*
31 *member’s beneficiary may not be recalculated after the initial determi-*
32 *nation for purposes of determining benefits.*
33 (D) *If a member dies after the required distribution of benefits has*
34 *begun, the remaining portion of the member’s interest must be distributed*
35 *at least as rapidly as under the method of distribution before the member’s*
36 *death and no longer than the remaining period over which distributions*
37 *commenced.*
38 (E) *If a member dies before required distribution of the member’s*
39 *benefits has begun, the member’s entire interest must be either:*
40 (i) *In accordance with federal regulations, distributed over the life or*
41 *life expectancy of the designated beneficiary, with the distributions be-*
42 *ginning no later than December 31 of the calendar year immediately fol-*
43 *lowing the calendar year of the member’s death; or*

- 1 (ii) *distributed by December 31 of the calendar year containing the*
2 *fifth anniversary of the member's death.*
- 3 (F) The amount of ~~benefits payable~~ *an annuity paid* to a member's
4 beneficiary may not exceed the maximum determined under the inciden-
5 tal death benefit requirement of the federal internal revenue code.
- 6 (G) *The death and disability benefits provided by a retirement plan*
7 *are limited by the incidental benefit rule set forth in section 401 (a)(9)(G)*
8 *of the federal internal revenue code and treasury regulation 1.401-1*
9 *(b)(1)(i).*
- 10 (4) Distributions from the retirement plans may be made only upon
11 retirement, separation from service, disability or death.
- 12 (5) The board or its designee may not:
- 13 (A) determine eligibility for benefits;
- 14 (B) compute rates of contribution; or
- 15 (C) compute benefits of members or beneficiaries, in a manner that
16 discriminates in favor of members who are considered officers, supervi-
17 sors or highly compensated, as prohibited under section 401(a)(4) of the
18 federal internal revenue code.
- 19 (6) Subject to the provisions of this subsection, benefits paid from,
20 and employee contributions made to, the retirement plans shall not ex-
21 ceed the maximum benefits and the maximum annual additions, respec-
22 tively, permissible under section 415 of the federal internal revenue code.
- 23 (A) *Before January 1, 1995, a member may not receive an annual*
24 *benefit that exceeds the limits specified in section 415(b) of the federal*
25 *internal revenue code, subject to the applicable adjustments in that sec-*
26 *tion.* Beginning January 1, 1995, a participant may not receive an annual
27 benefit that exceeds the dollar amount specified in section 415(b)(1)(A)
28 of the federal internal revenue code, subject to the applicable adjustments
29 in section 415 of the federal internal revenue code, ~~except as provided in~~
30 ~~clause (C) of this subsection.~~
- 31 (B) Notwithstanding any other provision of law to the contrary, the
32 board may modify a request by a participant to make a contribution to
33 the retirement plans if the amount of the contribution would exceed the
34 limits under section 415(c) or 415(n) of the federal internal revenue code
35 subject to the following:
- 36 (i) Where the retirement plan's law requires a lump-sum payment,
37 for the purchase of service credit, the board may establish a periodic
38 payment plan in order to avoid a contribution in excess of the limits under
39 section 415(c) or 415(n) of the federal internal revenue code.
- 40 (ii) ~~An eligible participant in a retirement plan, as defined by section~~
41 ~~1526 of the federal taxpayer relief act of 1997, may purchase service credit~~
42 ~~without regard to the limitations of section 415 (c)(1) of the federal in-~~
43 ~~ternal revenue code as provided by state law in effect on August 5, 1997.~~

1
2 If the board's option under subdivision (i) will not avoid a contribution
3 in excess of the limits under section 415(c) or 415(n) of the federal in-
4 ternal revenue code, the board shall reduce or deny the contribution.
5 (C) *Effective for permissive service credit contributions made in lim-*
6 *itation years beginning after December 31, 1997, if an active member*
7 *makes one or more contributions to purchase permissive service credit*
8 *under a retirement plan, then the requirements of this section shall be*
9 *treated as met only if:*
10 (i) *The requirements of section 415(b) of the federal internal revenue*
11 *code are met, determined by treating the accrued benefit derived from all*
12 *such contributions as an annual benefit for purposes of such section; or*
13 (ii) *the requirements of section 415(c) of the federal internal revenue*
14 *code are met, determined by treating all such contributions as annual*
15 *additions for purposes of such section. For purposes of applying subpar-*
16 *agraph (i) a retirement plan shall not fail to meet the reduced limit under*
17 *section 415(b)(2)(C) of the federal internal revenue code solely by reason*
18 *of this paragraph (C), and for purposes of applying subparagraph (ii), a*
19 *retirement plan shall not fail to meet the percentage limitation under*
20 *section 415(c)(1)(B) of the federal internal revenue code solely by reason*
21 *of this paragraph.*
22 (iii) *For purposes of this paragraph, the term "permissive service*
23 *credit" means service credit:*
24 (a) *Specifically recognized by a retirement plan's law for purposes of*
25 *calculating a member's benefit under that retirement plan;*
26 (b) *which such member has not received under a retirement plan; and*
27 (c) *which such member may receive under a retirement plan's law*
28 *only by making a voluntary additional contribution, in an amount deter-*
29 *mined under the retirement plan's law and procedures established by the*
30 *board, which does not exceed the amount necessary to fund the benefit*
31 *attributable to such service credit.*
32 (iv) *A retirement plan shall fail to meet the requirements of this par-*
33 *agraph if the retirement plan's law specifically provides for a purchase of*
34 *nonqualified service purchase, and if:*
35 (a) *More than five years of nonqualified service credit are taken into*
36 *account for purposes of this paragraph; or*
37 (b) *any nonqualified service credit is taken into account under this*
38 *paragraph before the member has at least five years of participation under*
39 *a retirement plan. For purposes of this paragraph, effective for permissive*
40 *service credit contributions made in limitation years beginning after De-*
41 *cember 31, 1997, the term "nonqualified service credit" means the same*
42 *as provided in section 415(n)(3)(C) of the federal internal revenue code.*
43 (v) *In the case of a trustee-to-trustee transfer after December 31,*

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

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

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

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

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

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

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

37 ~~(D) Prior to January 1, 1998, the definition of compensation, wages,~~
38 ~~salary or other similar term when used for purposes of determining com-~~
39 ~~pliance with section 415 of the federal internal revenue code does not~~
40 ~~include the amount of any elective deferral, as defined in section~~
41 ~~402(g)(3) of the federal internal revenue code, or any contribution which~~
42 ~~is contributed or deferred by the employer at the election of the employee~~
43 ~~and which is not includable in the gross income of the employee by reason~~

1 of section 125 or 457 of the federal internal revenue code.

2 ~~—(7) The board may not engage in a transaction prohibited by section~~
3 ~~503(b) of the federal internal revenue code.~~

4 ~~—(8) To the extent required by section 401(a)(31) of the federal inter-~~
5 ~~nal revenue code, the board shall allow members and qualified benefi-~~
6 ~~ciaries to elect a direct rollover of eligible distributions to another eligible~~
7 ~~retirement plan.~~

8 (E) For purposes of applying these limits only and for no other pur-
9 pose, the definition of compensation where applicable shall be compen-
10 sation actually paid or made available during a limitation year, except as
11 noted below and as permitted by treasury regulation section 1.415(c)-2.
12 Specifically, compensation shall be defined as wages within the meaning
13 of section 3401(a) of the federal internal revenue code and all other pay-
14 ments of compensation to an employee by an employer for which the
15 employer is required to furnish the employee a written statement under
16 sections 6041(d), 6051(a)(3) and 6052 of the federal internal revenue code.
17 Compensation shall be determined without regard to any rules under
18 section 3401(a) of the federal internal revenue code that limit the remu-
19 neration included in wages based on the nature or location of the em-
20 ployment or the services performed, such as the exception for agricultural
21 labor in section 3401(a)(2) of the federal internal revenue code.

22 (i) However, for limitation years beginning after December 31, 1997,
23 compensation shall also include amounts that would otherwise be included
24 in compensation but for an election under sections 125(a), 402(e)(3),
25 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For
26 limitation years beginning after December 30, 2000, compensation shall
27 also include any elective amounts that are not includable in the gross
28 income of the employee by reason of section 132(f)(4) of the federal in-
29 ternal revenue code.

30 (ii) The definition of compensation shall exclude employee contribu-
31 tions picked up under section 414(h)(2) of the federal internal revenue
32 code.

33 (iii) For limitation years beginning on and after January 1, 2007,
34 compensation for the limitation year will also include compensation paid
35 by the later of 2½ months after an employee's severance from employment
36 or the end of the limitation year that includes the date of the employee's
37 severance from employment if:

38 (a) The payment is regular compensation for services during the em-
39 ployee's regular working hours or compensation for services outside the
40 employee's regular working hours, such as overtime or shift differential,
41 commissions, bonuses or other similar payments, and absent a severance
42 from employment, the payments would have been paid to the employee
43 while the ~~employees continue~~ **[employee continues]** in employment with

1 *the employer; or*
2 *(b) the payment is for unused accrued bona fide sick, vacation or*
3 *other leave that the employee would have been able to use if employment*
4 *had continued.*
5 *(iv) Back pay, within the meaning of treasury regulation section*
6 *1.415(c)-2(g)(8), shall be treated as compensation for the limitation year*
7 *to which the back pay relates to the extent the back pay represents wages*
8 *and compensation that would otherwise be included under this definition.*
9 *(7) On and after January 1, 2009, for purposes of applying the limits*
10 *under section 415(b) of the federal internal revenue code, the following*
11 *shall apply:*
12 *(A) A member's applicable limit shall be applied to the member's an-*
13 *annual benefit in the first limitation year without regard to any automatic*
14 *cost-of-living increases;*
15 *(B) to the extent the member's annual benefit equals or exceeds such*
16 *limit, the member shall no longer be eligible for cost-of-living increases*
17 *until such time as the benefit plus the accumulated increases are less than*
18 *such limit;*
19 *(C) thereafter, in any subsequent limitation year, the member's an-*
20 *annual benefit including any automatic cost-of-living increase applicable*
21 *shall be tested under the then applicable benefit limit including any ad-*
22 *justment to the dollar limit under section 415(b)(1)(A) or 415(d) of the*
23 *federal internal revenue code and the regulations thereunder; and*
24 *(D) in no event shall a member's annual benefit payable from a re-*
25 *retirement plan in any limitation year be greater than the limit applicable*
26 *at the annuity starting date, as increased in subsequent years pursuant to*
27 *section 415(d) of the federal internal revenue code and the regulations*
28 *thereunder. If the form of benefit without regard to the automatic benefit*
29 *increase feature is not a straight life annuity, then the preceding sentence*
30 *is applied by reducing the limit under section 415(b) of the federal internal*
31 *revenue code applicable at the annuity starting date to an actuarially*
32 *equivalent amount determined using the assumptions specified in treasury*
33 *regulation section 1.415(b)-1(c)(2)(ii) that take into account the death*
34 *benefits under the form of benefit. This subsection applies to distributions*
35 *made on and after January 1, 1993. A distributee may elect to have any*
36 *portion of an eligible rollover distribution paid directly to an eligible re-*
37 *retirement plan specified by the distributee in a transfer made from the*
38 *retirement system.*
39 *(i) An eligible rollover distribution is any distribution of all or any*
40 *portion of the balance to the credit of the distributee, except that an eli-*
41 *gible rollover distribution does not include: (a) Any distribution that is*
42 *one of a series of substantially equal periodic payments, not less frequently*
43 *than annually, made for the life or the life expectancy of the distributee*

1 or the joint lives or joint life expectancies of the distributee and the dis-
2 tributee's designated beneficiary or for a specified period of 10 years or
3 more; (b) any distribution to the extent such distribution is required under
4 section 401(a)(9) of the federal internal revenue code; (c) the portion of
5 any distribution that is not includable in gross income; and (d) any other
6 distribution that is reasonably expected to total less than \$200 during the
7 year. Effective January 1, 2002, a portion of a distribution shall not fail
8 to be an eligible rollover distribution merely because the portion consists
9 of after-tax employee contributions that are not includable in gross in-
10 come. However, such portion may be transferred only to an individual
11 retirement account or annuity described in section 408(a) or (b) of the
12 federal internal revenue code, or to a qualified defined contribution plan
13 described in section 401(a) of the federal internal revenue code or to a
14 qualified plan described in section 403(a) of the federal internal revenue
15 code, or on or after January 1, 2007, to a qualified defined benefit plan
16 described in section 401(a) of the federal internal revenue code or to an
17 annuity contract described in section 403(b) of the federal internal reve-
18 nue code, that agrees to separately account for amounts so transferred
19 and earnings thereon, including separately accounting for the portion of
20 the distribution that is includible in gross income and the portion of the
21 distribution that is not so includible.

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

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

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

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

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

32 (e) effective January 1, 2002, an annuity contract described in section
33 403(b) of the federal internal revenue code;

34 ~~(f) effective January 1, 2002, an annuity contract described in section~~
35 ~~403(b) of the federal internal revenue code;~~

36 ~~—(g) [(f)] effective January 1, 2002, a plan eligible under section 457(b)~~
37 ~~of the federal internal revenue code that is maintained by a state, political~~
38 ~~subdivision of a state or any agency or instrumentality of a state or a~~
39 ~~political subdivision of a state that agrees to separately account for~~
40 ~~amounts transferred into the plan from a retirement plan; or~~

41 ~~(h) [(g)] effective January 1, 2008, a roth IRA described in section~~
42 ~~408(A) of the federal internal revenue code.~~

43 (iii) Effective January 1, 2002, the definition of eligible rollover dis-

1 *tribution also includes a distribution to a surviving spouse, or to a spouse*
2 *or former spouse who is an alternate payee under a domestic relations*
3 *order, as defined in section 414(p) of the federal internal revenue code.*
4 *(iv) A distributee includes an employee or former employee. It also*
5 *includes the employee's or former employee's surviving spouse and the*
6 *employee's or former employee's spouse or former spouse who is the al-*
7 *ternate payee under a qualified domestic relations order, as defined in*
8 *section 414(p) of the federal internal revenue code. Effective July 1, 2007,*
9 *a distributee further includes a nonspouse beneficiary who is a designated*
10 *beneficiary as defined by section 401(a)(9)(E) of the federal internal rev-*
11 *enue code. However, a nonspouse beneficiary may rollover the distribu-*
12 *tion only to an individual retirement account or individual retirement*
13 *annuity established for the purpose of receiving the distribution and the*
14 *account or annuity will be treated as an "inherited" individual retirement*
15 *account or annuity.*
16 *(v) A direct rollover is a payment by the retirement system to the*
17 *eligible retirement plan specified by the distributee.*
18 (8) Notwithstanding any law to the contrary, the board may accept a
19 direct or indirect ~~rollover of~~ eligible *rollover* distributions for the purpose
20 of the purchase of service credit. In addition, the board may accept a
21 direct trustee to trustee transfer from a deferred compensation plan un-
22 der section 457(b) of the federal internal revenue code or a tax sheltered
23 annuity under section 403(b) of the federal internal revenue code for: (A)
24 The purchase of permissive service credit, as defined under section
25 415(n)(3)(A) of the federal internal revenue code; or (B) a repayment to
26 which section 415 of the federal internal revenue code does not apply
27 pursuant to section 415(k)(3) of the federal internal revenue code. Any
28 such transfer shall be allowed as provided in this subsection to the extent
29 permitted by law, subject to any conditions, proofs or acceptance estab-
30 lished or required by the board or the board's designee.
31 (9) Where required by the act, an employer shall pick up and pay
32 contributions that would otherwise be payable by members of a retire-
33 ment plan in accordance with section 414(h)(2) of the federal internal
34 revenue code as follows:
35 (A) The contributions, although designated as employee contribu-
36 tions, are being paid by the employer in lieu of contributions by the
37 employee;
38 (B) the employee must not have been given the option of receiving
39 the amounts directly instead of having them paid to the retirement plan;
40 and
41 (C) the pickup shall apply to amounts that a member elects to con-
42 tribute to receive credit for prior or participating service if the election
43 is irrevocable and applies to amounts contributed before retirement.

- 1 (10) Notwithstanding any provision of this plan to the contrary, con-
2 tributions, benefits and service credit with respect to qualified military
3 service will be provided in accordance with section 414(u) of the federal
4 internal revenue code *and the uniformed services employment and reem-*
5 *ployment rights act of 1994.*
- 6 (11) Upon the complete or partial termination of a retirement plan,
7 the rights of members to benefits accrued to the date of termination, to
8 the extent funded, or to the amounts in their accounts are nonforfeitable,
9 and amounts in their accounts may be distributed to them.
- 10 (d) The plan year for the retirement plan begins on July 1.
- 11 (e) The limitation year for purposes of section 415 of the federal
12 internal revenue code is the calendar year.
- 13 (f) *The board may not engage in a transaction prohibited by section*
14 *503(b) of the federal internal revenue code.*
- 15 (g) (1) *For purposes of determining an “actuarial equivalent” or of*
16 *an “actuarial computation” for members hired prior to July 1, 2009, the*
17 *board shall use the following:*
- 18 (A) *The applicable mortality table is specified in revenue ruling 2001-*
19 *62 or revenue ruling 2007-67, as applicable; and*
- 20 (B) *the applicable interest factor is 8% per year.*
- 21 (2) *For purposes of determining an “actuarial equivalent” or an “ac-*
22 *tuarial computation” for members hired on or after July 1, 2009, the board*
23 *shall use the following:*
- 24 (A) *The applicable mortality table is the 50/50 male/female blend of*
25 *the RP 2000 health annuitant mortality table, projected to 2025; and*
- 26 (B) *The applicable interest factor is 8% per year.*
- 27 (3) *For converting amounts payable under the partial lump sum op-*
28 *tion, the board shall use the following:*
- 29 (A) *The applicable mortality table is a 50/50 male/female blend of the*
30 *1983 group annuity mortality table; and*
- 31 (B) *the applicable interest factor is 8% per year.*
- 32 (4) *For benefit testing under section 415(b) of the federal internal*
33 *revenue code, the factors required by treasury regulations shall be used.*
34 *The applicable mortality table is specified in revenue ruling 2001-62.*
- 35 Sec. 19. K.S.A. 74-49,124 is hereby amended to read as follows: 74-
36 49,124. (a) The board shall administer the Kansas public employees re-
37 tirement fund, including all benefit structures administered by the board,
38 in the manner required to satisfy the applicable qualification require-
39 ments for governmental plans as specified in the federal internal revenue
40 code of 1954 or 1986, as amended and as appropriate for a governmental
41 plan and as in effect on July 1, ~~1998~~ 2008.
- 42 (b) *Members shall be completely vested in their employee contribu-*
43 *tions at all times. Upon completion of required years of service and at-*

1 *tainment of normal retirement age members are vested in the benefits*
2 *provided under the retirement plan. Upon plan termination or discontin-*
3 *uance of employer contributions, members are vested in the retirement*
4 *plan to the extent funded.*

5 Sec. 20. K.S.A. 2007 Supp. 74-49,202 is hereby amended to read as
6 follows: 74-49,202. (a) As used in this act, unless otherwise provided or
7 the context otherwise requires: (1) “Act” means the Kansas public em-
8 ployees retirement system act of 2009, K.S.A. 2007 Supp. 74-49,201
9 through 74-49,213, and amendments thereto;

10 (2) “compensation” means the same as such term is defined in K.S.A.
11 74-4902, and amendments thereto, except that when the compensation
12 of a member who remains in substantially the same position during any
13 two consecutive years of participating service used in calculating final
14 average salary is increased by an amount which exceeds 7.5%, then the
15 amount of such increase which exceeds 7.5% shall not be included in
16 compensation, except that: (A) Any amount of compensation for accu-
17 mulated sick leave or vacation or annual leave paid to the member, (B)
18 any increase in compensation for any member due to the reclassification
19 or reallocation of such member’s position or a reassignment of such mem-
20 ber’s job classification to a higher range or level and, (C) any increase in
21 compensation as provided in any contract entered into prior to January
22 1, 1991, and still in force on July 1, 2009, pursuant to an early retirement
23 incentive program as provided in K.S.A. 72-5395 et seq., and amendments
24 thereto, shall be included in the amount of compensation of such member
25 used in determining such member’s final average salary and shall not be
26 subject to the 7.5% limitation provided in this subsection. Any contri-
27 butions by such member on the amount of such increase which exceeds
28 7.5% which is not included in compensation shall be returned to the
29 member;

30 (3) “covered position” means a position with an affiliated employer
31 that is eligible for membership in the Kansas public employees retirement
32 system pursuant to the provisions of K.S.A. 74-4901 et seq., and amend-
33 ments thereto;

34 (4) “employee” means the same as such term is defined in K.S.A. 74-
35 4902, and amendments thereto, except that only employees first em-
36 ployed by a participating employer on or after July 1, 2009, or employees
37 of a participating employer which affiliates on or after July 1, 2009, are
38 subject to the provisions of this act. The term employee shall include
39 employees as provided in K.S.A. 74-4931 et seq., and amendments
40 thereto, first employed by a participating employer on or after July 1,
41 2009, or such employees of a participating employer which affiliates on
42 or after July 1, 2009;

43 ~~(4)~~ (5) “entry date” means the entry date as of which an eligible em-

1 ployer joins the system. The first entry date is July 1, 2009. All employers
2 which are eligible employers under the provisions of K.S.A. 74-4901 et
3 seq., and amendments thereto, are eligible employers under this act. The
4 entry date for participating employers under the provisions of K.S.A. 74-
5 4901 et seq., and amendments thereto, is July 1, 2009;

6 ~~(5)~~ (6) “final average salary” means the average highest annual salary,
7 as defined in K.S.A. 74-4902, and amendments thereto, paid to such
8 member for any five years of participating service preceding retirement
9 or termination of employment;

10 ~~(6)~~ (7) “first employed” means an employee has not been an em-
11 ployee *in a covered position* of any participating employer prior to July
12 1, 2009, and is employed by a participating employer *in a covered position*
13 on or after July 1, 2009; an employee who is a former member of the
14 system who withdrew contribution accounts before July 1, 2009, and who
15 is again employed by a participating employer *in a covered position* on
16 or after July 1, 2009; or an employee who was an inactive non-vested
17 member and who is again employed by a participating employer *in a*
18 *covered position* on or after July 1, 2009;

19 ~~(7)~~ (8) “inactive, non-vested member” means a member who has ter-
20 minated employment with a participating employer and who does not
21 have a vested retirement benefit in the system on July 1, 2009;

22 ~~(8)~~ (9) “normal retirement date” means the date on or after which a
23 member may retire with all retirement benefits pursuant to K.S.A. 2007
24 Supp. 74-49,204, and amendments thereto;

25 ~~(9)~~ (10) “participating employer” means an eligible employer who has
26 agreed to make contributions to the system on behalf of its employees
27 first hired on or after July 1, 2009. All participating employers under the
28 provisions of K.S.A. 74-4901 et seq., and amendments thereto, shall be
29 participating employers under this act; and

30 ~~(10)~~ (11) “salary” means the same as such term is defined in K.S.A.
31 74-4902, and amendments thereto, except that when the salary of a mem-
32 ber who remains in substantially the same position during any two con-
33 secutive years of participating service used in calculating final average
34 salary is increased by an amount which exceeds 7.5%, then the amount
35 of such increase which exceeds 7.5% shall not be included in salary. Any
36 contributions by such member on the amount of such increase which
37 exceeds 7.5% which is not included in salary shall be returned to the
38 member. All other provisions in K.S.A. 74-4902, and amendments
39 thereto, related to compensation and salary of a member that are not in
40 conflict with the provisions of this act are hereby adopted for determining
41 final average salary under this act.

42 (b) Unless specifically provided in this section or in this act, words
43 and phrases used in this act shall have the meanings ascribed to them as

1 provided under the provisions of K.S.A. 74-4901 et seq., and amendments
2 thereto.

3 Sec. 21. K.S.A. 2007 Supp. 74-49,203 is hereby amended to read as
4 follows: 74-49,203. (a) Any employee other than an elected official of a
5 participating employer who is first employed by a participating employer
6 on or after July 1, 2009, shall be a member of the system under the
7 provisions of this act on the first day of employment of such employee
8 with such participating employer.

9 (b) Any employee other than an elected official of a participating
10 employer which affiliates with the system on or after July 1, 2009, shall
11 be a member of this system under the provisions of this act on the entry
12 date of such participating employer.

13 (c) *Any non-vested employee other than an elected official of a partic-*
14 *ipating employer who has been employed in a covered position as de-*
15 *finied in subsection (3) of K.S.A. 2007 Supp. 74-49,202, and amendments*
16 *thereto, other than with a school employer, shall remain a member of the*
17 *Kansas public employees retirement system as provided pursuant to*
18 *K.S.A. 74-4901 et seq., and amendments thereto, on and after July 1, 2009,*
19 *if the member: (1) Does not leave covered employment with a participat-*
20 *ing employer for a period of time exceeding 30 consecutive days; (2) does*
21 *not withdraw the member's accumulated contributions and interest, for-*
22 *feiting such member's membership in the interim; and (3) returns to cov-*
23 *ered employment with a participating employer in a covered position*
24 *within the 30-day time period. Any non-vested employee other than an*
25 *elected official of a participating employer who has been employed in a*
26 *covered position as defined in subsection (3) of K.S.A. 2007 Supp. 74-*
27 *49,202, and amendments thereto, with a participating school employer*
28 *shall remain a member of the Kansas public employees retirement system*
29 *as provided pursuant to K.S.A. 74-4901 et seq., and amendments thereto,*
30 *if the member was employed in a covered position with a participating*
31 *school employer for the duration of the school year and immediately re-*
32 *turns to covered employment with another participating school employer*
33 *at the beginning of the following school year, and the member does not*
34 *withdraw the member's accumulated contributions and interest, forfeiting*
35 *such member's membership in the interim.*

36 (d) Any employee who is an elected official and who first took office
37 on or after July 1, 2009, and is eligible to join the system shall file, within
38 90 days after taking the oath of office, an irrevocable election to become
39 or not to become a member of the system under the provisions of the
40 Kansas public employees retirement system act of 2009. Such election
41 shall become effective immediately upon making such election, if such
42 election is made within 14 days of taking the oath of office or, otherwise,
43 on the first day of the first payroll period of the first quarter following

1 receipt of the election in the office of the retirement system. In the event
2 that such elected official fails to file the election to become a member of
3 the retirement system, it shall be presumed that such person has elected
4 not to become a member.

5 Sec. 22. K.S.A. 2007 Supp. 74-49,207 is hereby amended to read as
6 follows: 74-49,207. (a) (1) Notwithstanding the provisions of K.S.A. 2007
7 Supp. 74-49,204, and amendments thereto, the normal retirement date
8 for all security officers, as defined by subsections (1)(a) or (1)(b) of K.S.A.
9 74-4914a, and amendments thereto, with at least three consecutive years
10 of service as such security officer immediately preceding the date of re-
11 tirement, shall be the first day of the month coinciding with or following
12 the attainment of age 55 with completion of 10 years of service.

13 (2) Any such security officer may retire before such normal retire-
14 ment date on the first day of any month coinciding with or following the
15 attainment of age 50 or completion of 10 years of credited service, which-
16 ever occurs later.

17 (b) (1) Notwithstanding the provisions of K.S.A. 2007 Supp. 74-
18 49,204, and amendments thereto, the normal retirement date for all se-
19 curity officers, as defined by subsections (1)(c), (d), (e) or (f) of K.S.A.
20 74-4914a, and amendments thereto, with at least three consecutive years
21 of service as such security officer immediately preceding the date of re-
22 tirement, shall be the first day of the month coinciding with or following
23 the attainment of age 60 with completion of 10 years of service.

24 (2) Any such security officer may retire before such normal retire-
25 ment date on the first day of any month coinciding with or following the
26 attainment of age 55 or completion of 10 years of credited service, which-
27 ever occurs later.

28 (c) *Any security officer who retires before the normal retirement date*
29 *as provided pursuant to subsection (a)(2) or (b)(2), shall receive an annual*
30 *retirement benefit as calculated in K.S.A. 2007 Supp. 74-49,205, and*
31 *amendments thereto, actuarially reduced for early retirement. The reduc-*
32 *tion for early retirement shall produce a benefit which is actuarially equiv-*
33 *alent to, and has the same present value of, the annual retirement benefit*
34 *determined in K.S.A. 2007 Supp. 74-49,205, and amendments thereto,*
35 *payable to such member's normal retirement date in accordance with the*
36 *provisions of this section. The actuarial basis for reduction of such annual*
37 *retirement benefit for early retirement shall be set by the board.*

38 Sec. 23. K.S.A. 2007 Supp. 74-49,208 is hereby amended to read as
39 follows: 74-49,208. Any member who is first employed by a participating
40 employer on or after July 1, 2009, and who has completed five years of
41 credited service at the time of termination, shall be granted a vested
42 retirement benefit in the system, except that at any time prior to the
43 commencement of retirement benefit payments the member may with-

1 draw accumulated contributions, whereupon no other benefits shall be
2 payable for such member's prior and participating benefits. *Any member*
3 *who is not vested under the Kansas public employees retirement system*
4 *pursuant to the provisions of K.S.A. 74-4901 et seq., and amendments*
5 *thereto, and completed five years of credited service and remains em-*
6 *ployed by the same participating employer without termination in a non-*
7 *covered position shall be granted a vested benefit in the system.*

8 Sec. 24. K.S.A. 2007 Supp. 79-32,117 is hereby amended to read as
9 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
10 means such individual's federal adjusted gross income for the taxable year,
11 with the modifications specified in this section.

12 (b) There shall be added to federal adjusted gross income:

13 (i) Interest income less any related expenses directly incurred in the
14 purchase of state or political subdivision obligations, to the extent that
15 the same is not included in federal adjusted gross income, on obligations
16 of any state or political subdivision thereof, but to the extent that interest
17 income on obligations of this state or a political subdivision thereof issued
18 prior to January 1, 1988, is specifically exempt from income tax under the
19 laws of this state authorizing the issuance of such obligations, it shall be
20 excluded from computation of Kansas adjusted gross income whether or
21 not included in federal adjusted gross income. Interest income on obli-
22 gations of this state or a political subdivision thereof issued after Decem-
23 ber 31, 1987, shall be excluded from computation of Kansas adjusted
24 gross income whether or not included in federal adjusted gross income.

25 (ii) Taxes on or measured by income or fees or payments in lieu of
26 income taxes imposed by this state or any other taxing jurisdiction to the
27 extent deductible in determining federal adjusted gross income and not
28 credited against federal income tax. This paragraph shall not apply to taxes
29 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
30 ments thereto, for privilege tax year 1995, and all such years thereafter.

31 (iii) The federal net operating loss deduction.

32 (iv) Federal income tax refunds received by the taxpayer if the de-
33 duction of the taxes being refunded resulted in a tax benefit for Kansas
34 income tax purposes during a prior taxable year. Such refunds shall be
35 included in income in the year actually received regardless of the method
36 of accounting used by the taxpayer. For purposes hereof, a tax benefit
37 shall be deemed to have resulted if the amount of the tax had been de-
38 ducted in determining income subject to a Kansas income tax for a prior
39 year regardless of the rate of taxation applied in such prior year to the
40 Kansas taxable income, but only that portion of the refund shall be in-
41 cluded as bears the same proportion to the total refund received as the
42 federal taxes deducted in the year to which such refund is attributable
43 bears to the total federal income taxes paid for such year. For purposes

- 1 of the foregoing sentence, federal taxes shall be considered to have been
2 deducted only to the extent such deduction does not reduce Kansas tax-
3 able income below zero.
- 4 (v) The amount of any depreciation deduction or business expense
5 deduction claimed on the taxpayer's federal income tax return for any
6 capital expenditure in making any building or facility accessible to the
7 handicapped, for which expenditure the taxpayer claimed the credit al-
8 lowed by K.S.A. 79-32,177, and amendments thereto.
- 9 (vi) Any amount of designated employee contributions picked up by
10 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
11 and amendments to such sections.
- 12 (vii) The amount of any charitable contribution made to the extent
13 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
14 79-32,196, and amendments thereto.
- 15 (viii) The amount of any costs incurred for improvements to a swine
16 facility, claimed for deduction in determining federal adjusted gross in-
17 come, to the extent the same is claimed as the basis for any credit allowed
18 pursuant to K.S.A. 2007 Supp. 79-32,204 and amendments thereto.
- 19 (ix) The amount of any ad valorem taxes and assessments paid and
20 the amount of any costs incurred for habitat management or construction
21 and maintenance of improvements on real property, claimed for deduc-
22 tion in determining federal adjusted gross income, to the extent the same
23 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
24 and amendments thereto.
- 25 (x) Amounts received as nonqualified withdrawals, as defined by
26 K.S.A. 2007 Supp. 75-643, and amendments thereto, if, at the time of
27 contribution to a family postsecondary education savings account, such
28 amounts were subtracted from the federal adjusted gross income pur-
29 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-
30 ments thereto, or if such amounts are not already included in the federal
31 adjusted gross income.
- 32 (xi) The amount of any contribution made to the same extent the
33 same is claimed as the basis for the credit allowed pursuant to K.S.A.
34 2007 Supp. 74-50,154, and amendments thereto.
- 35 (xii) For taxable years commencing after December 31, 2004,
36 amounts received as withdrawals not in accordance with the provisions
37 of K.S.A. 2007 Supp. 74-50,204, and amendments thereto, if, at the time
38 of contribution to an individual development account, such amounts were
39 subtracted from the federal adjusted gross income pursuant to paragraph
40 (xiii) of subsection (c), or if such amounts are not already included in the
41 federal adjusted gross income.
- 42 (xiii) The amount of any expenditures claimed for deduction in de-
43 termining federal adjusted gross income, to the extent the same is claimed

- 1 as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-
2 32,217 through 79-32,220 or 79-32,222, and amendments thereto.
- 3 (xiv) The amount of any amortization deduction claimed in deter-
4 mining federal adjusted gross income to the extent the same is claimed
5 for deduction pursuant to K.S.A. 2007 Supp. 79-32,221, and amendments
6 thereto.
- 7 (xv) The amount of any expenditures claimed for deduction in deter-
8 mining federal adjusted gross income, to the extent the same is claimed
9 as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-
10 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
11 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
12 32,248 or 79-32,251 through 79-32,254, and amendments thereto.
- 13 (xvi) The amount of any amortization deduction claimed in deter-
14 mining federal adjusted gross income to the extent the same is claimed
15 for deduction pursuant to K.S.A. 2007 Supp. 79-32,227, 79-32,232, 79-
16 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.
- 17 (xvii) The amount of any amortization deduction claimed in deter-
18 mining federal adjusted gross income to the extent the same is claimed
19 for deduction pursuant to K.S.A. 2007 Supp. 79-32,256, and amendments
20 thereto.
- 21 (c) There shall be subtracted from federal adjusted gross income:
- 22 (i) Interest or dividend income on obligations or securities of any
23 authority, commission or instrumentality of the United States and its pos-
24 sessions less any related expenses directly incurred in the purchase of
25 such obligations or securities, to the extent included in federal adjusted
26 gross income but exempt from state income taxes under the laws of the
27 United States.
- 28 (ii) Any amounts received which are included in federal adjusted
29 gross income but which are specifically exempt from Kansas income tax-
30 ation under the laws of the state of Kansas.
- 31 (iii) The portion of any gain or loss from the sale or other disposition
32 of property having a higher adjusted basis for Kansas income tax purposes
33 than for federal income tax purposes on the date such property was sold
34 or disposed of in a transaction in which gain or loss was recognized for
35 purposes of federal income tax that does not exceed such difference in
36 basis, but if a gain is considered a long-term capital gain for federal in-
37 come tax purposes, the modification shall be limited to that portion of
38 such gain which is included in federal adjusted gross income.
- 39 (iv) The amount necessary to prevent the taxation under this act of
40 any annuity or other amount of income or gain which was properly in-
41 cluded in income or gain and was taxed under the laws of this state for a
42 taxable year prior to the effective date of this act, as amended, to the
43 taxpayer, or to a decedent by reason of whose death the taxpayer acquired

- 1 the right to receive the income or gain, or to a trust or estate from which
2 the taxpayer received the income or gain.
- 3 (v) The amount of any refund or credit for overpayment of taxes on
4 or measured by income or fees or payments in lieu of income taxes im-
5 posed by this state, or any taxing jurisdiction, to the extent included in
6 gross income for federal income tax purposes.
- 7 (vi) Accumulation distributions received by a taxpayer as a beneficiary
8 of a trust to the extent that the same are included in federal adjusted
9 gross income.
- 10 (vii) Amounts received as annuities under the federal civil service
11 retirement system from the civil service retirement and disability fund
12 and other amounts received as retirement benefits in whatever form
13 which were earned for being employed by the federal government or for
14 service in the armed forces of the United States.
- 15 (viii) Amounts received by retired railroad employees as a supple-
16 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
17 et seq.
- 18 (ix) Amounts received by retired employees of a city and by retired
19 employees of any board of such city as retirement allowances pursuant to
20 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
21 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
22 amendments thereto.
- 23 (x) For taxable years beginning after December 31, 1976, the amount
24 of the federal tentative jobs tax credit disallowance under the provisions
25 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
26 the amount of the targeted jobs tax credit and work incentive credit dis-
27 allowances under 26 U.S.C. 280 C.
- 28 (xi) For taxable years beginning after December 31, 1986, dividend
29 income on stock issued by Kansas Venture Capital, Inc.
- 30 (xii) For taxable years beginning after December 31, 1989, amounts
31 received by retired employees of a board of public utilities as pension and
32 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
33 and amendments thereto.
- 34 (xiii) For taxable years beginning after December 31, 2004, amounts
35 contributed to and the amount of income earned on contributions de-
36 posited to an individual development account under K.S.A. 2007 Supp.
37 74-50,201, et seq., and amendments thereto.
- 38 (xiv) For all taxable years commencing after December 31, 1996, that
39 portion of any income of a bank organized under the laws of this state or
40 any other state, a national banking association organized under the laws
41 of the United States, an association organized under the savings and loan
42 code of this state or any other state, or a federal savings association or-
43 ganized under the laws of the United States, for which an election as an

1 S corporation under subchapter S of the federal internal revenue code is
2 in effect, which accrues to the taxpayer who is a stockholder of such
3 corporation and which is not distributed to the stockholders as dividends
4 of the corporation.

5 (xv) For all taxable years beginning after December 31, 2006,
6 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
7 joint return, for each designated beneficiary which are contributed to a
8 family postsecondary education savings account established under the
9 Kansas postsecondary education savings program or a qualified tuition
10 program established and maintained by another state or agency or instru-
11 mentality thereof pursuant to section 529 of the internal revenue code of
12 1986, as amended, for the purpose of paying the qualified higher edu-
13 cation expenses of a designated beneficiary at an institution of postsecon-
14 dary education. The terms and phrases used in this paragraph shall have
15 the meaning respectively ascribed thereto by the provisions of K.S.A.
16 2007 Supp. 75-643, and amendments thereto, and the provisions of such
17 section are hereby incorporated by reference for all purposes thereof.

18 (xvi) For the tax year beginning after December 31, 2004, an amount
19 not exceeding \$500; for the tax year beginning after December 31, 2005,
20 an amount not exceeding \$600; for the tax year beginning after December
21 31, 2006, an amount not exceeding \$700; for the tax year beginning after
22 December 31, 2007, an amount not exceeding \$800; for the tax year
23 beginning December 31, 2008, an amount not exceeding \$900; and for
24 all taxable years commencing after December 31, 2009, an amount not
25 exceeding \$1,000 of the premium costs for qualified long-term care in-
26 surance contracts, as defined by subsection (b) of section 7702B of public
27 law 104-191.

28 (xvii) For all taxable years beginning after December 31, 2004,
29 amounts received by taxpayers who are or were members of the armed
30 forces of the United States, including service in the Kansas army and air
31 national guard, as a recruitment, sign up or retention bonus received by
32 such taxpayer as an incentive to join, enlist or remain in the armed services
33 of the United States, including service in the Kansas army and air national
34 guard, and amounts received for repayment of educational or student
35 loans incurred by or obligated to such taxpayer and received by such
36 taxpayer as a result of such taxpayer's service in the armed forces of the
37 United States, including service in the Kansas army and air national guard.

38 (xviii) For all taxable years beginning after December 31, 2004,
39 amounts received by taxpayers who are eligible members of the Kansas
40 army and air national guard as a reimbursement pursuant to K.S.A. 48-
41 281, and amendments thereto, and amounts received for death benefits
42 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
43 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and

1 amendments thereto, to the extent that such death benefits are included
2 in federal adjusted gross income of the taxpayer.

3 (xix) For the taxable year beginning after December 31, 2006,
4 amounts received as benefits under the federal social security act which
5 are included in federal adjusted gross income of a taxpayer with federal
6 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
7 status is single, head of household, married filing separate or married
8 filing jointly; and for all taxable years beginning after December 31, 2007,
9 amounts received as benefits under the federal social security act which
10 are included in federal adjusted gross income of a taxpayer with federal
11 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
12 status is single, head of household, married filing separate or married
13 filing jointly.

14 (xx) *Amounts received by retired employees of Washburn university*
15 *as retirement and pension benefits under the university's retirement plan.*

16 (d) There shall be added to or subtracted from federal adjusted gross
17 income the taxpayer's share, as beneficiary of an estate or trust, of the
18 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
19 amendments thereto.

20 (e) The amount of modifications required to be made under this sec-
21 tion by a partner which relates to items of income, gain, loss, deduction
22 or credit of a partnership shall be determined under K.S.A. 79-32,131,
23 and amendments thereto, to the extent that such items affect federal
24 adjusted gross income of the partner.

25 Sec. 25. K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02,
26 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4917a, 74-4919b, 74-
27 4924, 74-4988, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124
28 and K.S.A. 2007 Supp. 74-4902, 74-49,202, 74-49,203, 74-49,207, 74-
29 49,208 and 79-32,117 are hereby repealed.

30 Sec. 26. This act shall take effect and be in force from and after its
31 publication in the statute book.