

SENATE BILL No. 64

By Committee on Financial Institutions and Insurance

1-23

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; adjusting certain internal references;
3 extending the time for filing administrative appeals; updating
4 provisions relating to compliance with the federal internal revenue
5 code; amending K.S.A. 74-4902 and 74-4904 and K.S.A. 2024 Supp.
6 74-49,123 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 74-4902 is hereby amended to read as follows: 74-
10 4902. As used in articles 49 and 49a of chapter 74 of the Kansas Statutes
11 Annotated, and amendments thereto, unless otherwise provided or the
12 context otherwise requires:

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

16 (2) "acts" means the provisions of articles 49 and 49a of the Kansas
17 Statutes Annotated, and amendments thereto;

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

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

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

28 (6) "agent" means the individual designated by each participating
29 employer through whom system transactions and communication are
30 directed;

31 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,
32 and amendments thereto, any natural person or persons, estate or trust, or
33 any combination thereof, named by a member to receive any benefits as
34 provided for by this act. Designations of beneficiaries by a member who is
35 a member of more than one retirement system made on or after July 1,
36 1987, shall be the basis of any benefits payable under all systems unless

1 otherwise provided by law. Except as otherwise provided by subsection
2 ~~(33) of this section~~ (32), if there is no named beneficiary living at the time
3 of the member's death, any benefits provided for by this act shall be paid
4 to: (A) The member's surviving spouse; (B) the member's dependent child
5 or children; (C) the member's dependent parent or parents; (D) the
6 member's nondependent child or children; (E) the member's nondependent
7 parent or parents; *or* (F) the estate of the deceased member; in the order of
8 preference as specified in this subsection;

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

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

1 the federal internal revenue code of 1986 and, as the board deems
2 appropriate, any other section of the federal internal revenue code of 1986
3 which defers or excludes amounts from inclusion in income. For purposes
4 of applying limits under the federal internal revenue code "compensation"
5 shall have the meaning as provided in K.S.A. 74-49,123, and amendments
6 thereto. For purposes of this subsection and application to the provisions
7 of ~~subsection (4) of~~ K.S.A. 74-4927(4), and amendments thereto,
8 "compensation" shall not include any payments made by the state board of
9 regents pursuant to the provisions of ~~subsection (5) of~~ K.S.A. 74-4927a(5),
10 and amendments thereto, to a member of the faculty or other person
11 defined in ~~subsection (1)(a) of~~ K.S.A. 74-4925(1)(a), and amendments
12 thereto;

13 (10) "credited service" means the sum of participating service and
14 prior service and in no event shall credited service include any service
15 ~~which~~ *that* is credited under another retirement plan authorized under any
16 law of this state;

17 (11) "dependent" means a parent or child of a member who is
18 dependent upon the member for at least $\frac{1}{2}$ of such parent or child's
19 support;

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

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

31 (14) "employee" means any appointed or elective officer or employee
32 of a participating employer whose employment is not seasonal or
33 temporary and whose employment requires at least 1,000 hours of work
34 per year, and any such officer or employee who is concurrently employed
35 performing similar or related tasks by two or more participating
36 employers, who each remit employer and employee contributions on
37 behalf of such officer or employee to the system, and whose combined
38 employment is not seasonal or temporary, and whose combined
39 employment requires at least 1,000 hours of work per year, but not
40 including: (A) Any employee who is a contributing member of the United
41 States civil service retirement system; (B) any employee who is a
42 contributing member of the federal employees retirement system; (C) any
43 employee who is a leased employee as provided in section 414 of the

1 federal internal revenue code of a participating employer; and (D) any
2 employee or class of employees specifically exempted by law. After June
3 30, 1975, no person who is otherwise eligible for membership in the
4 Kansas public employees retirement system shall be barred from such
5 membership by reason of coverage by, eligibility for or future eligibility
6 for a retirement annuity under the provisions of K.S.A. 74-4925, and
7 amendments thereto, except that no person shall receive service credit
8 under the Kansas public employees retirement system for any period of
9 service for which benefits accrue or are granted under a retirement annuity
10 plan under the provisions of K.S.A. 74-4925, and amendments thereto.
11 After June 30, 1982, no person who is otherwise eligible for membership
12 in the Kansas public employees retirement system shall be barred from
13 such membership by reason of coverage by, eligibility for or future
14 eligibility for any benefit under another retirement plan authorized under
15 any law of this state, except that no such person shall receive service credit
16 under the Kansas public employees retirement system for any period of
17 service for which any benefit accrues or is granted under any such
18 retirement plan. Employee shall include persons who are in training at or
19 employed by, or both, a sheltered workshop for the blind operated by the
20 secretary for children and families. The entry date for such persons shall
21 be the beginning of the first pay period of the fiscal year commencing in
22 calendar year 1986. Such persons shall be granted prior service credit in
23 accordance with K.S.A. 74-4913, and amendments thereto. However, such
24 persons classified as home industry employees shall not be covered by the
25 retirement system. Employees shall include any member of a board of
26 county commissioners of any county and any council member or
27 commissioner of a city whose compensation is equal to or exceeds \$5,000
28 per year;

29 (15) "entry date" means the date as of which an eligible employer
30 joins the system. The first entry date pursuant to this act is January 1,
31 1962;

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

34 (17) "final average salary" means in the case of a member who retires
35 prior to January 1, 1977, and in the case of a member who retires after
36 January 1, 1977, and who has less than five years of participating service
37 after January 1, 1967, the average highest annual compensation paid to
38 such member for any five years of the last 10 years of participating service
39 immediately preceding retirement or termination of employment, or in the
40 case of a member who retires on or after January 1, 1977, and who has five
41 or more years of participating service after January 1, 1967, the average
42 highest annual compensation paid to such member on or after January 1,
43 1967, for any five years of participating service preceding retirement or

1 termination of employment, or, in any case, if participating service is less
2 than five years, then the average annual compensation paid to the member
3 during the full period of participating service, or, in any case, if the
4 member has less than one calendar year of participating service such
5 member's final average salary shall be computed by multiplying such
6 member's highest monthly salary received in that year by 12; in the case of
7 a member who became a member under ~~subsection (3)~~ of K.S.A. 74-
8 4925(3), and amendments thereto, or who became a member with a
9 participating employer as defined in ~~subsection (3)~~ of K.S.A. 74-4931(3),
10 and amendments thereto, and who elects to have compensation paid in
11 other than 12 equal installments, such compensation shall be annualized as
12 if the member had elected to receive 12 equal installments for any such
13 periods preceding retirement; in the case of a member who retires after
14 July 1, 1987, the average highest annual compensation paid to such
15 member for any four years of participating service preceding retirement or
16 termination of employment; in the case of a member who retires on or
17 after July 1, 1993, whose date of membership in the system is prior to July
18 1, 1993, and any member who is in such member's membership waiting
19 period on July 1, 1993, and whose date of membership in the system is on
20 or after July 1, 1993, the average highest annual compensation, as defined
21 in subsection (9), paid to such member for any four years of participating
22 service preceding retirement or termination of employment or the average
23 highest annual salary, as defined in ~~subsection (34)~~ (33), paid to such
24 member for any three years of participating service preceding retirement
25 or termination of employment, whichever is greater; and in the case of a
26 member who retires on or after July 1, 1993, and whose date of
27 membership in the system is on or after July 1, 1993, the average highest
28 annual salary, as defined in ~~subsection (34)~~ (33), paid to such member for
29 any three years of participating service preceding retirement or termination
30 of employment. Final average salary shall not include any purchase of
31 participating service credit by a member as provided in ~~subsection (2)~~ of
32 K.S.A. 74-4919h(2), and amendments thereto, which is completed within
33 five years of retirement. For any application to purchase or repurchase
34 service credit for a certain period of service as provided by law received
35 by the system after May 17, 1994, for any member who will have
36 contributions deducted from such member's compensation at a percentage
37 rate equal to two or three times the employee's rate of contribution or will
38 begin paying to the system a lump-sum amount for such member's
39 purchase or repurchase and such deductions or lump-sum payment
40 commences after the commencement of the first payroll period in the third
41 quarter, "final average salary" shall not include any amount of
42 compensation or salary which is based on such member's purchase or
43 repurchase. Any application to purchase or repurchase multiple periods of

1 service shall be treated as multiple applications. For purposes of this
2 subsection, the date that such member is first hired as an employee for
3 members who are employees of employers that elected to participate in the
4 system on or after January 1, 1994, shall be the date that such employee's
5 employer elected to participate in the system. In the case of any former
6 member who was eligible for assistance pursuant to K.S.A. 74-4925, and
7 amendments thereto, prior to July 1, 1998, for the purpose of calculating
8 final average salary of such member, such member's final average salary
9 shall be based on such member's salary while a member of the system or
10 while eligible for assistance pursuant to K.S.A. 74-4925, and amendments
11 thereto, whichever is greater;

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

15 (19) "Kansas public employees retirement fund" means the fund
16 created by this act for payment of expenses and benefits under the system
17 and referred to as the fund;

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

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

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

42 (23) "normal retirement date" means the date on or after which a
43 member may retire with full retirement benefits pursuant to K.S.A. 74-

1 4914, and amendments thereto;

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

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

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

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

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

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

27 (30) "retirement system" or "system" means the Kansas public
28 employees retirement system as established by this act and as it may be
29 amended;

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

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

1 no named beneficiary living at the time of the member's death and any
2 payments so made shall be a full discharge and release to the system from
3 any further claims;

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

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

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

39 Sec. 2. K.S.A. 74-4904 is hereby amended to read as follows: 74-
40 4904. (1) The system may sue and be sued in its official name, but its
41 trustees, officers, employees and agents shall not be personally liable for
42 acts of the system unless such person acted with willful, wanton or
43 fraudulent misconduct or intentionally tortious conduct. Any agreement in

1 settlement of litigation involving the system and the investment of moneys
2 of the fund is a public record as provided in K.S.A. 45-215 et seq., and
3 amendments thereto, and subject to the provisions of that act. The service
4 of all legal process and of all notices which may be required to be in
5 writing, whether legal proceedings or otherwise, shall be had on the
6 executive director at such executive director's office. All actions or
7 proceedings directly or indirectly against the system shall be brought in
8 Shawnee county.

9 (2) Any person aggrieved by any order or decision of the board made
10 without a hearing, may, within ~~30~~ 60 days after notice of the order or
11 decision of the board make written request to the board for a hearing
12 thereon. The board shall hear such party or parties in accordance with the
13 provisions of the Kansas administrative procedure act at its next regular
14 meeting or at a special meeting within 60 days after receipt of such
15 request. For the purpose of any hearing under this section, the board may
16 appoint the executive director or use a presiding officer from the office of
17 administrative hearings. The board shall review an initial order resulting
18 from a hearing under this section. The board is hereby authorized to enter
19 into a contract with the office of administrative hearings and to provide for
20 reimbursement for actual and necessary expenses and compensation for
21 such person serving as a presiding officer.

22 Sec. 3. K.S.A. 2024 Supp. 74-49,123 is hereby amended to read as
23 follows: 74-49,123. (a) This section applies to the Kansas public
24 employees retirement system and to all other public retirement plans
25 administered by the board of trustees.

26 (b) As used in this section:

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

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

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

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

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

5 (3) All benefits paid from the retirement plan shall be distributed in
6 accordance with a good faith interpretation of the requirements of section
7 401(a)(9) of the federal internal revenue code and the regulations under
8 that section. Notwithstanding any other provision of these rules and
9 regulations, ~~effective on and after January 1, 2003,~~ the retirement plan is
10 subject to the following provisions:

11 (A) Benefits must begin by the required beginning date, which is the
12 later of April 1 of the calendar year following the calendar year in which
13 the member reaches ~~72 years of age, or 70⁺/₂ years of age if the member~~
14 ~~was born before July 1, 1949, the applicable age~~ or April 1 of the calendar
15 year following the calendar year in which the member terminates
16 employment. If a member fails to apply for retirement benefits by April 1
17 of the calendar year following the calendar year in which such member
18 reaches ~~72 years of age, or 70⁺/₂ years of age if the member was born~~
19 ~~before July 1, 1949, the applicable age~~ or April 1 of the calendar year
20 following the calendar year in which such member terminates
21 employment, whichever is later, the board will begin distributing the
22 benefit as required by this section. *For purposes of this section, the*
23 *applicable age is 70⁺/₂ if the member was born before July 1, 1949, age 72*
24 *if the member was born on or after July 1, 1949, but before January 1,*
25 *1951, age 73 if the member was born on or after January 1, 1951, but*
26 *before January 1, 1959, and age 75 if the member was born on or after*
27 *January 1, 1960.*

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

36 (C) *Except as allowed under section 401(a)(9) of the federal internal*
37 *revenue code and applicable regulations thereunder,* the life expectancy of
38 a member, the member's spouse or the member's beneficiary may not be
39 recalculated after the initial determination for purposes of determining
40 benefits.

41 (D) If a member dies after the required distribution of benefits has
42 begun, the remaining portion of the member's interest must be distributed
43 at least as rapidly as under the method of distribution before the member's

1 death and no longer than the remaining period over which distributions
2 commenced.

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

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

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

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

14 (G) The death and disability benefits provided by a retirement plan
15 are limited by the incidental benefit rule set forth in section 401(a)(9)(G)
16 of the federal internal revenue code and *applicable treasury-regulation-*
17 ~~1.401-1(b)(1)(i) regulations.~~

18 (H) *Distributions from a defined contribution or deferred*
19 *compensation plan shall be made in accordance with the rules under*
20 *section 401(a)(9) of the federal internal revenue code that are specific to*
21 *such plans.*

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

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

25 (A) Determine eligibility for benefits;

26 (B) compute rates of contribution; or

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

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

35 (A) Before January 1, 1995, a member may not receive an annual
36 benefit that exceeds the limits specified in section 415(b) of the federal
37 internal revenue code, subject to the applicable adjustments in that section.
38 Beginning January 1, 1995, a participant may not receive an annual benefit
39 that exceeds the dollar amount specified in section 415(b)(1)(A) of the
40 federal internal revenue code, subject to the applicable adjustments in
41 section 415 of the federal internal revenue code.

42 (B) Notwithstanding any other provision of law to the contrary, the
43 board may modify a request by a participant to make a contribution to the

1 retirement plans if the amount of the contribution would exceed the limits
2 under section 415(c) or 415(n) of the federal internal revenue code subject
3 to the following:

4 (i) Where the retirement plan's law requires a lump-sum payment, for
5 the purchase of service credit, the board may establish a periodic payment
6 plan in order to avoid a contribution in excess of the limits under section
7 415(c) or 415(n) of the federal internal revenue code.

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

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

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

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

27 (iii) For purposes of this clause, the term "permissive service credit"
28 means service credit:

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

31 (b) that such member has not received under a retirement plan; and

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

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

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

42 (b) any nonqualified service credit is taken into account under this
43 subclause before the member has at least five years of participation under

1 a retirement plan. For purposes of this subclause, effective for permissive
2 service credit contributions made in limitation years beginning after
3 December 31, 1997, the term "nonqualified service credit" means the same
4 as provided in section 415(n)(3)(C) of the federal internal revenue code.

5 (v) In the case of a trustee-to-trustee transfer after December 31,
6 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal
7 internal revenue code applies, without regard to whether the transfer is
8 made between plans maintained by the same employer:

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

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

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

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

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

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

41 (E) For purposes of applying these limits only and for no other
42 purpose, the definition of compensation where applicable shall be
43 compensation actually paid or made available during a limitation year,

1 except as noted below and as permitted by treasury regulation section
2 1.415(c)-2. Specifically, compensation shall be defined as wages within
3 the meaning of section 3401(a) of the federal internal revenue code and all
4 other payments of compensation to an employee by an employer for which
5 the employer is required to furnish the employee a written statement under
6 sections 6041(d), 6051(a)(3) and 6052 of the federal internal revenue code.
7 Compensation shall be determined without regard to any rules under
8 section 3401(a) of the federal internal revenue code that limit the
9 remuneration included in wages based on the nature or location of the
10 employment or the services performed, such as the exception for
11 agricultural labor in section 3401(a)(2) of the federal internal revenue
12 code.

13 (i) However, for limitation years beginning after December 31, 1997,
14 compensation shall also include amounts that would otherwise be included
15 in compensation but for an election under sections 125(a), 402(e)(3),
16 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For
17 limitation years beginning after December 30, 2000, compensation shall
18 also include any elective amounts that are not includable in the gross
19 income of the employee by reason of section 132(f)(4) of the federal
20 internal revenue code.

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

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

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

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

38 (c) for limitation years beginning on and after January 1, 2012, the
39 payment is made pursuant to a nonqualified unfunded deferred
40 compensation plan, but only if the payment would have been paid to the
41 member at the same time if the member had continued employment with
42 the employer and only to the extent that the payment is includable in the
43 member's gross income.

1 (iv) Any payments not described in clause (iii) are not considered
2 compensation if paid after severance from employment, even if they are
3 paid within two and a half months following severance from employment,
4 except for payments to the individual who does not currently perform
5 services for the employer by reason of qualified military service, within
6 the meaning of section 414(u)(1) of the federal internal revenue code, to
7 the extent these payments do not exceed the amounts the individual would
8 have received if the individual had continued to perform services for the
9 employer rather than entering qualified military service.

10 (v) An employee who is in qualified military service, within the
11 meaning of section 414(u)(1) of the federal internal revenue code, shall be
12 treated as receiving compensation from the employer during such period
13 of qualified military service equal to: (a) The compensation the employee
14 would have received during such period if the employee were not in
15 qualified military service, determined based on the rate of pay the
16 employee would have received from the employer but for the absence
17 during the period of qualified military service; or (b) if the compensation
18 the employee would have received during such period was not reasonably
19 certain, the employee's average compensation from the employer during
20 the 12-month period immediately preceding the qualified military service,
21 or if shorter, the period of employment immediately preceding the
22 qualified military service.

23 (vi) Back pay, within the meaning of treasury regulation section
24 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to
25 which the back pay relates to the extent the back pay represents wages and
26 compensation that would otherwise be included under this definition.

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

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

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

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

42 (D) in no event shall a member's annual benefit payable from a
43 retirement plan in any limitation year be greater than the limit applicable at

1 the annuity starting date, as increased in subsequent years pursuant to
2 section 415(d) of the federal internal revenue code and the regulations
3 thereunder. If the form of benefit without regard to the automatic benefit
4 increase feature is not a straight life annuity, then the preceding sentence is
5 applied by reducing the limit under section 415(b) of the federal internal
6 revenue code applicable at the annuity starting date to an actuarially
7 equivalent amount determined using the assumptions specified in treasury
8 regulation section 1.415(b)-1(c)(2)(ii) that take into account the death
9 benefits under the form of benefit. This subsection applies to distributions
10 made on and after January 1, 1993. A distributee may elect to have any
11 portion of an eligible rollover distribution paid directly to an eligible
12 retirement plan specified by the distributee in a transfer made from the
13 retirement system.

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

43 (ii) An eligible retirement plan is any of the following that accepts the

1 distributee's eligible rollover distribution:

- 2 (a) An individual retirement account described in section 408(a) of
3 the federal internal revenue code;
- 4 (b) an individual retirement annuity described in section 408(b) of the
5 federal internal revenue code;
- 6 (c) an annuity plan described in section 403(a) of the federal internal
7 revenue code;
- 8 (d) a qualified trust described in section 401(a) of the federal internal
9 revenue code;
- 10 (e) effective January 1, 2002, an annuity contract described in section
11 403(b) of the federal internal revenue code;
- 12 (f) effective January 1, 2002, a plan eligible under section 457(b) of
13 the federal internal revenue code that is maintained by a state, political
14 subdivision of a state or any agency or instrumentality of a state or a
15 political subdivision of a state that agrees to separately account for
16 amounts transferred into the plan from a retirement plan; ~~or~~
- 17 (g) effective January 1, 2008, a roth IRA described in section 408(A)
18 of the federal internal revenue code; *or*
- 19 (h) *effective January 1, 2016, a SIMPLE IRA, as described in section*
20 *408(p) of the federal internal revenue code, provided that the rollover*
21 *contribution is made after the two-year period described in section 72(t)*
22 *(6) of the federal internal revenue code.*
- 23 (iii) Effective January 1, 2002, the definition of eligible rollover
24 distribution also includes a distribution to a surviving spouse, or to a
25 spouse or former spouse who is an alternate payee under a domestic
26 relations order, as defined in section 414(p) of the federal internal revenue
27 code.
- 28 (iv) A distributee includes an employee or former employee. It also
29 includes the employee's or former employee's surviving spouse and the
30 employee's or former employee's spouse or former spouse who is the
31 alternate payee under a qualified domestic relations order, as defined in
32 section 414(p) of the federal internal revenue code. Effective July 1, 2007,
33 a distributee further includes a nonspouse beneficiary who is a designated
34 beneficiary as defined by section 401(a)(9)(E) of the federal internal
35 revenue code. However, a nonspouse beneficiary may rollover the
36 distribution only to an individual retirement account or individual
37 retirement annuity established for the purpose of receiving the distribution
38 and the account or annuity will be treated as an "inherited" individual
39 retirement account or annuity.
- 40 (v) A direct rollover is a payment by the retirement system to the
41 eligible retirement plan specified by the distributee.
- 42 (8) Notwithstanding any law to the contrary, the board may accept a
43 direct or indirect eligible rollover distributions for the purpose of the

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

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

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

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

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

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

30 (B) Effective with respect to deaths occurring on or after January 1,
31 2007, while a member is performing qualified military service, as defined
32 in chapter 43 of title 38, United States code, to the extent required by
33 section 401(a)(37) of the federal internal revenue code, survivors of a
34 member in the system, are entitled to any additional benefits that the
35 system would provide if the member had resumed employment and then
36 died, such as accelerated vesting or survivor benefits that are contingent on
37 the member's death while employed. A deceased member's period of
38 qualified military service must be counted for vesting purposes.

39 (C) Effective with respect to deaths or disabilities, or both, occurring
40 on or after January 1, 2007, while a member is performing qualified
41 military service, as defined in chapter 43 of title 38, United States code, to
42 the extent permitted by section 414(u)(9) of the federal internal revenue
43 code, for the benefit accrual purposes and in the case of death, for vesting

1 purposes, the member will be treated as having earned years of service for
2 the period of qualified military service, having returned to employment on
3 the day before the death or disability, or both, and then having terminated
4 on the date of death or disability. This provision shall be applied to all
5 similarly situated individuals in a reasonably equivalent manner.

6 (D) Beginning January 1, 2009, to the extent required by section
7 414(u)(12) of the federal internal revenue code, an individual receiving
8 differential wage payments, as defined under section 3401(h)(2) of the
9 federal internal revenue code, from an employer shall be treated as
10 employed by that employer, and the differential wage payment shall be
11 treated as compensation for purposes of applying the limits on annual
12 additions under section 415(c) of the federal internal revenue code. This
13 provision shall be applied to all similarly situated individuals in a
14 reasonably equivalent manner.

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

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

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

22 (f) The board may not engage in a transaction prohibited by section
23 503(b) of the federal internal revenue code.

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

27 (A) The applicable mortality table is specified in revenue ruling
28 2001-62 or revenue ruling 2007-67, as applicable; and

29 (B) the applicable interest factor is the actuarially assumed rate of
30 return established by the board.

31 (2) For purposes of determining an "actuarial equivalent" or an
32 "actuarial computation" for members hired on or after July 1, 2009, the
33 board shall use the following:

34 (A) The applicable mortality table is the $^{50}/_{50}$ male/female blend of the
35 RP 2000 health annuitant mortality table, projected to 2025; and

36 (B) the applicable interest factor is the actuarially assumed rate of
37 return established by the board.

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

40 (A) The applicable mortality table is a $^{50}/_{50}$ male/female blend of the
41 1983 group annuity mortality table; and

42 (B) the applicable interest factor is the actuarially assumed rate of
43 return established by the board.

1 (4) For benefit testing under section 415(b) of the federal internal
2 revenue code, the factors required by treasury regulations shall be used.
3 The applicable mortality table is specified in revenue ruling 2001-62 for
4 years prior to January 1, 2009, and notice 2008-85 for years after
5 December 31, 2008.

6 Sec. 4. K.S.A. 74-4902 and 74-4904 and K.S.A. 2024 Supp. 74-
7 49,123 are hereby repealed.

8 Sec. 5. This act shall take effect and be in force from and after its
9 publication in the statute book.