

SENATE BILL No. 663

By Joint Committee on Pensions, Investments and Benefits

2-27

9 AN ACT concerning retirement; relating to the Kansas public employees
10 retirement system and systems thereunder; retirement plan compli-
11 ance with federal law; amending K.S.A. 12-5005, 13-14a02, 13-14a10,
12 13-14a13, 14-10a02, 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912,
13 74-4919b, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124
14 and K.S.A. 2007 Supp. 74-4902 and repealing the existing sections;
15 also repealing K.S.A. 74-4917a.
16

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

18 Section 1. K.S.A. 12-5005 is hereby amended to read as follows: 12-
19 5005. (a) Every retired member of a local police or fire pension plan and
20 every active member of the plan who is entitled to make an election to
21 become a member of the Kansas police and firemen's retirement system
22 pursuant to K.S.A. 12-5003 or 74-4955 and amendments thereto and who
23 does not so elect shall become a special member of the Kansas police and
24 firemen's retirement system on the entry date of the city which is affili-
25 ating with the Kansas police and firemen's retirement system with regard
26 to all active members and retired members of the local police or fire
27 pension plan under K.S.A. 74-4954 and amendments thereto.

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

42 (c) Except as otherwise provided in this act, each active member of
43 a local police or fire pension plan who becomes a special member of the

1 Kansas police and firemen's retirement system under this section shall be
2 subject to the provisions of and entitled to pensions and other benefits,
3 rights and privileges to the extent provided under the local police and fire
4 pension plan on the day immediately preceding the entry date of the city
5 which is affiliating with the Kansas police and firemen's retirement system
6 with regard to all active members and retired members of the plan.

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

35 (e) (1) Every pension or other benefit received by any special mem-
36 ber pursuant to subsection (c) or (d) is hereby made and declared exempt
37 from any tax of the state of Kansas or any political subdivision or taxing
38 body of this state; shall not be subject to execution, garnishment, attach-
39 ment or any other process or claim whatsoever, except such pension or
40 benefit or any accumulated contributions due and owing from the system
41 to such special member are subject to decrees for child support or main-
42 tenance, or both, as provided in K.S.A. 60-1610 and amendments thereto;
43 and shall be unassignable, except that within 30 days after the death of a

1 retirant the lump-sum death benefit payable to a retirant pursuant to the
2 provisions of K.S.A. 74-4989 and amendments thereto may be assignable
3 to a funeral establishment providing funeral services to such retirant by
4 the beneficiary of such retirant. The Kansas public employees retirement
5 system shall not be a party to any action under article 16 of chapter 60
6 of the Kansas Statutes Annotated, and amendments thereto, and is subject
7 to orders from such actions issued by the district court of the county
8 where such action was filed. Such orders from such actions shall specify
9 either a specific amount or specific percentage of the amount of the pen-
10 sion or benefit or any accumulated contributions due and owing from the
11 system to be distributed by the system pursuant to this act.

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

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

34 (2) Member contributions picked up by the employer shall be paid
35 from the same source of funds used for the payment of compensation to
36 a member. A deduction shall be made from each member’s compensation
37 equal to the amount of the member’s contributions picked up by the
38 employer, provided that such deduction shall not reduce the member’s
39 compensation for purposes of computing benefits under K.S.A. 12-5001
40 to 12-5007, inclusive, and amendments thereto.

41 (3) Member contributions picked up by the employer shall be re-
42 mitted quarterly, or as the board may otherwise provide, to the executive
43 secretary for credit to the Kansas public employees retirement fund. Such

1 contributions shall be credited to a separate account within the member's
2 individual account so that amounts contributed by the member com-
3 mencing with the third quarter of 1984 may be distinguished from the
4 member contributions picked up by the employer. Interest shall be added
5 annually to members' individual accounts.

6 Sec. 2. K.S.A. 13-14a02 is hereby amended to read as follows: 13-
7 14a02. The governing body of all cities of the first class, maintaining an
8 organized police department and a fire department, shall establish, main-
9 tain and fund a separate pension fund for each department, which shall
10 be set aside and used exclusively for the payment of pensions and disa-
11 bility benefits as authorized in K.S.A. 13-14a01 et seq. and amendments
12 thereto. Whenever the amount of any benefit is to be determined on the
13 basis of actuarial assumptions, the assumptions shall be specified in a way
14 that precludes employer discretion. Each such pension fund shall be
15 maintained and funded in accordance with the minimum funding stan-
16 dards prescribed in K.S.A. 12-5002 and amendments thereto. For the
17 purpose of creating, maintaining and funding such pension funds, the
18 governing body of each city of first class is hereby authorized and shall:

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

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

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

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

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

43 (f) 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. 13-14a05 and amendments thereto. In lieu of levying
6 the tax authorized in this section, the annual contribution required of the
7 city may be paid from any employee benefits contribution fund estab-
8 lished pursuant to K.S.A. 12-16,102 and amendments thereto; and

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

14 Sec. 3. K.S.A. 13-14a10 is hereby amended to read as follows: 13-
15 14a10. Except as provided further, any annuity, benefits, funds, property
16 or rights created by or accruing to any person under the provisions of
17 K.S.A. 13-14a01 et seq. or K.S.A. 14-10a01 et seq., and amendments
18 thereto, are hereby made and declared exempt from any tax of the state
19 of Kansas or any political subdivision or taxing body thereof, and shall not
20 be subject to execution, garnishment or attachment, or any other process
21 or claim whatsoever, and shall be unassignable, except as specifically pro-
22 vided by law.

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

32 Sec. 4. K.S.A. 13-14a13 is hereby amended to read as follows: 13-
33 14a13. Any officer or member of such police department or fire depart-
34 ment, who leaves such department and serves in the uniformed services
35 of the United States shall be credited by the respective board of trustees,
36 with time or any part thereof so served, in computing such officer’s or
37 member’s retirement time for pension purposes, as required by federal
38 law, including, but not limited to, when applicable, the uniformed services
39 employment and reemployment rights act of 1994, as in effect on July 1,
40 ~~1998~~ 2008.

41 Sec. 5. K.S.A. 14-10a02 is hereby amended to read as follows: 14-
42 10a02. The governing bodies of all cities of the second class, with a pop-
43 ulation in excess of 6,000 located in counties having a population of 10,000

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

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

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

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

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

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

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

39 (g) levy annually at the time for the levying of taxes for city purposes,
40 a tax upon all of the taxable tangible property in such city for each pension
41 fund to make annual contributions to each pension fund as required un-
42 der K.S.A. 12-5002 and amendments thereto and to maintain and fund
43 each pension fund on an actuarial reserve basis in accordance with the

1 provisions of K.S.A. 14-10a05 and amendments thereto and to pay a por-
2 tion of the principal and interest on bonds issued by such city under the
3 authority of K.S.A. 12-1774, and amendments thereto. In lieu of levying
4 the tax authorized in this section, the annual contribution required of the
5 city may be paid from any employee benefits contribution fund estab-
6 lished pursuant to K.S.A. 12-16,102 and amendments thereto; and

7 (h) administer such funds in the manner required to satisfy the ap-
8 plicable qualification requirements for governmental plans as specified in
9 the federal internal revenue code of 1954 or 1986, as in effect on July 1,
10 ~~1998~~ 2008, and as applicable for a governmental plan in accordance with
11 the provisions of K.S.A. ~~2001 Supp.~~ 74-49,123 and amendments thereto.

12 Sec. 6. K.S.A. 14-10a13 is hereby amended to read as follows: 14-
13 10a13. Any officer or member of such police department or fire depart-
14 ment, who leaves such department and serves in the uniformed services
15 of the United States shall be credited by the respective board of trustees,
16 with time or any part thereof so served, in computing such officer's or
17 member's retirement time for pension purposes, as required by federal
18 law, including, not limited to, when applicable, the uniformed services
19 employment and reemployment rights act of 1994, as in effect on July 1,
20 ~~1998~~ 2008.

21 Sec. 7. K.S.A. 20-2601 is hereby amended to read as follows: 20-
22 2601. As used in K.S.A. 20-2601 et seq. and amendments thereto, unless
23 the context otherwise requires:

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

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

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

36 (d) "member" means a judge who is making the required contribu-
37 tions to the fund, or any former judge who has made the required con-
38 tributions to the fund and has not received a refund of the judge's ac-
39 cumulated contributions;

40 (e) "prior service" means all the periods of time any judge has served
41 in such capacity prior to the effective date of this act except that district
42 magistrate judges who have service credit under the Kansas public em-
43 ployees retirement system must make application to the board and, sub-

1 ject to the provisions of K.S.A. 74-49,123 and amendments thereto, make
2 payment as required by the board to transfer service credit from the
3 Kansas public employees retirement system to the retirement system for
4 judges;

5 (f) “current service” means the period of service any judge serves in
6 such capacity from and after the effective date of this act;

7 (g) “military service” means service of any judge for which retirement
8 benefit credit must be given as provided in the uniformed services em-
9 ployment and reemployment rights act of 1994, as in effect on July 1,
10 ~~1998~~ 2008;

11 (h) “total years of service” means the total number of years served as
12 a judge, including prior service, military service and current service as
13 defined by this section, computed to the nearest quarter;

14 (i) “salary” means the statutory salary of a judge;

15 (j) “final average salary” means that determined as provided in sub-
16 section (b) of K.S.A. 20-2610 and amendments thereto;

17 (k) “beneficiary” means any natural person or persons or estate des-
18 ignated by a judge in the latest designation of beneficiary received in the
19 retirement system office to receive any benefits as provided for by this
20 act. Except as provided in subsection (n), if there is no named beneficiary
21 living at the time of the judge’s death, any benefits provided for by this
22 act shall be paid to: (1) The judge’s surviving spouse; (2) the judge’s
23 dependent child or children; (3) the judge’s dependent parent or parents;
24 (4) the judge’s nondependent child or children; (5) the judge’s nonde-
25 pendent parent or parents; or (6) the estate of the deceased member; in
26 the order of preference as specified in this subsection. Designations of
27 beneficiaries by a member who is a member of more than one retirement
28 system made on or after July 1, 1987, shall be the basis of any benefits
29 payable under all systems unless otherwise provided by law;

30 (l) “annuity” means a series of equal monthly payments, payable at
31 the end of each calendar month during the life of a retired judge, of
32 which payments the first payment shall be made as of the end of the
33 calendar month in which such annuity was awarded and the last payment
34 shall be at the end of the calendar month in which such judge dies. The
35 first payment shall include all amounts accrued since the effective date
36 of the award of annuities, including a pro rata portion of the monthly
37 amount of any fraction of a month elapsing between the effective date of
38 such annuity and the end of the calendar month in which such annuity
39 began;

40 (m) “board” means the board of trustees of the Kansas public em-
41 ployees retirement system;

42 (n) “trust” means an express trust created by any trust instrument,
43 including a will, and designated by a member to receive benefits and other

1 amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and
2 amendments thereto, instead of a beneficiary. A designation of a trust
3 shall be filed with the board. If there is a designated trust at the time of
4 the member's death, all benefits and other amounts payable under K.S.A.
5 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid
6 to the trust instead of the member's beneficiary. If no will is admitted to
7 probate within six months after the death of the member or no trustee
8 qualifies within such six months or if the designated trust fails, for any
9 reason whatsoever, any benefits and other amounts payable under K.S.A.
10 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid
11 to the member's beneficiary and any payments so made shall be a full
12 discharge and release to the retirement system for judges from any fur-
13 ther claims;

14 (o) "accumulated contributions" means the sum of all contributions
15 by a member to the retirement system for judges which are credited to
16 the member's account, with interest allowed thereon after June 30, 1982;

17 (p) "federal internal revenue code" means the federal internal reve-
18 nue code of 1954 or 1986, as in effect on July 1, ~~1998~~ 2008, and as
19 applicable to a governmental plan; and

20 (q) except as otherwise provided in K.S.A. 20-2601 et seq. and
21 amendments thereto, words and phrases used in K.S.A. 20-2601 et seq.
22 and amendments thereto shall have the same meanings ascribed to them
23 as are defined in K.S.A. 74-4902 and amendments thereto.

24 Sec. 8. K.S.A. 20-2623 is hereby amended to read as follows: 20-
25 2623. The retirement system for judges shall be administered by the
26 board in the manner required to satisfy the applicable qualification
27 requirements for governmental plans as specified in the federal internal
28 revenue code of 1954 or 1986, as amended and as appropriate for a gov-
29 ernmental plan and as in effect on July 1, ~~1998~~ 2008. The provisions of
30 K.S.A. 74-49,123 and amendments thereto apply to the administration of
31 the system.

32 Sec. 9. K.S.A. 72-5501 is hereby amended to read as follows: 72-
33 5501. As used in this act, unless the context otherwise requires:

34 (a) "Retirement system" means the state school retirement system;

35 (b) "board" means the board of trustees of the Kansas public em-
36 ployees retirement system;

37 (c) "school year" means either the twelve-month period beginning on
38 September first, or the legal school term during such period. In case of
39 doubt the board shall decide what constitutes a school year. The board
40 shall not give credit for a school year that represents less than 140 days,
41 except that the board may give credit for a school year if not less than 80
42 days of actual service has been rendered and if continuance in school
43 service was prevented by illness or other emergency beyond the control

1 of the person entitled to such credit. No person shall receive credit for
2 more than one school year during any twelve-month period beginning on
3 September 1. The board shall give credit for $\frac{1}{2}$ of a school year for $\frac{1}{2}$
4 school year of continuous full-time service;

5 (d) "school employees" means persons who have performed or who
6 shall hereafter perform school services as classroom teachers, adminis-
7 trators, supervisors, librarians, nurses, clerks, janitors or in any other full-
8 time capacity in the public schools, area vocational-technical schools or
9 community junior colleges of the state of Kansas and who are citizens of
10 the United States and school employees shall include: (1) Persons who
11 have performed service as a county superintendent of public instruction
12 or as an employee appointed by and under the supervision of a county
13 superintendent; (2) persons who have performed service as a state su-
14 perintendent of public instruction or as an employee appointed by and
15 under supervision of a state superintendent; (3) persons who have per-
16 formed services as an employee appointed by the former state board for
17 vocational education, except that prior to the time of accepting such em-
18 ployment by such county superintendent, state superintendent or state
19 board for vocational education such employees had performed school
20 service in Kansas as a teacher, principal, supervisor, or superintendent;
21 (4) persons who are employees appointed by and under the supervision
22 of the constitutional state board of education, including those employees
23 transferred to the state department of education at its inception in January
24 of 1969, and who prior to the time of accepting such employment by the
25 state board of education had performed school service in Kansas as a
26 teacher, principal, supervisor, or superintendent; (5) the commissioner of
27 education if such commissioner exercises an irrevocable option to be cov-
28 ered by the state school retirement system in lieu of being covered by
29 the Kansas public employees retirement system, which option shall be
30 exercised by written notice of the commissioner of education at the time
31 of appointment. Such notice shall be directed to the state school retire-
32 ment board and the board of trustees of the Kansas public employees
33 retirement system; (6) all instructional employees for the school for the
34 blind and such employees shall be excluded from participation in any
35 other state retirement system; and (7) teachers and supervisors of instruc-
36 tion at the state institutions under the management of the director of
37 penal institutions and those under the management of the state board of
38 social welfare which provide regular classroom instruction for their in-
39 mates or patients if such instructional personnel have valid certificates
40 issued by the state board of education, except that the provisions of this
41 subsection shall not include such employees who have elected or shall
42 elect, irrevocably, at the time of employment by the institution to partic-
43 ipate in the Kansas public employees retirement system. The term

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

23 (e) “school service” means: (1) Service performed as a school em-
24 ployee prior to September 1, 1941, if such years of service include at least
25 six months during the years 1938-39 or 1939-40 or 1940-41; service per-
26 formed by any employee who was not in school service in any of the school
27 years from 1938 to 1941, but who reentered school service after Septem-
28 ber 1, 1941, and continued in such service for at least five years; all service
29 prior to September 1, 1941, of any annuitant who retired prior to Sep-
30 tember 1, 1961, and who was granted a service annuity for one or more
31 years as a contributing member of the school retirement system; all serv-
32 ice prior to September 1, 1941, of any employee who served for at least
33 six months during one of the qualifying years from 1938 to 1941 in a
34 school system maintaining its own separate retirement system in Kansas,
35 if such employee has not qualified, nor will in the future qualify, for
36 retirement benefits under the separate retirement system; all service as
37 a school employee, including out-of-state service as a school employee,
38 for a period of 10 or more years prior to September 1, 1938, except that
39 service annuities paid by the state of Kansas to such school employees
40 shall not include such out-of-state service as a school employee, unless
41 otherwise provided by law; (2) service as a school employee after Septem-
42 ber 1, 1941, as a contributing member of the school retirement system.
43 No service credit shall be granted to a school employee who established

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

38 (f) "school annuitant" means any person who is entitled to receive a
39 school annuity;

40 (g) "school annuity" means the monthly payments due to any school
41 annuitant. Such payments shall continue for life, and be paid in monthly
42 installments;

43 (h) "service annuity" means that part of the school annuity which is

1 based upon the service record of the person concerned, and which is paid
2 by the state;

3 (i) "savings annuity" means that part of the school annuity which re-
4 sults from the accumulated contributions of the school employee and
5 interest thereon less the proportionate share of the expense of the ad-
6 ministration of this act;

7 (j) "disability annuity" means a school annuity granted to a school
8 employee who suffers such physical or mental disability as to be unable
9 to perform school service;

10 (k) "standard annuity" means the school annuity which is granted to
11 a school employee at the age of 65 years, as prescribed by this act. The
12 standard annuity shall be used as the basis in computing actuarially equiv-
13 alent annuities granted at ages prior to 65 years. Whenever the amount
14 of any benefit is to be determined on the basis of actuarial assumptions,
15 the assumption shall be specified in a way that precludes employer
16 discretion;

17 (l) "service record" means the individual record kept by the board
18 for each school employee. It shall show the number of school years of
19 school service, the salary or wages earned, the date of birth, and such
20 other data as the board may require;

21 (m) "age" and "attained age" shall be computed as of September 1
22 of the calendar year under consideration;

23 (n) "deductions" means the amounts withheld, as provided in this act,
24 from warrants issued in payment for school services;

25 (o) "actuarial computation" means computation in accordance with
26 some standard actuarial table. The board shall determine which one of
27 the standard actuarial tables shall be used. Whenever the amount of any
28 benefit is to be determined on the basis of actuarial assumptions, the
29 assumptions shall be specified in a way that precludes employer discre-
30 tion; and

31 (p) "compensation" means the same as provided in K.S.A. 74-49,123
32 and amendments thereto for purposes of nondiscrimination testing pur-
33 suant to the federal internal revenue code of 1986, as in effect on July 1,
34 ~~1998~~ 2008.

35 Sec. 10. K.S.A. 2007 Supp. 74-4902 is hereby amended to read as
36 follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amend-
37 ments thereto, unless otherwise provided or the context otherwise
38 requires:

39 (1) "Accumulated contributions" means the sum of all contributions
40 by a member to the system which are credited to the member's account,
41 with interest allowed thereon;

42 (2) "acts" means the provisions of articles 49 and 49a of the Kansas
43 Statutes Annotated and amendments thereto;

- 1 (3) “actuarial equivalent” means an annuity or benefit of equal value
2 to the accumulated contributions, annuity or benefit, when computed
3 upon the basis of the actuarial tables in use by the system. Whenever the
4 amount of any benefit is to be determined on the basis of actuarial as-
5 sumptions, the assumptions shall be specified in a way that precludes
6 employer discretion;
- 7 (4) “actuarial tables” means the actuarial tables approved and in use
8 by the board at any given time;
- 9 (5) “actuary” means the actuary or firm of actuaries employed or
10 retained by the board at any given time;
- 11 (6) “agent” means the individual designated by each participating em-
12 ployer through whom system transactions and communication are
13 directed;
- 14 (7) “beneficiary” means, subject to the provisions of K.S.A. 74-4927,
15 and amendments thereto, any natural person or persons, estate or trust,
16 or any combination thereof, named by a member to receive any benefits
17 as provided for by this act. Designations of beneficiaries by a member
18 who is a member of more than one retirement system made on or after
19 July 1, 1987, shall be the basis of any benefits payable under all systems
20 unless otherwise provided by law. Except as otherwise provided by sub-
21 section (33) of this section, if there is no named beneficiary living at time
22 of member’s death, any benefits provided for by this act shall be paid to:
23 (A) The member’s surviving spouse; (B) the member’s dependent child
24 or children; (C) the member’s dependent parent or parents; (D) the
25 member’s nondependent child or children; (E) the member’s nondepen-
26 dent parent or parents; (F) the estate of the deceased member; in the
27 order of preference as specified in this subsection;
- 28 (8) “board of trustees,” “board” or “trustees” means the managing
29 body of the system which is known as the Kansas public employees re-
30 tirement system board of trustees;
- 31 (9) “compensation” means, except as otherwise provided, all salary,
32 wages and other remuneration payable to a member for personal services
33 performed for a participating employer, including maintenance or any
34 allowance in lieu thereof provided a member as part of compensation,
35 but not including reimbursement for travel or moving expenses or on and
36 after July 1, 1994, payment pursuant to an early retirement incentive
37 program made prior to the retirement of the member. Beginning with
38 the employer’s fiscal year which begins in calendar year 1991 or for em-
39 ployers other than the state of Kansas, beginning with the fiscal year
40 which begins in calendar year 1992, when the compensation of a member
41 who remains in substantially the same position during any two consecutive
42 years of participating service used in calculating final average salary is
43 increased by an amount which exceeds 15%, then the amount of such

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

32 (10) "credited service" means the sum of participating service and
33 prior service and in no event shall credited service include any service
34 which is credited under another retirement plan authorized under any
35 law of this state;

36 (11) "dependent" means a parent or child of a member who is de-
37 pendent upon the member for at least $\frac{1}{2}$ of such parent or child's support;

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

40 (13) "eligible employer" means the state of Kansas, and any county,
41 city, township, special district or any instrumentality of any one or several
42 of the aforementioned or any noncommercial public television or radio
43 station located in this state which receives state funds allocated by the

1 Kansas public broadcasting commission whose employees are covered by
2 social security. If a class or several classes of employees of any above
3 defined employer are not covered by social security, such employer shall
4 be deemed an eligible employer only with respect to such class or those
5 classes of employees who are covered by social security;

6 (14) "employee" means any appointed or elective officer or employee
7 of a participating employer whose employment is not seasonal or tem-
8 porary and whose employment requires at least 1,000 hours of work per
9 year, and any such officer or employee who is concurrently employed
10 performing similar or related tasks by two or more participating employ-
11 ers, who each remit employer and employee contributions on behalf of
12 such officer or employee to the system, and whose combined employment
13 is not seasonal or temporary, and whose combined employment requires
14 at least 1,000 hours of work per year, but not including: (A) Any employee
15 who is a contributing member of the United States civil service retirement
16 system; (B) any employee who is a contributing member of the federal
17 employees retirement system; (C) any employee who is a leased employee
18 as provided in section 414 of the federal internal revenue code of a par-
19 ticipating employer; and (D) any employee or class of employees specifi-
20 cally exempted by law. After June 30, 1975, no person who is otherwise
21 eligible for membership in the Kansas public employees retirement sys-
22 tem shall be barred from such membership by reason of coverage by,
23 eligibility for or future eligibility for a retirement annuity under the pro-
24 visions of K.S.A. 74-4925 and amendments thereto, except that no person
25 shall receive service credit under the Kansas public employees retirement
26 system for any period of service for which benefits accrue or are granted
27 under a retirement annuity plan under the provisions of K.S.A. 74-4925
28 and amendments thereto. After June 30, 1982, no person who is otherwise
29 eligible for membership in the Kansas public employees retirement sys-
30 tem shall be barred from such membership by reason of coverage by,
31 eligibility for or future eligibility for any benefit under another retirement
32 plan authorized under any law of this state, except that no such person
33 shall receive service credit under the Kansas public employees retirement
34 system for any period of service for which any benefit accrues or is
35 granted under any such retirement plan. Employee shall include persons
36 who are in training at or employed by, or both, a sheltered workshop for
37 the blind operated by the secretary of social and rehabilitation services.
38 The entry date for such persons shall be the beginning of the first pay
39 period of the fiscal year commencing in calendar year 1986. Such persons
40 shall be granted prior service credit in accordance with K.S.A. 74-4913
41 and amendments thereto. However, such persons classified as home in-
42 dustry employees shall not be covered by the retirement system. Em-
43 ployees shall include any member of a board of county commissioners of

1 any county and any council member or commissioner of a city whose
2 compensation is equal to or exceeds \$5,000 per year;

3 (15) “entry date” means the date as of which an eligible employer
4 joins the system. The first entry date pursuant to this act is January 1,
5 1962;

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

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

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

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

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

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

38 (21) "member" means an eligible employee who is in the system and
39 is making the required employee contributions; any former employee who
40 has made the required contributions to the system and has not received
41 a refund if such member is within five years of termination of employment
42 with a participating employer; or any former employee who has made the
43 required contributions to the system, has not yet received a refund and

1 has been granted a vested benefit;

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

16 (23) “normal retirement date” means the date on or after which a
17 member may retire with full retirement benefits pursuant to K.S.A. 74-
18 4914 and amendments thereto;

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

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

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

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

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

36 (29) “retirement benefit” means a monthly income or the actuarial
37 equivalent thereof paid in such manner as specified by the member pur-
38 suant to this act or as otherwise allowed to be paid at the discretion of
39 the board, with benefits accruing from the first day of the month coin-
40 ciding with or following retirement and ending on the last day of the
41 month in which death occurs. Upon proper identification a surviving
42 spouse may negotiate the warrant issued in the name of the retirant. If
43 there is no surviving spouse, the last warrant shall be payable to the des-

1 designated beneficiary;

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

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

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

22 (33) “salary” means all salary and wages payable to a member for
23 personal services performed for a participating employer, including main-
24 tenance or any allowance in lieu thereof provided a member as part of
25 salary. Salary shall not include reimbursement for travel or moving ex-
26 penses, payment for accumulated sick leave or vacation or annual leave,
27 severance pay or any other payments to the member determined by the
28 board to not be payments for personal services performed for a partici-
29 pating employer constituting salary or on and after July 1, 1994, payment
30 pursuant to an early retirement incentive program made prior to the
31 retirement of the member. When the salary of a member who remains
32 in substantially the same position during any two consecutive years of
33 participating service used in calculating final average salary is increased
34 by an amount which exceeds 15%, then the amount of such increase
35 which exceeds 15% shall not be included in salary. Any contributions by
36 such member on the amount of such increase which exceeds 15% which
37 is not included in compensation shall be returned to the member. Unless
38 otherwise provided by law, salary shall include any amounts for tax shel-
39 tered annuities or deferred compensation plans. Salary shall include
40 amounts under sections 403b, 457 and 125 of the federal internal revenue
41 code of 1986 and, as the board deems appropriate, any other section of
42 the federal internal revenue code of 1986 which defers or excludes
43 amounts from inclusion in income. For purposes of applying limits under

1 the federal internal revenue code “salary” shall have the meaning as pro-
2 vided in K.S.A. 74-49,123 and amendments thereto. In any case, if par-
3 ticipating service is less than three years, then the average annual salary
4 paid to the member during the full period of participating service, or, in
5 any case, if the member has less than one calendar year of participating
6 service such member’s final average salary shall be computed by multi-
7 plying such member’s highest monthly salary received in that year by 12;

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

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

13 Sec. 11. K.S.A. 74-4912 is hereby amended to read as follows: 74-
14 4912. (1) The state of Kansas or any county, city, township, special district
15 or instrumentality of any of the aforementioned whose employees or a
16 class of whose employees are members of any other retirement or pension
17 plan authorized by a statute of the state of Kansas may by resolution
18 adopted by the board, body or officer or officers authorized to apply for
19 application pursuant to K.S.A. 74-4910 and any amendments thereto,
20 request the board to submit a proposal for consolidation of such other
21 system with the Kansas public employees retirement system including an
22 estimate of the contribution rate necessary to comply with the actuarial
23 standard of this system. Such proposal shall provide that:

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

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

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

37 (d) funds of such other system which represent accumulated contri-
38 butions, if any, of members shall be credited to the employees accumu-
39 lated contribution reserve of each employee. The balance of the funds so
40 transferred to the Kansas public employees retirement system shall be
41 offset against the liability on account of existing retirants, annuitants and
42 active members;

43 (e) the resulting liability so determined shall be the basis for a rate

1 of contribution of such employer; and

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

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

9 Sec. 12. K.S.A. 74-4919b is hereby amended to read as follows: 74-
10 4919b. ~~(a)~~ Any employee of a participating employer who becomes a
11 member of the system as provided in K.S.A. 74-4911 or 74-4935 and
12 amendments thereto, who has previously been a member of the system
13 and who has forfeited participating and prior service credit by reason of
14 termination of employment with a participating employer and withdrawal
15 of such member's accumulated contributions, may have all or a part of
16 such forfeited service reinstated as provided in K.S.A. 74-4901 through
17 74-4930 and amendments thereto.

18 ~~(b) Any member, if not actively employed, who has previously been~~
19 ~~a member of the system and who has forfeited participating and prior~~
20 ~~service credit by reason of termination of employment with a participating~~
21 ~~employer and withdrawal of such member's accumulated contributions~~
22 ~~may have all or a part of such forfeited service reinstated as provided in~~
23 ~~K.S.A. 74-4901 through 74-4930 and amendments thereto. Subject to the~~
24 ~~provisions of K.S.A. 74-49,123 and amendments thereto, such member~~
25 ~~may purchase such service credit by means of a single lump-sum payment.~~
26 ~~The lump-sum payment shall be an amount determined by the actuary~~
27 ~~using the member's annual rate of compensation when last participating,~~
28 ~~the actuarial assumptions and tables currently in use by the retirement~~
29 ~~system and the member's attained age.~~

30 Sec. 13. K.S.A. 74-4998c is hereby amended to read as follows: 74-
31 4998c. (a) Except as otherwise provided in this section, for all payroll
32 periods commencing on or after July 1, 1988, but prior to the end of the
33 term of office in which such elected official is serving on the effective
34 date of this act, each elected state official shall contribute 5% of the
35 elected state official's salary for each payroll period to the fund. For all
36 payroll periods commencing on or after July 1, 1988, but prior to the end
37 of the term of office in which such elected official is serving on the ef-
38 fective date of this act, the employer shall deduct from the compensation
39 of each member who has received 30 years of credited service 2% of such
40 member's compensation as employee contributions. Each elected state
41 official shall make contributions as provided in K.S.A. 74-4919 and
42 amendments thereto in lieu of contributions as provided in this section,
43 for all payroll periods during any term of office of such elected state

1 official which commences after the effective date of this act. The provi-
2 sions of K.S.A. 74-4919c, 74-4919d, 74-4919e, 74-4919h or 74-4919j and
3 amendments thereto shall apply to elected state officials, except that,
4 subject to the provisions of K.S.A. 74-49,123 and amendments thereto,
5 such elected state officials shall purchase prior and participating service
6 credit at the rate of 10% or 15% for the payroll periods commencing on
7 or after July 1, 1988, but prior to the end of the term of office in which
8 such elected official is serving on the effective date of this act.

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

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

21 (d) (1) Subject to the provisions of K.S.A. 74-49,123 and amend-
22 ments thereto, the state of Kansas pursuant to the provisions of section
23 414(h)(2) of the federal internal revenue code of 1986, as in effect on
24 July 1, ~~1998~~ 2008, shall pick up and pay the contributions which would
25 otherwise be payable by elected state officials as prescribed in subsection
26 (a) commencing with the effective date of this act. Contributions so
27 picked up shall be treated as employer contributions for purposes of de-
28 termining the amounts of federal income taxes to withhold from the
29 elected state official's compensation.

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

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

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

42 Sec. 14. K.S.A. 74-49,105 is hereby amended to read as follows: 74-
43 49,105. Every retirement benefit received by any person under subsec-

1 tion (b) of K.S.A. 74-49,104 and amendments thereto shall be exempt
2 from any tax of the state of Kansas or any political subdivision or taxing
3 body of the state; shall not be subject to execution, garnishment, attach-
4 ment or except as otherwise provided, any other process or claim what-
5 soever; and shall be unassignable. Any retirement benefit due and owing
6 to any person under subsection (b) of K.S.A. 74-49,104 and amendments
7 thereto is subject to claims of an alternate payee under a qualified do-
8 mestic relations order. As used in this subsection, the terms “alternate
9 payee” and “qualified domestic relations order” shall have the meaning
10 ascribed to them in section 414(p) of the internal revenue code of 1986,
11 as amended as in effect on July 1, ~~1998~~ 2008, and as applicable to a
12 governmental plan. The provisions of this act shall apply to any qualified
13 domestic relations order which was filed or amended either before or
14 after July 1, 1994.

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

26 (2) Notwithstanding any other provision of law, employee contribu-
27 tions shall not be withheld or paid into any retirement system adminis-
28 tered by the Kansas public employees retirement system by reason of
29 compensation or salary in excess of the limitations set forth in section
30 401(a)(17) of the internal revenue code, except that for eligible employees
31 as defined in subsection (1). Compensation or salary on which contribu-
32 tions shall be withheld shall not be subject to any limitations other than
33 those that were in effect under the Kansas public employees retirement
34 system on July 1, 1993.

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

39 (4) *Effective with respect to plan years beginning on and after Jan-*
40 *uary 1, 2002, the annual compensation of a member which exceeds*
41 *\$200,000 as adjusted for cost-of-living increases in accordance with sec-*
42 *tion 401(a)(17)(B) of the federal internal revenue code, may not be taken*
43 *into account in determining benefits or employee contributions for any*

1 *plan year. Annual compensation for the determination period means com-*
2 *ensation during the plan year or such other consecutive 12-month period*
3 *over which compensation is otherwise determined under the plan. The*
4 *cost-of-living adjustment in effect for a calendar year applies to annual*
5 *compensation for the determination period that begins with or within*
6 *such calendar year. If the determination period consists of fewer than 12*
7 *months, the annual compensation limit is an amount equal to the other-*
8 *wise applicable annual compensation limit multiplied by a fraction, the*
9 *numerator of which is the number of months in the short determination*
10 *period, and the denominator of which is 12. If the compensation for any*
11 *prior determination period is taken into account in determining a mem-*
12 *ber's contributions or benefits for the current plan year, the compensation*
13 *for such prior determination period is subject to the applicable annual*
14 *compensation limit in effect for that prior period.*

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

19 Sec. 16. K.S.A. 74-49,123 is hereby amended to read as follows: 74-
20 49,123. (a) This section applies to the Kansas public employees retirement
21 system and to all other public retirement plans administered by the board
22 of trustees.

23 (b) As used in this section:

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

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

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

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

41 (2) Forfeitures arising from severance of employment, death or for
42 any other reason may not be applied to increase the benefits any member
43 would otherwise receive under the retirement plan's law. However, for-

1 feitures may be used to reduce an employer's contribution.

2 (3) All benefits paid from the retirement plan shall be distributed in
3 accordance with the requirements of section 401(a)(9) of the federal in-
4 ternal revenue code and the regulations under that section. ~~In order to~~
5 ~~meet these requirements, the retirement plan shall be administered in~~
6 ~~accordance with the following provisions:~~ (A) Distribution of a member's
7 benefit must begin by the later of the April 1 following the calendar year
8 in which a participant attains age 70½ or the April 1 of the year following
9 the calendar year in which the member retires;

10 ~~—(B)— the life expectancy of a member or the member's spouse may not~~
11 ~~be recalculated after the benefits commence;~~

12 ~~—(C)— if a member dies before the distribution of the member's benefits~~
13 ~~has begun, distributions to beneficiaries must begin no later than Decem-~~
14 ~~ber 31 of the calendar year immediately following the calendar year in~~
15 ~~which the member died, except as provided in subsection (6) of K.S.A.~~
16 ~~74-4918 and amendments thereto; and~~

17 ~~—(D)— Notwithstanding any other provision of these rules and regula-~~
18 ~~tions, effective on and after January 1, 2003, the retirement plan is subject~~
19 ~~to the following provisions:~~

20 (A) Benefits must begin by the required beginning date, which is the
21 later of April 1 of the calendar year following the calendar year in which
22 the member reaches 70½ years of age or April 1 of the calendar year
23 following the calendar year in which the member terminates employment.
24 If a member fails to apply for retirement benefits by April 1 of the calendar
25 year following the calendar year in which such member reaches 70½
26 years of age or April 1 of the calendar year following the calendar year
27 in which such member terminates employment, whichever is later, the
28 board will begin distributing the benefit as required by this section.

29 (B) The member's entire interest must be distributed over the mem-
30 ber's life or the lives of the member and a designated beneficiary, or over
31 a period not extending beyond the life expectancy of the member or of the
32 member and a designated beneficiary. Death benefits must be distributed
33 in accordance with section 401 (a)(9) of the federal internal revenue code,
34 including the incidental death benefit requirement in section 401 (a)(9)(G)
35 of the federal internal revenue code, and the regulations implementing
36 that section.

37 (C) The life expectancy of a member, the member's spouse or the
38 member's beneficiary may not be recalculated after the initial determi-
39 nation for purposes of determining benefits.

40 (D) If a member dies after the required distribution of benefits has
41 begun, the remaining portion of the member's interest must be distributed
42 at least as rapidly as under the method of distribution before the member's
43 death and no longer than the remaining period over which distributions

1 *commenced.*

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

4 (i) *In accordance with federal regulations, distributed over the life or*
5 *life expectancy of the designated beneficiary, with the distributions be-*
6 *ginning no later than December 31 of the calendar year immediately fol-*
7 *lowing the calendar year of the member's death; or*

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

10 (F) ~~The amount of benefits payable~~ *an annuity paid* to a member's
11 beneficiary may not exceed the maximum determined under the inciden-
12 tal death benefit requirement of the federal internal revenue code.

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

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

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

20 (A) determine eligibility for benefits;

21 (B) compute rates of contribution; or

22 (C) compute benefits of members or beneficiaries, in a manner that
23 discriminates in favor of members who are considered officers, supervi-
24 sors or highly compensated, as prohibited under section 401(a)(4) of the
25 federal internal revenue code.

26 (6) Subject to the provisions of this subsection, benefits paid from,
27 and employee contributions made to, the retirement plans shall not ex-
28 ceed the maximum benefits and the maximum annual additions, respec-
29 tively, permissible under section 415 of the federal internal revenue code.

30 (A) *Before January 1, 1995, a member may not receive an annual*
31 *benefit that exceeds the limits specified in section 415(b) of the federal*
32 *internal revenue code, subject to the applicable adjustments in that sec-*
33 *tion.* Beginning January 1, 1995, a participant may not receive an annual
34 benefit that exceeds the dollar amount specified in section 415(b)(1)(A)
35 of the federal internal revenue code, subject to the applicable adjustments
36 in section 415 of the federal internal revenue code, ~~except as provided in~~
37 ~~clause (C) of this subsection.~~

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

43 (i) Where the retirement plan's law requires a lump-sum payment,

1 for the purchase of service credit, the board may establish a periodic
2 payment plan in order to avoid a contribution in excess of the limits under
3 section 415(c) or 415(n) of the federal internal revenue code.

4 ~~(ii) An eligible participant in a retirement plan, as defined by section~~
5 ~~1526 of the federal taxpayer relief act of 1997, may purchase service credit~~
6 ~~without regard to the limitations of section 415 (c)(1) of the federal in-~~
7 ~~ternal revenue code as provided by state law in effect on August 5, 1997.~~

8 If the board's option under subdivision (i) will not avoid a contribution
9 in excess of the limits under section 415(c) or 415(n) of the federal in-
10 ternal revenue code, the board shall reduce or deny the contribution.

11 (C) *Effective for permissive service credit contributions made in lim-*
12 *itation years beginning after December 31, 1997, if an active member*
13 *makes one or more contributions to purchase permissive service credit*
14 *under a retirement plan, then the requirements of this section shall be*
15 *treated as met only if:*

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

19 (ii) *the requirements of section 415(c) of the federal internal revenue*
20 *code are met, determined by treating all such contributions as annual*
21 *additions for purposes of such section. For purposes of applying subpar-*
22 *agraph (i) a retirement plan shall not fail to meet the reduced limit under*
23 *section 415(b)(2)(C) of the federal internal revenue code solely by reason*
24 *of this paragraph (C), and for purposes of applying subparagraph (ii), a*
25 *retirement plan shall not fail to meet the percentage limitation under*
26 *section 415(c)(1)(B) of the federal internal revenue code solely by reason*
27 *of this paragraph.*

28 (iii) *For purposes of this paragraph, the term "permissive service*
29 *credit" means service credit:*

30 (a) *Specifically recognized by a retirement plan's law for purposes of*
31 *calculating a member's benefit under that retirement plan;*

32 (b) *which such member has not received under a retirement plan; and*

33 (c) *which such member may receive under a retirement plan's law*
34 *only by making a voluntary additional contribution, in an amount deter-*
35 *mined under the retirement plan's law and procedures established by the*
36 *board, which does not exceed the amount necessary to fund the benefit*
37 *attributable to such service credit.*

38 (iv) *A retirement plan shall fail to meet the requirements of this par-*
39 *agraph if the retirement plan's law specifically provides for a purchase of*
40 *nonqualified service purchase, and if:*

41 (a) *More than five years of nonqualified service credit are taken into*
42 *account for purposes of this paragraph; or*

43 (b) *any nonqualified service credit is taken into account under this*

- 1 paragraph before the member has at least five years of participation under
2 a retirement plan. For purposes of this paragraph, effective for permissive
3 service credit contributions made in limitation years beginning after De-
4 cember 31, 1997, the term “nonqualified service credit” means the same
5 as provided in section 415(n)(3)(C) of the federal internal revenue code.
- 6 (v) In the case of a trustee-to-trustee transfer after December 31,
7 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal in-
8 ternal revenue code applies, without regard to whether the transfer is
9 made between plans maintained by the same employer:
- 10 (a) The limitations of subparagraph (iv) shall not apply in determin-
11 ing whether the transfer is for the purchase of permissive service credit;
12 and
- 13 (b) the distribution rules applicable under federal law to a retirement
14 plan shall apply to such amounts and any benefits attributable to such
15 amounts.
- 16 (vi) For an eligible member, the limitation of section 415(c)(1) of the
17 federal internal revenue code shall not be applied to reduce the amount
18 of permissive service credit which may be purchased to an amount less
19 than the amount which was allowed to be purchased under the terms of
20 the statute as in effect on August 5, 1997. For purposes of this subpara-
21 graph, an eligible member is an individual who first became a member in
22 the retirement plan before January 1, 1998.
- 23 (D) Subject to approval by the internal revenue service, the board
24 shall maintain a qualified governmental excess benefit arrangement under
25 section 415(m) of the federal internal revenue code. The board shall es-
26 tablish the necessary and appropriate procedures for the administration
27 of such benefit arrangement under the federal internal revenue code.
28 The amount of any annual benefit that would exceed the limitations im-
29 posed by section 415 of the federal internal revenue code shall be paid
30 from this benefit arrangement. The amount of any contribution that
31 would exceed the limitations imposed by section 415 of the federal in-
32 ternal revenue code shall be credited to this benefit arrangement. The
33 qualified excess benefit arrangement shall be a separate portion of the
34 retirement plan. The qualified excess benefit arrangement is subject to
35 the following requirements:
- 36 (i) The benefit arrangement shall be maintained solely for the pur-
37 pose of providing to participants in the retirement plans that part of the
38 participant’s annual benefit otherwise payable under the terms of the act
39 that exceeds the limitations on benefits imposed by section 415 of the
40 federal internal revenue code; and
- 41 (ii) participants do not have an election, directly or indirectly, to defer
42 compensation to the excess benefit arrangement.
- 43 ~~(D) Prior to January 1, 1998, the definition of compensation, wages,~~

1 salary or other similar term when used for purposes of determining com-
2 pliance with section 415 of the federal internal revenue code does not
3 include the amount of any elective deferral, as defined in section
4 402(g)(3) of the federal internal revenue code, or any contribution which
5 is contributed or deferred by the employer at the election of the employee
6 and which is not includable in the gross income of the employee by reason
7 of section 125 or 457 of the federal internal revenue code.

8 —(7) The board may not engage in a transaction prohibited by section
9 503(b) of the federal internal revenue code.

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

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

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

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

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

1 (a) *The payment is regular compensation for services during the em-*
2 *ployee's regular working hours or compensation for services outside the*
3 *employee's regular working hours, such as overtime or shift differential,*
4 *commissions, bonuses or other similar payments, and absent a severance*
5 *from employment, the payments would have been paid to the employee*
6 *while the employees continue in employment with the employer; or*
7 (b) *the payment is for unused accrued bona fide sick, vacation or*
8 *other leave that the employee would have been able to use if employment*
9 *had continued.*

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

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

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

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

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

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

- 1 (i) *An eligible rollover distribution is any distribution of all or any*
2 *portion of the balance to the credit of the distributee, except that an eli-*
3 *gible rollover distribution does not include: (a) Any distribution that is*
4 *one of a series of substantially equal periodic payments, not less frequently*
5 *than annually, made for the life or the life expectancy of the distributee*
6 *or the joint lives or joint life expectancies of the distributee and the dis-*
7 *tributee's designated beneficiary or for a specified period of 10 years or*
8 *more; (b) any distribution to the extent such distribution is required under*
9 *section 401(a)(9) of the federal internal revenue code; (c) the portion of*
10 *any distribution that is not includable in gross income; and (d) any other*
11 *distribution that is reasonably expected to total less than \$200 during the*
12 *year. Effective January 1, 2002, a portion of a distribution shall not fail*
13 *to be an eligible rollover distribution merely because the portion consists*
14 *of after-tax employee contributions that are not includable in gross in-*
15 *come. However, such portion may be transferred only to an individual*
16 *retirement account or annuity described in section 408(a) or (b) of the*
17 *federal internal revenue code, or to a qualified defined contribution plan*
18 *described in section 401(a) of the federal internal revenue code or to a*
19 *qualified plan described in section 403(a) of the federal internal revenue*
20 *code, or on or after January 1, 2007, to a qualified defined benefit plan*
21 *described in section 401(a) of the federal internal revenue code or to an*
22 *annuity contract described in section 403(b) of the federal internal reve-*
23 *nuce code, that agrees to separately account for amounts so transferred*
24 *and earnings thereon, including separately accounting for the portion of*
25 *the distribution that is includible in gross income and the portion of the*
26 *distribution that is not so includible.*
- 27 (ii) *An eligible retirement plan is any of the following that accepts the*
28 *distributee's eligible rollover distribution:*
- 29 (a) *An individual retirement account described in section 408(a) of*
30 *the federal internal revenue code;*
- 31 (b) *an individual retirement annuity described in section 408(b) of*
32 *the federal internal revenue code;*
- 33 (c) *an annuity plan described in section 403(a) of the federal internal*
34 *revenue code;*
- 35 (d) *a qualified trust described in section 401(a) of the federal internal*
36 *revenue code;*
- 37 (e) *effective January 1, 2002, an annuity contract described in section*
38 *403(b) of the federal internal revenue code;*
- 39 (f) *effective January 1, 2002, an annuity contract described in section*
40 *403(b) of the federal internal revenue code;*
- 41 (g) *effective January 1, 2002, a plan eligible under section 457(b) of*
42 *the federal internal revenue code that is maintained by a state, political*
43 *subdivision of a state or any agency or instrumentality of a state or a*

1 *political subdivision of a state that agrees to separately account for*
2 *amounts transferred into the plan from a retirement plan; or*

3 *(h) effective January 1, 2008, a roth IRA described in section 408(A)*
4 *of the federal internal revenue code.*

5 *(iii) Effective January 1, 2002, the definition of eligible rollover dis-*
6 *tribution also includes a distribution to a surviving spouse, or to a spouse*
7 *or former spouse who is an alternate payee under a domestic relations*
8 *order, as defined in section 414(p) of the federal internal revenue code.*

9 *(iv) A distributee includes an employee or former employee. It also*
10 *includes the employee's or former employee's surviving spouse and the*
11 *employee's or former employee's spouse or former spouse who is the al-*
12 *ternate payee under a qualified domestic relations order, as defined in*
13 *section 414(p) of the federal internal revenue code. Effective July 1, 2007,*
14 *a distributee further includes a nonspouse beneficiary who is a designated*
15 *beneficiary as defined by section 401(a)(9)(E) of the federal internal rev-*
16 *enue code. However, a nonspouse beneficiary may rollover the distribu-*
17 *tion only to an individual retirement account or individual retirement*
18 *annuity established for the purpose of receiving the distribution and the*
19 *account or annuity will be treated as an "inherited" individual retirement*
20 *account or annuity.*

21 *(v) A direct rollover is a payment by the retirement system to the*
22 *eligible retirement plan specified by the distributee.*

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

36 (9) Where required by the act, an employer shall pick up and pay
37 contributions that would otherwise be payable by members of a retire-
38 ment plan in accordance with section 414(h)(2) of the federal internal
39 revenue code as follows:

40 (A) The contributions, although designated as employee contribu-
41 tions, are being paid by the employer in lieu of contributions by the
42 employee;

43 (B) the employee must not have been given the option of receiving

1 the amounts directly instead of having them paid to the retirement plan;
2 and

3 (C) the pickup shall apply to amounts that a member elects to con-
4 tribute to receive credit for prior or participating service if the election
5 is irrevocable and applies to amounts contributed before retirement.

6 (10) Notwithstanding any provision of this plan to the contrary, con-
7 tributions, benefits and service credit with respect to qualified military
8 service will be provided in accordance with section 414(u) of the federal
9 internal revenue code *and the uniformed services employment and reem-*
10 *ployment rights act of 1994.*

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

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

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

18 (f) *The board may not engage in a transaction prohibited by section*
19 *503(b) of the federal internal revenue code.*

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

23 (A) *The applicable mortality table is specified in revenue ruling 2001-*
24 *62 or revenue ruling 2007-67, as applicable; and*

25 (B) *the applicable interest factor is 8% per year.*

26 (2) *For purposes of determining an "actuarial equivalent" or an ac-*
27 *tuarial computation "for members hired on or after July 1, 2009, the board*
28 *shall use the following:*

29 (A) *The applicable mortality table is the 50/50 male/female blend of*
30 *the RP 2000 health annuitant mortality table, projected to 2025; and*

31 (B) *The applicable interest factor is 8% per year.*

32 (3) *For converting amounts payable under the partial lump sum op-*
33 *tion, the board shall use the following:*

34 (A) *The applicable mortality table is a 50/50 male/female blend of the*
35 *1983 group annuity mortality table; and*

36 (B) *the applicable interest factor is 8% per year.*

37 (4) *For benefit testing under section 415(b) of the federal internal*
38 *revenue code, the factors required by treasury regulations shall be used.*
39 *The applicable mortality table is specified in revenue ruling 2001-62.*

40 Sec. 17. K.S.A. 74-49,124 is hereby amended to read as follows: 74-
41 49,124. (a) The board shall administer the Kansas public employees re-
42 tirement fund, including all benefit structures administered by the board,
43 in the manner required to satisfy the applicable qualification require-

1 ments for governmental plans as specified in the federal internal revenue
2 code of 1954 or 1986, as amended and as appropriate for a governmental
3 plan and as in effect on July 1, ~~1998~~ 2008.

4 *(b) Members shall be completely vested in their employee contribu-*
5 *tions at all times. Upon completion of required years of service and at-*
6 *tainment of normal retirement age members are vested in the benefits*
7 *provided under the retirement plan. Upon plan termination or discontin-*
8 *uance of employer contributions, members are vested in the retirement*
9 *plan to the extent funded.*

10 Sec. 18. K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02,
11 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4917a, 74-4919b, 74-
12 4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007
13 Supp. 74-4902 are hereby repealed.

14 Sec. 19. This act shall take effect and be in force from and after its
15 publication in the statute book.