

## CHAPTER 113

HOUSE Substitute for Substitute for SENATE BILL No. 309

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; the Kansas public employees act of 2009; retirement plan compliance with federal law; withdrawal of contributions; employment after retirement; service credit between systems; state taxation of certain retirement benefits; amending K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02, 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4919b, 74-4924, 74-4988, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007 Supp. 74-4902, 74-4914, 74-49,202, 74-49,203, 74-49,207, 74-49,208 and 79-32,117 and repealing the existing sections; also repealing K.S.A. 74-4917a.

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

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

(b) Beginning with the first payroll for services as a policeman or fireman after an active member of a local police or fire pension plan becomes a special member of the Kansas police and firemen's retirement system under this section, the city shall deduct from the compensation of each special member the greater of 7% or the percentage rate of contribution which the active member was required to contribute to the local police or fire pension plan preceding the entry date of the city, as employee contributions. The deductions shall be remitted quarterly, or as the board of trustees otherwise provides, to the executive secretary of the Kansas public employees retirement system for credit to the Kansas public employees retirement fund. All deductions shall be credited to the special members' individual accounts beginning on July 1 of the year following the entry date of the city for purposes of all active and retired members of the local police and fire pension plan.

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

(d) Each retired member of a local police or fire pension plan who becomes a special member of the Kansas police and firemen's retirement system under this section shall be entitled to receive from the Kansas police and firemen's retirement system a pension or any other benefit to the same extent and subject to the same conditions as existed under the local police or fire pension plan on the day immediately preceding the entry date of the city which is affiliating with the system with regard to all active members and retired members of the plan under K.S.A. 74-4954 and amendments thereto, except no retired special member shall be appointed in or to a position or office for which compensation is paid for service to the same state agency, or the same police or fire department of a city, township, special district or county or the same sheriff's office of a county. This subsection shall not apply to service rendered by a retiree as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk or in any other office or position of a similar nature. However, all such benefits paid shall be paid in accordance with the applicable requirements under section 401 (a)(9) of the federal internal revenue code of 1986 as applicable to governmental plans, as in effect on July 1, ~~1998~~ 2008, and the regulations thereto, as in effect on July 1, ~~1998~~ 2008, and in accordance with the provisions of K.S.A. 74-49,123, and amendments thereto. Any retiree employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions or receive additional credit under the system for that service. This subsection, except as it relates to contributions and addi-

tional credit, shall not apply to the employment of any retiree by the state of Kansas, or any county, city, township, special district, political subdivision or instrumentality of any one or several of the aforementioned for a period of not exceeding 30 days in any one calendar year.

(e) (1) Every pension or other benefit received by any special member pursuant to subsection (c) or (d) is hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body of this state; shall not be subject to execution, garnishment, attachment or any other process or claim whatsoever, except such pension or benefit or any accumulated contributions due and owing from the system to such special member are subject to decrees for child support or maintenance, or both, as provided in K.S.A. 60-1610 and amendments thereto; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant pursuant to the provisions of K.S.A. 74-4989 and amendments thereto may be assignable to a funeral establishment providing funeral services to such retirant by the beneficiary of such retirant. The Kansas public employees retirement system shall not be a party to any action under article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, and is subject to orders from such actions issued by the district court of the county where such action was filed. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

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

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

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

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

Sec. 2. K.S.A. 13-14a02 is hereby amended to read as follows: 13-14a02. The governing body of all cities of the first class, maintaining an organized police department and a fire department, shall establish, maintain and fund a separate pension fund for each department, which shall be set aside and used exclusively for the payment of pensions and disability benefits as authorized in K.S.A. 13-14a01 et seq. and amendments thereto. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way

that precludes employer discretion. Each such pension fund shall be maintained and funded in accordance with the minimum funding standards prescribed in K.S.A. 12-5002 and amendments thereto. For the purpose of creating, maintaining and funding such pension funds, the governing body of each city of first class is hereby authorized and shall:

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

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

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

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

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

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

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

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

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

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

~~1998~~ 2008.

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

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

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

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

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

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

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

(g) levy annually at the time for the levying of taxes for city purposes, a tax upon all of the taxable tangible property in such city for each pension fund to make annual contributions to each pension fund as required under K.S.A. 12-5002 and amendments thereto and to maintain and fund each pension fund on an actuarial reserve basis in accordance with the provisions of K.S.A. 14-10a05 and amendments thereto and to pay a portion of the principal and interest on bonds issued by such city under the authority of K.S.A. 12-1774, and amendments thereto. In lieu of levying the tax authorized in this section, the annual contribution required of the city may be paid from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto; and

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

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

Sec. 7. K.S.A. 20-2601 is hereby amended to read as follows: 20-2601. As used in K.S.A. 20-2601 et seq. and amendments thereto, unless

the context otherwise requires:

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

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

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

(d) "member" means a judge who is making the required contributions to the fund, or any former judge who has made the required contributions to the fund and has not received a refund of the judge's accumulated contributions;

(e) "prior service" means all the periods of time any judge has served in such capacity prior to the effective date of this act except that district magistrate judges who have service credit under the Kansas public employees retirement system must make application to the board and, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, make payment as required by the board to transfer service credit from the Kansas public employees retirement system to the retirement system for judges;

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

(g) "military service" means service of any judge for which retirement benefit credit must be given as provided in the uniformed services employment and reemployment rights act of 1994, as in effect on July 1, ~~1998~~ 2008;

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

(i) "salary" means the statutory salary of a judge;

(j) "final average salary" means that determined as provided in subsection (b) of K.S.A. 20-2610 and amendments thereto;

(k) "beneficiary" means any natural person or persons or estate designated by a judge in the latest designation of beneficiary received in the retirement system office to receive any benefits as provided for by this act. Except as provided in subsection (n), if there is no named beneficiary living at the time of the judge's death, any benefits provided for by this act shall be paid to: (1) The judge's surviving spouse; (2) the judge's dependent child or children; (3) the judge's dependent parent or parents; (4) the judge's nondependent child or children; (5) the judge's nondependent parent or parents; or (6) the estate of the deceased member; in the order of preference as specified in this subsection. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law;

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

(m) "board" means the board of trustees of the Kansas public employees retirement system;

(n) "trust" means an express trust created by any trust instrument, including a will, and designated by a member to receive benefits and other amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and amendments thereto, instead of a beneficiary. A designation of a trust shall be filed with the board. If there is a designated trust at the time of the member's death, all benefits and other amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid

to the trust instead of the member's beneficiary. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, any benefits and other amounts payable under K.S.A. 20-2607, 20-2610a and 20-2612, and amendments thereto, shall be paid to the member's beneficiary and any payments so made shall be a full discharge and release to the retirement system for judges from any further claims;

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

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

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

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

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

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

(b) "board" means the board of trustees of the Kansas public employees retirement system;

(c) "school year" means either the twelve-month period beginning on September first, or the legal school term during such period. In case of doubt the board shall decide what constitutes a school year. The board shall not give credit for a school year that represents less than 140 days, except that the board may give credit for a school year if not less than 80 days of actual service has been rendered and if continuance in school service was prevented by illness or other emergency beyond the control of the person entitled to such credit. No person shall receive credit for more than one school year during any twelve-month period beginning on September 1. The board shall give credit for ½ of a school year for ½ school year of continuous full-time service;

(d) "school employees" means persons who have performed or who shall hereafter perform school services as classroom teachers, administrators, supervisors, librarians, nurses, clerks, janitors or in any other full-time capacity in the public schools, area vocational-technical schools or community junior colleges of the state of Kansas and who are citizens of the United States and school employees shall include: (1) Persons who have performed service as a county superintendent of public instruction or as an employee appointed by and under the supervision of a county superintendent; (2) persons who have performed service as a state superintendent of public instruction or as an employee appointed by and under supervision of a state superintendent; (3) persons who have performed services as an employee appointed by the former state board for vocational education, except that prior to the time of accepting such employment by such county superintendent, state superintendent or state board for vocational education such employees had performed school service in Kansas as a teacher, principal, supervisor, or superintendent; (4) persons who are employees appointed by and under the supervision of the constitutional state board of education, including those employees transferred to the state department of education at its inception in January of 1969, and who prior to the time of accepting such employment by the state board of education had performed school service in Kansas as a teacher, principal, supervisor, or superintendent; (5) the commissioner of education if such commissioner exercises an irrevocable option to be covered by the state school retirement system in lieu of being covered by the Kansas public employees retirement system, which option shall be exercised by written notice of the commissioner of education at the time of appointment. Such notice shall be directed to the state school retire-

ment board and the board of trustees of the Kansas public employees retirement system; (6) all instructional employees for the school for the blind and such employees shall be excluded from participation in any other state retirement system; and (7) teachers and supervisors of instruction at the state institutions under the management of the director of penal institutions and those under the management of the state board of social welfare which provide regular classroom instruction for their inmates or patients if such instructional personnel have valid certificates issued by the state board of education, except that the provisions of this subsection shall not include such employees who have elected or shall elect, irrevocably, at the time of employment by the institution to participate in the Kansas public employees retirement system. The term "school employees" shall not include any employee while a member of a separate retirement system operated by any board of education but if any such employee at any time becomes eligible to participate in the state retirement as provided by this act, the years such person served in a school system in Kansas which maintains a separate retirement system shall be included in determining years of service of such person under this act. An employee performing service in a school system maintaining its own separate retirement system in Kansas may qualify for service credit in the state system by discontinuing membership in such separate retirement system prior to the time of retirement and accepting a position which is covered by the state retirement system, and continuing in such service for at least one school year. Subject to the provisions of K.S.A. 74-49,123 and amendments thereto, such employee shall contribute to the state retirement system an amount of money equal to that which was deducted from such employee's salary for services rendered after September 1, 1941, in the city maintaining its own retirement system and this amount shall be credited to the savings account of the employee. If such employee was for any reason excluded from participation in the separate retirement system, the board shall give credit for such nonmember service in the public schools in the city maintaining a separate retirement system without the required transfer of funds. After September 1, 1971, no person shall be deemed a school employee for the purposes of this act;

(e) "school service" means: (1) Service performed as a school employee prior to September 1, 1941, if such years of service include at least six months during the years 1938-39 or 1939-40 or 1940-41; service performed by any employee who was not in school service in any of the school years from 1938 to 1941, but who reentered school service after September 1, 1941, and continued in such service for at least five years; all service prior to September 1, 1941, of any annuitant who retired prior to September 1, 1961, and who was granted a service annuity for one or more years as a contributing member of the school retirement system; all service prior to September 1, 1941, of any employee who served for at least six months during one of the qualifying years from 1938 to 1941 in a school system maintaining its own separate retirement system in Kansas, if such employee has not qualified, nor will in the future qualify, for retirement benefits under the separate retirement system; all service as a school employee, including out-of-state service as a school employee, for a period of 10 or more years prior to September 1, 1938, except that service annuities paid by the state of Kansas to such school employees shall not include such out-of-state service as a school employee, unless otherwise provided by law; (2) service as a school employee after September 1, 1941, as a contributing member of the school retirement system. No service credit shall be granted to a school employee who established or shall hereafter establish membership later than September 1, 1941, for a period of time between September 1, 1941, and the date of becoming a contributing member of the retirement system. School service shall include only full-time employees, except that  $\frac{1}{2}$  year of credit shall be given to instructional employees who perform school service on at least a  $\frac{1}{2}$  time basis throughout a school year. No school service credit shall be given in fractional units of less than  $\frac{1}{2}$  year. The board may grant service credit to employees, who were performing school service at the time of their induction into the armed forces of the United States, equal to the time spent in the armed forces between September 1, 1940, and September 1, 1947, and between June 25, 1950, and July 27, 1953 and between August 5, 1964, and August 15, 1973, but no such service credit shall be granted for a period of more than five years spent in the armed forces between September 1, 1940, and September 1, 1947, or for a

period of more than two years spent in the armed forces between June 25, 1950, and July 27, 1953 or for a period of more than two years spent in the armed forces between August 5, 1964 and August 15, 1973. In the event the employee served during the periods between September 1, 1940, and September 1, 1947, and between June 25, 1950, and July 27, 1953, such employee shall be granted a service credit for the actual time spent in the armed forces between June 25, 1950, and July 27, 1953, nor shall such service credit be granted to any employee unless such employee shall reenter school service and continue in such service for at least one school year. The board may grant service credit to an employee who was performing school service prior to the time of becoming employed as a veterans' instructional on-the-farm training instructor equal to the time spent as such instructor between the dates of September 1, 1946, and September 1, 1961. The board may grant service credit to an employee who prior to performing school service was a faculty member of the Kansas vocational school at Topeka, known part of the time as the Kansas technical institute, which operated under the Kansas state board of regents prior to 1956 equal to the time spent as instructor at such school. In case of doubt the board shall decide what constitutes school service; and (3) service for which credit must be given under federal law, including, but not limited to, when applicable, the uniformed services employment and reemployment rights act of 1994, as in effect on July 1, ~~1998~~ 2008;

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

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

(h) "service annuity" means that part of the school annuity which is based upon the service record of the person concerned, and which is paid by the state;

(i) "savings annuity" means that part of the school annuity which results from the accumulated contributions of the school employee and interest thereon less the proportionate share of the expense of the administration of this act;

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

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

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

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

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

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

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

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

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account,



with interest allowed thereon;

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

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

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

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

(6) “agent” means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) “beneficiary” means, subject to the provisions of K.S.A. 74-4927, and amendments thereto, any natural person or persons, estate or trust, or any combination thereof, named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at time of member’s death, any benefits provided for by this act shall be paid to: (A) The member’s surviving spouse; (B) the member’s dependent child or children; (C) the member’s dependent parent or parents; (D) the member’s nondependent child or children; (E) the member’s nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection;

(8) “board of trustees,” “board” or “trustees” means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) “compensation” means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer’s fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that (A) any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member, (B) any increase in compensation for any member due to a reclassification or reallocation of such member’s position or a reassignment of such member’s job classification to a higher range or level and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in the amount of compensation of such member used in determining such member’s final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer’s fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer’s fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code “com-

pensation” shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto. For purposes of this subsection and application to the provisions of subsection (4) of K.S.A. 74-4927, and amendments thereto, “compensation” shall not 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, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto;

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

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

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

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

(14) “employee” means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, and any such officer or employee who is concurrently employed performing similar or related tasks by two or more participating employers, who each remit employer and employee contributions on behalf of such officer or employee to the system, and whose combined employment is not seasonal or temporary, and whose combined employment requires at least 1,000 hours of work per year, but not including: (A) Any employee who is a contributing member of the United States civil service retirement system; (B) any employee who is a contributing member of the federal employees retirement system; (C) any employee who is a leased employee as provided in section 414 of the federal internal revenue code of a participating employer; and (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto, except that no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913 and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system. Employees shall include any member of a board of county commissioners of any county and any council member or commissioner of a city whose compensation is equal to or exceeds \$5,000 per year;

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

(16) “executive director” means the managing officer of the system

employed by the board under this act;

(17) “final average salary” means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member’s final average salary shall be computed by multiplying such member’s highest monthly salary received in that year by 12; in the case of a member who became a member under subsection (3) of K.S.A. 74-4925 and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931 and amendments thereto and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, whose date of membership in the system is prior to July 1, 1993, and any member who is in such member’s membership waiting period on July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as provided in subsection (2) of K.S.A. 74-4919h and amendments thereto which is completed within five years of retirement. For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member’s compensation at a percentage rate equal to two or three times the employee’s rate of contribution or will begin paying to the system a lump-sum amount for such member’s purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, “final average salary” shall not include any amount of compensation or salary which is based on such member’s purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee’s employer elected to participate in the system. In the case of any former member who was eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto prior to July 1, 1998, for the purpose of calculating final average salary of such member, such member’s final average salary shall be based on such member’s salary while a member of the system or while eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto, whichever is greater;

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

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

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

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

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

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

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

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

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

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

(29) “retirement benefit” means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant. If there is no surviving spouse, the last warrant shall be payable to the designated beneficiary;

(30) “retirement system” or “system” means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) “social security” means the old age, survivors and disability insurance section of the federal social security act;

(32) “trust” means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927 and amendments thereto and payment of the member’s accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust shall be filed with the board. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927 and amendments thereto and

the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid in accordance with the provisions of subsection (7) of this section as in other cases where there is no named beneficiary living at the time of the member's death and any payments so made shall be a full discharge and release to the system from any further claims;

(33) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "salary" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(34) "federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as in effect on July 1, ~~2002~~ 2008, and as applicable to a governmental plan; and

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

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

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

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

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

(d) funds of such other system which represent accumulated contributions, if any, of members shall be credited to the employees accumulated contribution reserve of each employee. The balance of the funds so transferred to the Kansas public employees retirement system shall be offset against the liability on account of existing retirants, annuitants and

active members;

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

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

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

Sec. 12. K.S.A. 2007 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

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

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

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) On or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one such calendar year, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may

be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more, or commencing in calendar year 2006, and all calendar years thereafter, \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, ~~and ending June 30, 2008~~, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas ~~at the Osawatimic state hospital, Rainbow mental health facility, Larned state hospital, Parsons state hospital and training center, Kansas neurological institute in an institution as defined in subsection (b) of K.S.A. 76-12a01 or subsection (f) of K.S.A. 38-2302, and amendments thereto~~, the Kansas soldiers' home or the Kansas veterans' home. *Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.* The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

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

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

(b) ~~Any member, if not actively employed, who has previously been a member of the system and who has forfeited participating and prior service credit by reason of termination of employment with a participating employer and withdrawal of such member's accumulated contributions may have all or a part of such forfeited service reinstated as provided in K.S.A. 74-4901 through 74-4930 and amendments thereto. Subject to the provisions of K.S.A. 74-49,123 and amendments thereto, such member may purchase such service credit by means of a single lump-sum payment. The lump-sum payment shall be an amount determined by the actuary using the member's annual rate of compensation when last participating, the actuarial assumptions and tables currently in use by the retirement system and the member's attained age. Any employee of a participating employer who becomes a member of the system as provided in K.S.A. 74-4911 or 74-4935, and amendments thereto, who has been a member of the system prior to July 1, 2009, and who has forfeited participating and~~

*prior service credit by reason of termination of employment with a participating employer and withdrawal of such member's accumulated contributions, may have all or a part of such forfeited service reinstated as provided in K.S.A. 74-4901 through 74-4930, and amendments thereto, upon return to covered employment after July 1, 2009, and shall have such service credited under the terms of K.S.A. 2007 Supp. 74-49,201 et seq., and amendments thereto.*

Sec. 14. K.S.A. 74-4924 is hereby amended to read as follows: 74-4924. (1) Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of this act for the purpose of committing fraud, shall be subject to the provisions of K.S.A. 21-3904 and amendments thereto.

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

(3) (a) Notwithstanding the provisions of subsection (2) and except as provided in subsection (3)(d), the board is not required to collect any benefit overpayment that is of more than 60 months' standing when discovered, if any errors in the records or calculations of the system that resulted in such overpayment are attributable solely to incorrect procedures or calculations by the system and there is no evidence of fraud or misconduct on the part of the member or other person receiving the benefit.

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

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

(d) Notwithstanding the provisions of this section, on and after the effective date of this act, the board shall not collect any benefit overpayment, attributable to errors in the calculation of benefits by the system that resulted in such overpayments to any person that first occurred after and as a result of a statutory increase in benefits passed by the legislature in 1993, and there is no evidence of fraud or other misconduct on the part of the person receiving the benefit.

Sec. 15. K.S.A. 74-4988 is hereby amended to read as follows: 74-4988. (1) (a) Each person who is a member of a retirement system and who becomes a member of another retirement system shall receive credit under each such retirement system for credited service under the other retirement system for the purpose of satisfying any requirement for such person to complete certain periods of service to become eligible to receive a retirement benefit or disability benefit or for such person's beneficiaries to receive a death benefit. The retirement benefit which a person becomes eligible to receive under a retirement system shall be based only on credited service under such retirement system, except that the determination of final average salary under such retirement system shall include the compensation received as a member of each other retirement system if such compensation is higher. Except as provided in subsection (1)(b), such retirement benefit shall become payable upon the member



submitting an application to retire under each system, except that a member who is not eligible to retire under the retirement system to which such member is not currently making contributions because such member does not meet the age requirements of the earliest retirement date of such system may retire, upon meeting the requirements for retirement, under the provisions of the retirement system which the member had been most recently making contributions. No further rights and benefits will accrue under the retirement system to which the member is not currently making contributions after the date the member retires from the system from which the member had been most recently making contributions and the member will be retired and benefits shall commence on the date that the member would first have attained retirement age from the system to which the member is not currently making contributions. *If the member does not meet the age requirements of the earliest retirement date under the retirement system to which such member is not currently making contributions but used credited service under such system for the purpose of satisfying any requirement for such person to complete certain periods of service to become eligible to receive a retirement benefit from the member's current system, the member's account under the system to which such member is not currently making contributions shall be withdrawn the month immediately following the member's retirement in a form and manner as determined by the board. Members who are covered under the provisions of K.S.A. 2007 Supp. 74-49,201 et seq., and amendments thereto, may use service from any system under the Kansas public employees retirement system, K.S.A. 74-4901 et seq., and amendments thereto, to attain a vested benefit pursuant to the provisions of K.S.A. 2007 Supp. 74-49,201 et seq., and amendments thereto.*

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

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

(3) As used in this section:

(a) "Member" means a person who has attained membership in a retirement system, who has not retired under such retirement system and who has not withdrawn such person's accumulated contributions for such retirement system; and

(b) "retirement system" means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges.

Sec. 16. K.S.A. 74-4998c is hereby amended to read as follows: 74-4998c. (a) Except as otherwise provided in this section, for all payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act, each elected state official shall contribute 5% of the elected state official's salary for each payroll period to the fund. For all payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act, the employer shall deduct from the compensation of each member who has received 30 years of credited service 2% of such member's compensation as employee contributions. Each elected state official shall make contributions as provided in K.S.A. 74-4919 and amendments thereto in lieu of contributions as provided in this section, for all payroll periods during any term of office of such elected state official which commences after the effective date of this act. The provisions of K.S.A. 74-4919c, 74-4919d, 74-4919e, 74-4919h or 74-4919j and amendments thereto shall apply to elected state officials, except that, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, such elected state officials shall purchase prior and participating service credit at the rate of 10% or 15% for the payroll periods commencing on or after July 1, 1988, but prior to the end of the term of office in which such elected official is serving on the effective date of this act.

(b) The director of accounts and reports shall deduct the amount each elected state official is to contribute to the fund on the payroll of

each elected state official for each payroll period showing the amount deducted and its credit to the fund. Such deductions shall be remitted as the board may provide, to the executive director of the Kansas public employees retirement system for credit to the fund to the credit of the elected state official's individual account therein.

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

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

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

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

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

Sec. 17. K.S.A. 74-49,105 is hereby amended to read as follows: 74-49,105. Every retirement benefit received by any person under subsection (b) of K.S.A. 74-49,104 and amendments thereto shall be exempt from any tax of the state of Kansas or any political subdivision or taxing body of the state; shall not be subject to execution, garnishment, attachment or except as otherwise provided, any other process or claim whatsoever; and shall be unassignable. Any retirement benefit due and owing to any person under subsection (b) of K.S.A. 74-49,104 and amendments thereto is subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the internal revenue code of 1986, as amended as in effect on July 1, ~~1998~~ 2008, and as applicable to a governmental plan. The provisions of this act shall apply to any qualified domestic relations order which was filed or amended either before or after July 1, 1994.

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

(2) Notwithstanding any other provision of law, employee contributions shall not be withheld or paid into any retirement system administered by the Kansas public employees retirement system by reason of compensation or salary in excess of the limitations set forth in section 401(a)(17) of the internal revenue code, except that for eligible employees as defined in subsection (1). Compensation or salary on which contributions shall be withheld shall not be subject to any limitations other than those that were in effect under the Kansas public employees retirement system on July 1, 1993.

(3) Notwithstanding any other provision of law, and except for eligible employees as defined in subsection (1), no benefit shall be paid based on

compensation or salary that is in excess of the limitations set forth in section 401(a)(17) of the internal revenue code.

(4) *Effective with respect to plan years beginning on and after January 1, 2002, the annual compensation of a member which exceeds \$200,000 as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the federal internal revenue code, may not be taken into account in determining benefits or employee contributions for any plan year. Annual compensation for the determination period means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.*

(5) For purposes of this section, retirement system means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges, and any other system administered by the board of trustees.

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

(b) As used in this section:

(1) "Federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, ~~1998~~ 2008; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The board or its designee may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

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

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

(A) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in section 415(b) of the federal internal revenue code, subject to the applicable adjustments in that section. Beginning January 1, 1995, a participant may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the federal internal revenue code, subject to the applicable adjustments in section 415 of the federal internal revenue code, ~~except as provided in clause (C) of this subsection.~~

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

(i) Where the retirement plan's law requires a lump-sum payment, for the purchase of service credit, the board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under

section 415(c) or 415(n) of the federal internal revenue code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Subject to approval by the internal revenue service, the board shall maintain a qualified governmental excess benefit arrangement under section 415(m) of the federal internal revenue code. The board shall establish the necessary and appropriate procedures for the administration of such benefit arrangement under the federal internal revenue code. The amount of any annual benefit that would exceed the limitations im-

posed by section 415 of the federal internal revenue code shall be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be credited to this benefit arrangement. The qualified excess benefit arrangement shall be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

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

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

~~(D) Prior to January 1, 1998, the definition of compensation, wages, salary or other similar term when used for purposes of determining compliance with section 415 of the federal internal revenue code does not include the amount of any elective deferral, as defined in section 402(g)(3) of the federal internal revenue code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of section 125 or 457 of the federal internal revenue code.~~

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

~~(8) To the extent required by section 401(a)(31) of the federal internal revenue code, the board shall allow members and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.~~

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

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

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

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

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

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

*(iv) Back pay, within the meaning of treasury regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year*

to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

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

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

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

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

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

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

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

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

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

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

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

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

403(b) of the federal internal revenue code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

(2) *For purposes of determining an “actuarial equivalent” or an “actuarial computation” for members hired on or after July 1, 2009, the board shall use the following:*

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

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

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

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

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

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

Sec. 20. K.S.A. 74-49,124 is hereby amended to read as follows: 74-49,124. (a) The board shall administer the Kansas public employees retirement fund, including all benefit structures administered by the board, in the manner required to satisfy the applicable qualification requirements for governmental plans as specified in the federal internal revenue code of 1954 or 1986, as amended and as appropriate for a governmental plan and as in effect on July 1, ~~1998~~ 2008.

(b) *Members shall be completely vested in their employee contributions at all times. Upon completion of required years of service and attainment of normal retirement age members are vested in the benefits provided under the retirement plan. Upon plan termination or discontinuance of employer contributions, members are vested in the retirement plan to the extent funded.*

Sec. 21. K.S.A. 2007 Supp. 74-49,202 is hereby amended to read as follows: 74-49,202. (a) As used in this act, unless otherwise provided or the context otherwise requires: (1) “Act” means the Kansas public employees retirement system act of 2009, K.S.A. 2007 Supp. 74-49,201 through 74-49,213, and amendments thereto;

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

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

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

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

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

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

~~(6)~~ (7) "first employed" means an employee has not been an employee *in a covered position* of any participating employer prior to July 1, 2009, and is employed by a participating employer *in a covered position* on or after July 1, 2009; an employee who is a former member of the system who withdrew contribution accounts before July 1, 2009, and who is again employed by a participating employer *in a covered position* on or after July 1, 2009; or an employee who was an inactive non-vested member and who is again employed by a participating employer *in a covered position* on or after July 1, 2009;

~~(7)~~ (8) "inactive, non-vested member" means a member who has terminated employment with a participating employer and who does not have a vested retirement benefit in the system on July 1, 2009;

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

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

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

(b) Unless specifically provided in this section or in this act, words and phrases used in this act shall have the meanings ascribed to them as provided under the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 22. K.S.A. 2007 Supp. 74-49,203 is hereby amended to read as follows: 74-49,203. (a) Any employee other than an elected official of a participating employer who is first employed by a participating employer on or after July 1, 2009, shall be a member of the system under the provisions of this act on the first day of employment of such employee with such participating employer.

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

(c) *Any non-vested employee other than an elected official of a participating employer who has been employed in a covered position as defined in subsection (3) of K.S.A. 2007 Supp. 74-49,202, and amendments thereto, other than with a school employer, shall remain a member of the Kansas public employees retirement system as provided pursuant to K.S.A. 74-4901 et seq., and amendments thereto, on and after July 1, 2009, if the member: (1) Does not leave covered employment with a participating employer for a period of time exceeding 30 consecutive days; (2) does not withdraw the member's accumulated contributions and interest, forfeiting such member's membership in the interim; and (3) returns to covered employment with a participating employer in a covered position within the 30-day time period. Any non-vested employee other than an elected official of a participating employer who has been employed in a covered position as defined in subsection (3) of K.S.A. 2007 Supp. 74-*

49,202, and amendments thereto, with a participating school employer shall remain a member of the Kansas public employees retirement system as provided pursuant to K.S.A. 74-4901 et seq., and amendments thereto, if the member was employed in a covered position with a participating school employer for the duration of the school year and immediately returns to covered employment with another participating school employer at the beginning of the following school year, and the member does not withdraw the member's accumulated contributions and interest, forfeiting such member's membership in the interim.

(d) Any employee who is an elected official and who first took office on or after July 1, 2009, and is eligible to join the system shall file, within 90 days after taking the oath of office, an irrevocable election to become or not to become a member of the system under the provisions of the Kansas public employees retirement system act of 2009. Such election shall become effective immediately upon making such election, if such election is made within 14 days of taking the oath of office or, otherwise, on the first day of the first payroll period of the first quarter following receipt of the election in the office of the retirement system. In the event that such elected official fails to file the election to become a member of the retirement system, it shall be presumed that such person has elected not to become a member.

Sec. 23. K.S.A. 2007 Supp. 74-49,207 is hereby amended to read as follows: 74-49,207. (a) (1) Notwithstanding the provisions of K.S.A. 2007 Supp. 74-49,204, and amendments thereto, the normal retirement date for all security officers, as defined by subsections (1)(a) or (1)(b) of K.S.A. 74-4914a, and amendments thereto, with at least three consecutive years of service as such security officer immediately preceding the date of retirement, shall be the first day of the month coinciding with or following the attainment of age 55 with completion of 10 years of service.

(2) Any such security officer may retire before such normal retirement date on the first day of any month coinciding with or following the attainment of age 50 or completion of 10 years of credited service, whichever occurs later.

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

(2) Any such security officer may retire before such normal retirement date on the first day of any month coinciding with or following the attainment of age 55 or completion of 10 years of credited service, whichever occurs later.

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

Sec. 24. K.S.A. 2007 Supp. 74-49,208 is hereby amended to read as follows: 74-49,208. Any member who is first employed by a participating employer on or after July 1, 2009, and who has completed five years of credited service at the time of termination, shall be granted a vested retirement benefit in the system, except that at any time prior to the commencement of retirement benefit payments the member may withdraw accumulated contributions, whereupon no other benefits shall be payable for such member's prior and participating benefits. Any member who is not vested under the Kansas public employees retirement system pursuant to the provisions of K.S.A. 74-4901 et seq., and amendments thereto, and completed five years of credited service and remains employed by the same participating employer without termination in a non-covered position shall be granted a vested benefit in the system.

Sec. 25. K.S.A. 2007 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual

means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

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

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2007 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2007 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004,

amounts received as withdrawals not in accordance with the provisions of K.S.A. 2007 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2007 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2007 Supp. 79-32,256, and amendments thereto.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired

employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2007 Supp. 74-50,201, et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

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

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

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

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

in federal adjusted gross income of the taxpayer.

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

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

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

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

Sec. 26. K.S.A. 12-5005, 13-14a02, 13-14a10, 13-14a13, 14-10a02, 14-10a13, 20-2601, 20-2623, 72-5501, 74-4912, 74-4917a, 74-4919b, 74-4924, 74-4988, 74-4998c, 74-49,105, 74-49,122, 74-49,123 and 74-49,124 and K.S.A. 2007 Supp. 74-4902, 74-4914, 74-49,202, 74-49,203, 74-49,207, 74-49,208 and 79-32,117 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 22, 2008.

---