

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on February 13, 2006, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Robin Kempf, Associate General Counsel, Kansas Board of Regents  
Bill Sneed, University of Kansas Hospital Authority  
Mary Prewitt, General Counsel, Kansas Board of Regents

**SB 375—Retirement benefits of employees of State Board of Regents or state educational institutions under the Board's management**

Theresa Kiernan, Revisor of Statutes Office, explained that **SB 375** addressed two issues concerning the Board of Regents employees' retirement and employee benefits. The first amendment (page 9) simply resolved a conflict in K.S.A. 74-4925 which was amended more than once during the 2005 legislative session. The second issue also related to legislation passed last year. As a result of federal law which requires disability benefits to be cut off at the end of five years, a long-term disability benefit was provided which commenced at the end of the fifth year of the disability. After that law became effective, the Division of Accounts and Reports required that the Board of Regents begin to make employee contributions for certain fringe benefits (workers compensation, KPERS death and disability benefits, and for their leave payment reserve assessment). She explained that there were three sections in the bill which excluded payments made for those benefits. In Section 1, it is included in the definition of the total payroll when determining the self-insurance assessment under the workers' compensation law. Section 2 excludes it from the definition of compensation for the purposes of KPERS. The payments under Section 4 are excluded from the definition of gross wages when determining the leave payment reserve assessment of the State Board of Regents. She explained that, without the bill, the Board of Regents must make employer contributions for workers' compensation, KPERS death and disability benefits, and their leave payment reserve assessment.

Robin Kempf, Associate General Counsel for the Kansas Board of Regents, testified in support of **SB 375**. She noted that the bill would clean up unintended consequences of the 2005 legislation to make the Board's long-term disability benefit consistent with the Internal Revenue Code. She explained that the Board was requesting an exemption from deducting the three fringes because the people who will be receiving the long-term disability payment are not working; therefore, they are not eligible for workers' compensation, annual or sick leave payments, or KPERS disability. (Attachment 1)

Bill Sneed, representing the University of Kansas Hospital Authority, testified in support of **SB 375** with a proposed amendment. The amendment would create an exception to the general rule that employer-provided disability payments reduce or offset the KPERS disability benefit. It would allow, but not require, participating employers to supplement the disability pay of those disabled members who, under the new program, will not otherwise be able to receive the full 60 percent of pay in the event they become disabled. He called attention to a copy of the proposed amendment which was attached to his written testimony. He noted that neither KPERS nor the Kansas Board of Regents opposed the amendment. (Attachment 2)

There being no others wishing to testify, the hearing on **SB 375** was closed.

**SB 436—Community colleges and school districts; personnel evaluations**

Ms. Kiernan noted that **SB 436** was a housekeeping bill introduced by Senator Vratil. She explained that, under current law, school districts and community colleges are required to adopt a written policy establishing a personnel evaluation procedure. The bill would continue that requirement but remove the provisions

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 P.M. on February 13, 2006, in Room 123-S of the Capitol.

relating to community colleges from those sections under Chapter 72 of the Kansas statutes and reestablish them as new Sections 4 through 7, which will eventually be codified in Chapter 71 of the Kansas statutes, which are the statutes governing community colleges.

Senator Vratil commented, "Some years ago, the Legislature adopted legislation requiring evaluation of employees. They put those provisions in one statute, and they pertain to both community colleges and K-12 school districts. Both of them are in Chapter 72 of the statutes. Anybody who is looking for a personnel evaluation statute pertaining to community colleges, is going to look in Chapter 71 where the statutes on community colleges are located. They would probably not look in Chapter 72 because Chapter 72 doesn't have anything to do with community colleges except for this one little provision that's hidden in the statute. And so, the purpose of this bill is to segregate out the statute concerning evaluation of personnel in community colleges and put that in a separate statute so it can be placed in Chapter 71 where it should be. The legal counsel for the Board of Regents has reviewed this and has found a couple of instances that she'll bring to our attention. Basically, their recommended amendments result from the fact that the State Board of Regents as a result of **SB 345**, the Higher Education Coordination Act, refrains from getting actively involved in governance issues of community colleges, and they don't want to start down that road. And I understand that and support their amendments."

Mary Prewitt, general counsel for the Board of Regents, testified in support of **SB 436** with three amendments. She commented that it appeared that, in the course of drafting the bill, the State Board of Regents was inappropriately substituted in places where the State Board of Education previously functioned. She requested that references to the Regents on page 3 in New Sections 5 and 6 be stricken and that New Section 7 on page 4 be stricken. (Attachment 3)

There being no others wishing to testify, the hearing on **SB 436** was closed.

Senator Schodorf turned the Committee's attention to a previously heard bill, **SB 331** concerning the governing body of technical colleges. Senator Teichman recalled that the Committee voted to amend the bill on page two, lines 12, 13, 32, and 33, by striking the sentence, "Such school shall not offer any course that leads to an academic degree." She noted that the Board of Regents had suggested that the sentence remain in the bill as, "Such school shall not grant degrees." Senator Schodorf noted that the concern was that, while the technical school would not grant a degree, there are classes that students take at that school that would lead to a degree from other institutions. Senator Vratil suggested that the sentence should be, "Such school shall not grant academic degrees."

Senator Teichman moved to amend **SB 331** on lines 12 and 32 by inserting, "Such schools shall not grant academic degrees," seconded by Senator Pine. The motion carried.

Senator Vratil moved to recommend **SB 331** favorably for passage as amended, seconded by Senator Teichman. The motion carried.

Senator Schodorf called attention to the minutes of the January 25, 26, and 30 meetings.

Senator Apple moved to approve the minutes of the January 25, 26, and 30 meetings, seconded by Senator Pine. The motion carried.

The meeting was adjourned at 2:15 p.m.

The next meeting is scheduled for February 14, 2006.

**SENATE EDUCATION COMMITTEE  
GUEST LIST**

DATE: Feb. 13, 2006

NAME	REPRESENTING
Bill Brady	SFFF
Diane Gjerstad	WSD 259
<b>RUSSELL MILLS</b>	<b>GACHES BRADEN</b>
MARK DEBETTI	KNET
Mark Tallman	KASB
Ed Murphy	LCR
Bill Sneed	UKHA
Rob Browning	UKHA
Sheila Frahm	KACCT
John Rose	KACCT
David R. Corbin	KDOR
Tamir Waiver	Sen. Morris
Val DeFever	SQE
Mary Pruitt	KBOR
Kip Peterson	KBOR
Robin Kempf	KBOR
Glenn Deck	LPEQS
Daniel Bryan	LPA
Jennifer Lyon	Praeger, Smith, and Associates



# KANSAS BOARD OF REGENTS

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**Senate Education Committee  
February 13, 2006**

**Testimony Regarding SB 375**

**Robin Kempf, Associate General Counsel  
Kansas Board of Regents**

Chairwoman Schodorf and members of the Committee, thank you for allowing me to appear before you today to testify in support of Senate Bill 375.

As you know, during the 2005 Legislative Session, a Board statute was amended to make the Board's long term disability benefit consistent with the U.S. Internal Revenue Code. Senate Bill 374 would clean up some unintended consequences of that 2005 legislation in two ways.

1. Senate Bill 375 combines two versions of K.S.A. 74-4927a that were passed during the 2005 Legislative Session. This amendment makes no substantive change in the legislation adopted last year.
2. Senate Bill 375 also clarifies the status of long term disability payments made under the KBOR long term disability plan. 2005 legislation amended the KBOR plan to make it compliant with the U.S. Internal Revenue Code. In doing so, the 2005 Legislature created a cash benefit for some recipients eligible for the long term disability benefit.

This cash benefit is now being assessed fringe benefits for the Workers' Compensation Self-Insurance Fund, the State Leave Payment Reserve Fund and KPERS death and disability even though the employees receiving the long term disability cash benefit could never be eligible for these three benefits. SB 375 would exempt the cash benefit from being assessed these fringes.

This exemption would generate some small savings to the Board and the state universities. In FY 2006, expenditures would be reduced by \$3,602; and in FY 2007, expenditures would be reduced by \$6,542. Over the long term, savings would drop to zero.

Thank you for your consideration of Senate Bill 375. I appreciate the opportunity to comment and would be happy to answer any questions.

*Senate Education Committee  
2-13-06  
Attachment 1*

Polsinelli | Shalton  
Welte | Suelthaus<sub>PC</sub>

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**Memorandum**

**TO:** SENATOR JEAN SCHODORF, CHAIR  
SENATE EDUCATION COMMITTEE

**FROM:** WILLIAM W. SNEED, RETAINED COUNSEL  
UNIVERSITY OF KANSAS HOSPITAL AUTHORITY

**RE:** S.B. 375

**DATE:** FEBRUARY 13, 2006

Madam Chair, Members of the Committee: My name is Bill Sneed and I represent the University of Kansas Hospital Authority. This is the Authority that the Kansas Legislature created to run and operate the hospital commonly referred to as KU Med. We appear here today to request an amendment to S.B. 375.

As you know, the Kansas Public Employees Retirement System ("KPERS") is a statewide pension system that provides retirement benefits to teachers and other employees of the State of Kansas. The program also benefits employees of various agencies and instrumentalities of the State of Kansas (such as the University of Kansas Hospital Authority) that "affiliate" with KPERS, which entities are considered to be "participating employers" in the KPERS pension system. In addition to providing pension benefits to employees of such participating governmental employers, KPERS also provides a program of life insurance and long-term disability (LTD) benefits for those employees (who are referred to in the statute as "members").

For many years, the long-term disability benefit under the KPERS statute has been a fixed monthly benefit equal to 66 2/3% of the member's monthly compensation, payable until the disabled member reaches age 65 (or dies or begins to receive pension payments). Under this program (which has been in place for many years), disability payments are limited to members who are totally disabled, but there is no limit on the amount of compensation taken into account, and no limit or "cap" on the monthly disability benefit. However, legislation passed in May of 2005 authorized the KPERS board to restructure the KPERS disability benefit, and the KPERS board has now exercised that authority, effective January 1, 2006. Under the new disability program implemented by the KPERS board, the disability benefit is reduced to 60% of the member's monthly compensation, with a maximum disability benefit of \$5,000 per month. Although the new program has a more flexible "own occupation" definition of disability for the first 24 months, the reduction in the benefit percentage (from 66 2/3% to 60%), and in particular

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Senate Education Committee  
2-13-06  
Attachment 2

the \$5,000 “cap” on monthly disability benefits, represents a significant cut-back in benefits for many members.

The new \$5,000/month cap on disability benefits effectively limits the amount of compensation taken into account under the KPERS disability program to the first \$100,000 of a member’s annual salary (\$100,000 divided by 12 months is \$8,333.33 per month, and 60% of that amount is \$5,000 per month). In other words, a disabled member who was making \$100,000 per year would receive \$5,000 per month in disability benefits, and a disabled member who was making \$150,000 per year would also receive the same \$5,000 benefit. Therefore, the member making \$100,000 per year would receive a disability benefit equal to 60% of pay, but the member making \$150,000 year would only receive a 40% benefit. Members with even higher salaries receive a proportionately smaller disability benefit (expressed as a percentage of their pre-disability pay).

At first blush, it would seem that participating employers could simply “supplement” the KPERS disability benefit (for those members affected by the \$5,000 cap) with additional disability payments or insurance. However, under the KPERS program, disability payments are offset or reduced by any additional disability income the participant may receive from Social Security, worker’s compensation, or any other employer-funded disability pay or insurance. Therefore, in the case of the member making \$150,000 per year, if his or her employer attempted to supplement the \$5,000 KPERS disability benefit with an additional \$2,500 per month (to bring the individual’s “total” disability pay up to \$7,500 per month, or 60% of their pre-disability compensation), the KPERS benefit would simply be reduced to \$2,500, and the member would still only receive a total of \$5,000 (\$2,500 from KPERS and \$2,500 from the employer-provided benefit).

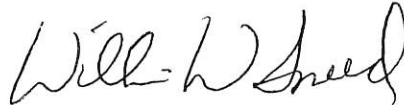
As outside counsel and legislative counsel for the University of Kansas Hospital Authority (UKHA) we were asked to develop a proposed legislative fix that would give outside authorities like UKHA the flexibility to “make up” this difference created by the KPERS change.

The proposed amendment to K.S.A 74-4927 would create an exception to the general rule that employer-provided disability payments reduce or offset the KPERS disability benefit. Under the revised statute, the KPERS disability benefit would not be reduced or offset by a supplemental disability benefit provided by the disabled member’s employer (whether through insurance or otherwise), so long as that supplemental benefit is based solely on the portion of the member’s compensation that exceeds the maximum amount of compensation taken into account under the KPERS program (currently \$100,000 per year). By limiting the supplement to the portion of the member’s salary that exceeds the maximum monthly compensation taken into account under the KPERS plan, there will be no duplication of benefits or unjust enrichment of the disabled member (which is what the KPERS offset provision is designed to prevent). Instead, it will allow participating employers to supplement the disability pay of those disabled members who, under the new program, will not otherwise be able to receive the full 60% of pay in the event they become disabled.

It should be noted that the proposed revision of the KPERS statute does not require any participating employer to provide a supplement, and does not mandate that the supplement (if any) be in any particular amount or percentage. More importantly, it will not increase KPERS' liability or cost for providing disability benefits. It simply allows participating employers, at their option, to provide a long-term disability supplement that will put all of its employees in the same position with respect to disability benefits, regardless of their level of compensation. It is our understanding that KPERS senior management is not opposed to this amendment, and has actually encouraged the Hospital Authority to seek this legislative solution to the disparity in benefits caused by the \$5,000 cap on disability benefits under the new KPERS LTD program.

We have attached a copy of the proposed amendment to SB 375. Neither KPERS or The Kansas Board of Regents is opposed the adding this amendment to SB 375. Thank you and we look forward to working with you on this amendment.

Respectfully submitted,

A handwritten signature in black ink that reads "William W. Sneed". The signature is written in a cursive, slightly slanted style.

William W. Sneed

## Memorandum

**TO:** SENATOR JEAN SCHODORF, CHAIR  
SENATE EDUCATION COMMITTEE

**FROM:** WILLIAM W. SNEED, RETAINED COUNSEL  
UNIVERSITY OF KANSAS HOSPITAL AUTHORITY

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As you know, the Kansas Public Employees Retirement System ("KPERs") is a statewide pension system that provides retirement benefits to teachers and other employees of the State of Kansas. The program also benefits employees of various agencies and instrumentalities of the State of Kansas (such as the University of Kansas Hospital Authority) that "affiliate" with KPERs, which entities are considered to be "participating employers" in the KPERs pension system. In addition to providing pension benefits to employees of such participating governmental employers, KPERs also provides a program of life insurance and long-term disability (LTD) benefits for those employees (who are referred to in the statute as "members").

For many years, the long-term disability benefit under the KPERs statute has been a fixed monthly benefit equal to 66 2/3% of the member's monthly compensation, payable until the disabled member reaches age 65 (or dies or begins to receive pension payments). Under this program (which has been in place for many years), disability payments are limited to members who are totally disabled, but there is no limit on the amount of compensation taken into account, and no limit or "cap" on the monthly disability benefit. However, legislation passed in May of 2005 authorized the KPERs board to restructure the KPERs disability benefit, and the KPERs board has now exercised that authority, effective January 1, 2006. Under the new disability program implemented by the KPERs board, the disability benefit is reduced to 60% of the member's monthly compensation, with a maximum disability benefit of \$5,000 per month. Although the new program has a more flexible "own occupation" definition of disability for the first 24 months, the reduction in the benefit percentage (from 66 2/3% to 60%), and in particular



the \$5,000 “cap” on monthly disability benefits, represents a significant cut-back in benefits for many members.

The new \$5,000/month cap on disability benefits effectively limits the amount of compensation taken into account under the KPERS disability program to the first \$100,000 of a member’s annual salary (\$100,000 divided by 12 months is \$8,333.33 per month, and 60% of that amount is \$5,000 per month). In other words, a disabled member who was making \$100,000 per year would receive \$5,000 per month in disability benefits, and a disabled member who was making \$150,000 per year would also receive the same \$5,000 benefit. Therefore, the member making \$100,000 per year would receive a disability benefit equal to 60% of pay, but the member making \$150,000 year would only receive a 40% benefit. Members with even higher salaries receive a proportionately smaller disability benefit (expressed as a percentage of their pre-disability pay).

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As outside counsel and legislative counsel for the University of Kansas Hospital Authority (UKHA) we were asked to develop a proposed legislative fix that would give outside authorities like UKHA the flexibility to “make up” this difference created by the KPERS change.

The proposed amendment to K.S.A 74-4927 would create an exception to the general rule that employer-provided disability payments reduce or offset the KPERS disability benefit. Under the revised statute, the KPERS disability benefit would not be reduced or offset by a supplemental disability benefit provided by the disabled member’s employer (whether through insurance or otherwise), so long as that supplemental benefit is based solely on the portion of the member’s compensation that exceeds the maximum amount of compensation taken into account under the KPERS program (currently \$100,000 per year). By limiting the supplement to the portion of the member’s salary that exceeds the maximum monthly compensation taken into account under the KPERS plan, there will be no duplication of benefits or unjust enrichment of the disabled member (which is what the KPERS offset provision is designed to prevent). Instead, it will allow participating employers to supplement the disability pay of those disabled members who, under the new program, will not otherwise be able to receive the full 60% of pay in the event they become disabled.

It should be noted that the proposed revision of the KPERS statute does not require any participating employer to provide a supplement, and does not mandate that the supplement (if any) be in any particular amount or percentage. More importantly, it will not increase KPERS' liability or cost for providing disability benefits. It simply allows participating employers, at their option, to provide a long-term disability supplement that will put all of its employees in the same position with respect to disability benefits, regardless of their level of compensation. It is our understanding that KPERS senior management is not opposed to this amendment, and has actually encouraged the Hospital Authority to seek this legislative solution to the disparity in benefits caused by the \$5,000 cap on disability benefits under the new KPERS LTD program.

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Respectfully submitted,

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William W. Sneed

SENATE BILL No. 375

By Legislative Educational Planning Committee

1-17

2-7

9 AN ACT concerning state educational institutions; relating to certain  
10 members of faculty and others employed thereby; retirement and dis-  
11 ability benefits; amending K.S.A. 44-576 and 75-5543 and K.S.A. 2005  
12 Supp. 74-4902, and 74-4925 and repealing the existing sections; also  
13 repealing K.S.A. 2005 Supp. 74-4925h.  
14

[ , and 74-4927 ]

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

16 Section 1. K.S.A. 44-576 is hereby amended to read as follows: 44-  
17 576. (a) For each payroll period, each state agency shall certify with each  
18 payroll, the amount of each self-insurance assessment for such state  
19 agency, not in conflict with appropriations therefor. The director of ac-  
20 counts and reports shall transfer the amount of each self-insurance as-  
21 sessment for such state agency to the credit of the state workers com-  
22 pensation self-insurance fund.

23 (b) Each July 1, the secretary of administration shall determine a self-  
24 insurance assessment rate for each state agency based upon the accidental  
25 injury and occupational disease experience of the state agency and the  
26 liability of the state workers compensation self-insurance fund as provided  
27 in subsection (c) of K.S.A. 44-575, and amendments thereto. Such rate  
28 shall be expressed as a percentage. The secretary of administration shall  
29 utilize actuarial and other professional assistance in determining self-in-  
30 surance assessment rates under this section. On or before each July 30,  
31 the secretary of administration shall notify each state agency of such  
32 agency's projected self-insurance assessment rate for the next fiscal year  
33 and such agency's actual self-insurance assessment rate for the current  
34 fiscal year.

35 (c) The amount of the self-insurance assessment for each state agency  
36 shall be determined by multiplying the total payroll for each payroll pe-  
37 riod of such state agency by such agency's self-insurance rate assessment  
38 for the fiscal year. *For purposes of this section, total payroll shall not*  
39 *include any payments made by the state board of regents pursuant to the*  
*provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto,*  
40 *to a member of the faculty or other person defined in subsection (1)(a) of*  
41 *K.S.A. 74-4925, and amendments thereto.*

42 Sec. 2. K.S.A. 2005 Supp. 74-4902 is hereby amended to read as  
43

1 follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amend-  
2 ments thereto, unless otherwise provided or the context otherwise  
3 requires:

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

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

9 (3) "actuarial equivalent" means an annuity or benefit of equal value  
10 to the accumulated contributions, annuity or benefit, when computed  
11 upon the basis of the actuarial tables in use by the system. Whenever the  
12 amount of any benefit is to be determined on the basis of actuarial as-  
13 sumptions, the assumptions shall be specified in a way that precludes  
14 employer discretion;

15 (4) "actuarial tables" means the actuarial tables approved and in use  
16 by the board at any given time;

17 (5) "actuary" means the actuary or firm of actuaries employed or  
18 retained by the board at any given time;

19 (6) "agent" means the individual designated by each participating em-  
20 ployer through whom system transactions and communication are  
21 directed;

22 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,  
23 and amendments thereto, any natural person or persons or estate named  
24 by a member to receive any benefits as provided for by this act. Desig-  
25 nations of beneficiaries by a member who is a member of more than one  
26 retirement system made on or after July 1, 1987, shall be the basis of any  
27 benefits payable under all systems unless otherwise provided by law. Ex-  
28 cept as otherwise provided by subsection (33) of this section, if there is  
29 no named beneficiary living at time of member's death, any benefits pro-  
30 vided for by this act shall be paid to: (A) The member's surviving spouse;  
31 (B) the member's dependent child or children; (C) the member's de-  
32 pendent parent or parents; (D) the member's nondependent child or  
33 children; (E) the member's nondependent parent or parents; (F) the es-  
34 tate of the deceased member; in the order of preference as specified in  
35 this subsection;

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

39 (9) "compensation" means, except as otherwise provided, all salary,  
40 wages and other remuneration payable to a member for personal services  
41 performed for a participating employer, including maintenance or any  
42 allowance in lieu thereof provided a member as part of compensation,  
43 but not including reimbursement for travel or moving expenses or on and

2-8

1 after July 1, 1994, payment pursuant to an early retirement incentive  
2 program made prior to the retirement of the member. Beginning with  
3 the employer's fiscal year which begins in calendar year 1991 or for em-  
4 ployers other than the state of Kansas, beginning with the fiscal year  
5 which begins in calendar year 1992, when the compensation of a member  
6 who remains in substantially the same position during any two consecutive  
7 years of participating service used in calculating final average salary is  
8 increased by an amount which exceeds 15%, then the amount of such  
9 increase which exceeds 15% shall not be included in compensation, ex-  
10 cept that (A) any amount of compensation for accumulated sick leave or  
11 vacation or annual leave paid to the member, (B) any increase in com-  
12 pensation for any member due to a reclassification or reallocation of such  
13 member's position or a reassignment of such member's job classification  
14 to a higher range or level and (C) any increase in compensation as pro-  
15 vided in any contract entered into prior to January 1, 1991, and still in  
16 force on the effective date of this act, pursuant to an early retirement  
17 incentive program as provided in K.S.A. 72-5395 et seq., and amendments  
18 thereto, shall be included in the amount of compensation of such member  
19 used in determining such member's final average salary and shall not be  
20 subject to the 15% limitation provided in this subsection. Any contribu-  
21 tions by such member on the amount of such increase which exceeds  
22 15% which is not included in compensation shall be returned to the mem-  
23 ber. Unless otherwise provided by law, beginning with the employer's  
24 fiscal year coinciding with or following July 1, 1985, compensation shall  
25 include any amounts for tax sheltered annuities or deferred compensation  
26 plans. Beginning with the employer's fiscal year which begins in calendar  
27 year 1991, compensation shall include amounts under sections 403b, 457  
28 and 125 of the federal internal revenue code of 1986 and, as the board  
29 deems appropriate, any other section of the federal internal revenue code  
30 of 1986 which defers or excludes amounts from inclusion in income. For  
31 purposes of applying limits under the federal internal revenue code "com-  
32 pensation" shall have the meaning as provided in K.S.A. 74-49,123 and  
33 amendments thereto. *For purposes of this subsection and application to*  
34 *the provisions of subsection (4) of K.S.A. 74-4927, and amendments*  
35 *thereto, "compensation" shall not include any payments made by the state*  
36 *board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-*  
37 *4927a, and amendments thereto, to a member of the faculty or other*  
38 *person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments*  
39 *thereto;*

40 (10) "credited service" means the sum of participating service and  
41 prior service and in no event shall credited service include any service  
42 which is credited under another retirement plan authorized under any  
43 law of this state;

2-9

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

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

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

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

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1 who are in training at or employed by, or both, a sheltered workshop for  
2 the blind operated by the secretary of social and rehabilitation services.  
3 The entry date for such persons shall be the beginning of the first pay  
4 period of the fiscal year commencing in calendar year 1986. Such persons  
5 shall be granted prior service credit in accordance with K.S.A. 74-4913  
6 and amendments thereto. However, such persons classified as home in-  
7 dustry employees shall not be covered by the retirement system. Em-  
8 ployees shall include any member of a board of county commissioners of  
9 any county and any council member or commissioner of a city whose  
10 compensation is equal to or exceeds \$5,000 per year;

11 (15) "entry date" means the date as of which an eligible employer  
12 joins the system. The first entry date pursuant to this act is January 1,  
13 1962;

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

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

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

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

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

42  
43 (20) "leave of absence" means a period of absence from employment



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1 without pay, authorized and approved by the employer, and which after  
2 the effective date does not exceed one year;

3 (21) "member" means an eligible employee who is in the system and  
4 is making the required employee contributions; any former employee who  
5 has made the required contributions to the system and has not received  
6 a refund if such member is within five years of termination of employment  
7 with a participating employer; or any former employee who has made the  
8 required contributions to the system, has not yet received a refund and  
9 has been granted a vested benefit;

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

24 (23) "normal retirement date" means the date on or after which a  
25 member may retire with full retirement benefits pursuant to K.S.A. 74-  
26 4914 and amendments thereto;

27 (24) "participating employer" means an eligible employer who has  
28 agreed to make contributions to the system on behalf of its employees;

29 (25) "participating service" means the period of employment after  
30 the entry date for which credit is granted a member;

31 (26) "prior service" means the period of employment of a member  
32 prior to the entry date for which credit is granted a member under this  
33 act;

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

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

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

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

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

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

34 (33) "salary" means all salary and wages payable to a member for  
35 personal services performed for a participating employer, including main-  
36 tenance or any allowance in lieu thereof provided a member as part of  
37 salary. Salary shall not include reimbursement for travel or moving ex-  
38 penses, payment for accumulated sick leave or vacation or annual leave,  
39 severance pay or any other payments to the member determined by the  
40 board to not be payments for personal services performed for a partici-  
41 pating employer constituting salary or on and after July 1, 1994, payment  
42 pursuant to an early retirement incentive program made prior to the  
43 retirement of the member. When the salary of a member who remains

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1 in substantially the same position during any two consecutive years of  
2 participating service used in calculating final average salary is increased  
3 by an amount which exceeds 15%, then the amount of such increase  
4 which exceeds 15% shall not be included in salary. Any contributions by  
5 such member on the amount of such increase which exceeds 15% which  
6 is not included in compensation shall be returned to the member. Unless  
7 otherwise provided by law, salary shall include any amounts for tax shel-  
8 tered annuities or deferred compensation plans. Salary shall include  
9 amounts under sections 403b, 457 and 125 of the federal internal revenue  
10 code of 1986 and, as the board deems appropriate, any other section of  
11 the federal internal revenue code of 1986 which defers or excludes  
12 amounts from inclusion in income. For purposes of applying limits under  
13 the federal internal revenue code "salary" shall have the meaning as pro-  
14 vided in K.S.A. 74-49,123 and amendments thereto. In any case, if par-  
15 ticipating service is less than three years, then the average annual salary  
16 paid to the member during the full period of participating service, or, in  
17 any case, if the member has less than one calendar year of participating  
18 service such member's final average salary shall be computed by multi-  
19 plying such member's highest monthly salary received in that year by 12;

20 (34) "federal internal revenue code" means the federal internal rev-  
21 enue code of 1954 or 1986, as in effect on July 1, 2002, and as applicable  
22 to a governmental plan; and

23 (35) "USERRA" means the federal uniformed services employment  
24 and reemployment rights act of 1994 as in effect on July 1, 1998.

25 Sec. 3. K.S.A. 2005 Supp. 74-4925 is hereby amended to read as  
26 follows: 74-4925. (1) The state board of regents shall:

27 (a) Sponsor and maintain a retirement plan under section 403(b) of  
28 the federal internal revenue code for all members of the faculty and other  
29 persons who are employed by the state board of regents or by educational  
30 institutions under the board's management and who are in the unclassi-  
31 fied service under the Kansas civil service act as provided in subsection  
32 (1)(f) of K.S.A. 75-2935 and amendments thereto, for their service ren-  
33 dered after December 31, 1961, including effective on the first day of  
34 the first payroll period commencing with or following July 1, 1994, county  
35 extension agents employed by Kansas state university under K.S.A. 2-615,  
36 and amendments thereto, except not including: (i) Health care employ-  
37 ees, as defined by subsection (1)(f) of K.S.A. 75-2935, and amendments  
38 thereto; (ii) cooperative extension service employees covered by a federal  
39 retirement plan; or (iii) student employees; or (iv) university support  
40 staff, as defined by K.S.A. 2005 Supp. 76-715a, and amendments thereto.  
41 An eligible employee who is employed after December 31, 1961, shall  
42 participate in such retirement plan when the employee has completed  
43 one year of service with the state board of regents or an educational

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1 institution under its management, except that: (i) A newly employed eli-  
2 gible employee shall begin participation in the plan immediately, if at the  
3 time of the commencement of employment, the eligible employee is cov-  
4 ered as a result of employment with an institution of higher education  
5 located in the United States, by a retirement plan or program to which  
6 employer contributions have been made and benefits accrued for at least  
7 one year within the five-year period immediately preceding employment  
8 with the state board of regents or with an educational institution under  
9 its management; and (ii) all service while in a position eligible for benefits  
10 under any state of Kansas retirement plan with respect to which the em-  
11 ployee's participation is mandatory, including service during such plan's  
12 waiting period, shall be credited toward the year of service requirement,  
13 and an eligible employee who has at least one year in a position eligible  
14 for benefits under such retirement plan shall be immediately eligible to  
15 participate in the state board of regents retirement plan, except that this  
16 one-year period must be completed within the five-year period immedi-  
17 ately preceding employment with the state board of regents or with an  
18 educational institution under the board's management. For purposes of  
19 the immediately preceding clauses (i) and (ii), no period of employment  
20 as a student employee, seasonal or temporary employee or employee who  
21 works less than half-time shall count toward satisfaction of the year of  
22 service requirement. The state board of regents may exclude from eligi-  
23 bility under this subsection any persons employed in such temporary or  
24 part-time positions as the board designates;

25 (b) require such members of the faculty and others described in sub-  
26 section (1)(a) who are eligible to participate in the retirement plan of the  
27 state board of regents, as provided in subsection (1)(a), to contribute an  
28 amount to such plan equal to 5.5% of such member's compensation, such  
29 contributions to be made through payroll deductions and on a pretax  
30 basis;

31 (c) contribute an amount to the retirement plan of the state board of  
32 regents, as provided in subsection (1)(a), equal to the percentage amount,  
33 as prescribed by K.S.A. 74-4925e and amendments thereto, of the total  
34 amount of the compensation on which such members of the faculty and  
35 other persons described in subsection (1)(a) contribute during such pe-  
36 riod for which the contribution of the state board of regents is made; and

37 (d) make the contributions required under subsections (1)(b) and  
38 (1)(c) in accordance with section 403(b) of the federal internal revenue  
39 code and all other applicable sections of the federal internal revenue code  
40 and the applicable regulations thereunder.

41 (2) For the purposes of this section the state board of regents may  
42 contract with:

43 (a) Any life insurance company authorized to do business in this state;

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1 or

2 (b) a bank or approved non-bank trustee or custodian under section  
3 401(f) of the federal internal revenue code, the assets of which are in-  
4 vested in regulated investment company stock.

5 (3) (a) Such member of the faculty or other person described in sub-  
6 section (1)(a) shall also be a member of the Kansas public employees  
7 retirement system, but only for the purpose of granting retirement ben-  
8 efits based on prior service only which was rendered prior to January 1,  
9 1962, which shall be credited to the member as provided in subsection  
10 (1) of K.S.A. 74-4913 and amendments thereto, except that such member  
11 of the faculty or other person described in subsection (1)(a) who was  
12 employed prior to July 1, 1962, who has not yet retired and who is em-  
13 ployed on July 1, 1988, on an academic year contract, shall receive credit  
14 for 12 months of prior service for each nine months of prior service for  
15 which such member or person was employed on an academic year con-  
16 tract prior to July 1, 1962. For the purpose of determining eligibility for  
17 a vested benefit, service by such a member of the faculty or other person  
18 after December 31, 1961, shall be construed to be credited service under  
19 subsection (2) of K.S.A. 74-4917 and amendments thereto.

20 (b) Any member of the faculty or other person described in subsec-  
21 tion (1)(a) who retires after 10 years of continuous service immediately  
22 preceding retirement shall be granted a retirement benefit based on prior  
23 service only which was rendered prior to January 1, 1962. Application for  
24 such benefit shall be in such form and manner as prescribed by the board  
25 of trustees of the Kansas public employees retirement system.

26 (4) Any employee who becomes eligible to participate in the retire-  
27 ment plan of the state board of regents, as provided in subsection (1)(a),  
28 after a reclassification or transfer from a position covered by the Kansas  
29 public employees retirement system, and who has accrued benefits under  
30 the Kansas public employees retirement system, may file a one-time, ir-  
31 revocable written election to continue participation in the Kansas public  
32 employees retirement system. Failure to file such written election shall  
33 be presumed to be an election not to continue participation in the Kansas  
34 public employees retirement system and to become a participant in the  
35 retirement plan of the state board of regents. Any participant in the re-  
36 tirement plan of the state board of regents who is reclassified or trans-  
37 ferred to a position for the state board of regents or an educational in-  
38 stitution under its management that qualifies for participation in the  
39 Kansas public employees retirement system in accordance with subsec-  
40 tion (5) of K.S.A. 74-4911, and amendments thereto, may file a one-time  
41 irrevocable written election to continue participation in the retirement  
42 plan of the state board of regents. Failure to file such written election  
43 shall be presumed to be an election not to remain eligible for assistance

1 by the state board of regents under this section and to become a member  
2 of the Kansas public employees retirement system under subsection (5)  
3 of K.S.A. 74-4911, and amendments thereto. Such election shall be filed  
4 prior to the first day of the first complete payroll period after the effective  
5 date of such reclassification or transfer, and shall be effective on the first  
6 day of the first complete payroll period after the effective date of such  
7 reclassification or transfer. Such election shall be irrevocable.

8 (5) A participant in the retirement plan of the state board of regents,  
9 as provided in subsection (1)(a), who takes a leave of absence and accepts  
10 a position in the executive branch of government of the state of Kansas  
11 may file a one-time, irrevocable written election to continue participation  
12 in such retirement plan. Such election shall be filed prior to the first day  
13 of the first complete payroll period after commencement of service for  
14 the executive branch of government, and shall be effective as of the ef-  
15 fective date of such employment. Failure to file such a written election  
16 shall be presumed to be an election not to continue participation in the  
17 retirement plan of the state board of regents. The state board of regents  
18 shall contribute an amount to the retirement plan on behalf of an eligible  
19 employee who has made such an election equal to the percentage amount,  
20 as prescribed by K.S.A. 74-4925e, and amendments thereto, of the em-  
21 ployee's compensation from the state for providing such services.

22 (6) A participant in the retirement plan of the state board of regents,  
23 as provided in subsection (1)(a), who takes a leave of absence and is  
24 elected or appointed as a member of the legislature of the state of Kansas  
25 may file a one-time, irrevocable written election to continue participation  
26 in such retirement plan for purposes of subsection (1)(c) only. Such elec-  
27 tion shall be filed prior to the first day of the first complete payroll period  
28 after commencement of service for the legislature or, for any employee  
29 who is a member of the legislature on January 8, 2001, prior to the first  
30 day of the first complete payroll period after July 1, 2001. Elections shall  
31 be effective as of the effective date of such employment, except that for  
32 any employee who files an election as provided in this subsection and  
33 who was a member of the legislature on January 8, 2001, such election  
34 shall be effective on January 8, 2001. Failure to file such a written election  
35 shall be presumed to be an election not to continue participation in the  
36 retirement plan of the state board of regents. The state board of regents  
37 shall contribute an amount to the retirement plan on behalf of an eligible  
38 employee who has made such an election equal to the percentage amount,  
39 as prescribed by K.S.A. 74-4925e, and amendments thereto, of the com-  
40 pensation of such employee in effect on the date immediately preceding  
41 such leave of absence. Any employee who makes an election as provided  
42 under this subsection shall be eligible for the insured death benefit and  
43 insured disability benefit in the same manner as provided under the pro-

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1 visions of K.S.A. 74-4927a, and amendments thereto. The provisions of  
2 this subsection are intended to further the public policy of encouraging  
3 persons to serve in elective office.

4 (7) The state board of regents shall adopt uniform rules, regulations  
5 and policies applicable to members of the faculty and other persons de-  
6 scribed in subsection (1)(a), for the purposes of administering the pro-  
7 visions of this section and the retirement plan of the state board of re-  
8 gents, as provided in subsection (1)(a). All actions undertaken by the state  
9 board of regents and agreements entered into pursuant to this section  
10 prior to the effective date are hereby authorized, confirmed and validated.

11 Sec. 4. K.S.A. 75-5543 is hereby amended to read as follows: 75-  
12 5543. (a) Commencing with the first payroll period chargeable to funds  
13 appropriated for the fiscal year beginning on July 1, 1994, and for each  
14 payroll period thereafter, each state agency shall certify with each payroll,  
15 the amount of each leave payment reserve assessment for such state  
16 agency, not in conflict with appropriations therefor. The director of ac-  
17 counts and reports shall transfer the amount of each leave payment re-  
18 serve assessment for such state agency to the credit of the state leave  
19 payment reserve fund.

20 (b) For fiscal years beginning July 1, 1994, and each July 1 thereafter,  
21 the secretary of administration shall determine annually the rate of the  
22 leave payment reserve assessment for all state agencies based upon the  
23 experience of all state agencies. Such rate shall be expressed as a per-  
24 centage and shall be the same for all state agencies. The secretary of  
25 administration may utilize actuarial and other professional assistance in  
26 determining the rate of the leave payment reserve assessment under this  
27 section. On or before July 15, 1994, and each July 15 thereafter, the  
28 director of the budget shall notify each state agency of the rate of the  
29 leave payment reserve assessment for the next fiscal year. The secretary  
30 of administration may adjust the rate of the leave payment reserve as-  
31 sessment during a fiscal year as necessary to pay projected expenditures  
32 as they become due.

33 (c) The amount of the leave payment reserve assessment for each  
34 state agency shall be determined by multiplying the total gross wages for  
35 each employee for each payroll period of such state agency, by the rate  
36 of the leave payment reserve assessment for the fiscal year.

37 (d) As used in this section "gross wages" means all compensation for  
38 services, including commissions, bonuses, back pay and the value of all  
39 remuneration including benefits paid in any medium other than cash. *For*  
40 *purposes of this section, "gross wages" shall not include any payments*  
41 *made by the state board of regents pursuant to the provisions of subsection*  
42 *(5) of K.S.A. 74-4927a, and amendments thereto, to a member of the*  
43 *faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and*

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1 *amendments thereto.*

2 Sec. ~~5~~. K.S.A. 44-576 and 75-5543 and K.S.A. 2005 Supp. 74-4902,  
3 74-4925, and 74-4925h are hereby repealed.

4 Sec. ~~6~~. This act shall take effect and be in force from and after its  
5 publication in the statute book.

[ [Section 5 attached] ]

[ 6 ]

[ and 74-4927 ]

[ 7 ]



Section 5. K.S.A. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66 2/3% of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916 and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited, to reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. *However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this section, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation (expressed as a decimal, such as .60 for a 60% formula) that is used to calculate disability benefit payments under such plan.* During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment (*other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan*), or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act

notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act..

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

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

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

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

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

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

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

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

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

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, for the period commencing July 1, 2005, and ending June 30, 2006, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to .8% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. For the

period commencing July 1, 2006, and all periods thereafter, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2000, and ending on December 31, 2001, for the period commencing July 1, 2002, and ending December 31, 2002, or for the period commencing April 1, 2003, and ending on June 30, 2004.

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

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

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

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby

created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto.



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**Senate Education Committee  
February 13, 2006**

**Testimony Regarding SB 436**

**Mary Prewitt, General Counsel  
Kansas Board of Regents**

Chairwoman Schodorf and members of the Committee, thank you for allowing me to speak to you this afternoon about Senate Bill 436.

Senate Bill 436 deals with personnel evaluations at community colleges. It appears that the primary purpose of the bill is simply to separate the community colleges from provisions that currently encompass school districts, technical institutions and community colleges. In general, it creates new provisions, nearly identical to the old, requiring the colleges to develop policies for completing evaluations, setting out some requirements with respect to evaluations, and determining who will have access to completed evaluations.

It appears, however, that in the course of drafting the state Board of Regents has been substituted inappropriately in some places where the state Board of Education previously functioned. Under the Higher Education Coordination Act, the Regents have refrained from acting in clearly governing roles with respect to the community colleges. The hiring and evaluation of professional faculty and staff is clearly one of those roles. Consequently, we request that the following references to the Regents be removed from the bill:

- Page 3, New Section 5, lines 32 and 33; please strike “as filed with the state board in accordance with section 4, and amendments thereto.”
- Page 3, New Section 6, line 42; please strike “the state board of regents.”
- Page 4, lines 3 through 5; please strike all of New Section 7.

Determining personnel policies and evaluating professional faculty and staff are clearly governing functions of the community college boards of trustees. The Board of Regents need not be involved in those functions. We request that the bill be amended accordingly.

*Senate Education Committee  
2-13-06  
Attachment 3*