

**SENATE BILL No. 138**

By Committee on Ways and Means

2-1

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1 AN ACT concerning retirement and pensions; relating to the Kansas public  
2 employees retirement system; employment after retirement; earnings  
3 limitation; exemptions; amending K.S.A. 2016 Supp. 46-2201, 74-4914  
4 and 74-4937 and repealing the existing sections; also repealing K.S.A.  
5 2016 Supp. 74-4914f.  
6

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

8 Section 1. K.S.A. 2016 Supp. 46-2201 is hereby amended to read as  
9 follows: 46-2201. (a) There is hereby created the joint committee on  
10 pensions, investments and benefits which shall be composed of five  
11 senators and eight members of the house of representatives. The five  
12 senate members shall be the chairperson of the standing committee on  
13 ways and means of the senate, or a member of such committee appointed  
14 by the chairperson, two members appointed by the president and two  
15 members appointed by the minority leader. The eight representative  
16 members shall be the chairperson of the standing committee on  
17 appropriations of the house of representatives, or a member of such  
18 committee appointed by the chairperson, four members appointed by the  
19 speaker and three members appointed by the minority leader.

20 (b) All members of the joint committee on pensions, investments and  
21 benefits shall serve for terms ending on the first day of the regular  
22 legislative session in odd-numbered years. On and after the first day of the  
23 regular legislative session in odd-numbered years, the chairperson shall be  
24 one of the representative members of the joint committee selected by the  
25 speaker and the vice-chairperson shall be one of the senate members  
26 selected by the president and on and after the first day of the regular  
27 legislative session in even-numbered years, the chairperson shall be one of  
28 the senate members of the joint committee selected by the president and  
29 the vice-chairperson shall be one of the representative members of the  
30 joint committee selected by the speaker. The chairperson and vice-  
31 chairperson of the joint committee shall serve in such capacities until the  
32 first day of the regular legislative session in the ensuing year. The vice-  
33 chairperson shall exercise all of the powers of the chairperson in the  
34 absence of the chairperson.

35 (c) The joint committee on pensions, investments and benefits shall  
36 meet at any time and at any place within the state on call of the

1 chairperson. Members of the joint committee shall receive compensation  
2 and travel expenses and subsistence expenses or allowances as provided in  
3 K.S.A. 75-3212, and amendments thereto, when attending meetings of  
4 such committee authorized by the legislative coordinating council.

5 (d) In accordance with K.S.A. 46-1204, and amendments thereto, the  
6 legislative coordinating council may provide for such professional services  
7 as may be requested by the joint committee on pensions, investments and  
8 benefits.

9 (e) The joint committee on pensions, investments and benefits may  
10 introduce such legislation as deemed necessary in performing such  
11 committee's functions.

12 (f) The joint committee on pensions, investments and benefits shall:

13 (1) Monitor, review and make recommendations regarding  
14 investment policies and objectives formulated by the board of trustees of  
15 the Kansas public employees retirement system;

16 (2) review and make recommendations relating to benefits for  
17 members under the Kansas public employees retirement system;

18 (3) consider and make recommendations to the standing committee of  
19 the senate specified by the president of the senate relating to the  
20 confirmation of members of the board of trustees of the Kansas public  
21 employees retirement system appointed pursuant to K.S.A. 74-4905, and  
22 amendments thereto. The information provided by the Kansas bureau of  
23 investigation or other criminal justice agency pursuant to K.S.A. 74-  
24 4905(h), and amendments thereto, relating to the confirmation of members  
25 of the board to the standing committee of the senate specified by the  
26 president shall be forwarded by the Kansas bureau of investigation or such  
27 other criminal justice agency to such joint committee for such joint  
28 committee's consideration and other than conviction data, shall be  
29 confidential and shall not be disclosed except to members and employees  
30 of the joint committee as necessary to determine qualifications of such  
31 member. The committee, in accordance with K.S.A. 75-4319, and  
32 amendments thereto, shall recess for a closed or executive meeting to  
33 receive and discuss information received by the committee pursuant to this  
34 subsection;

35 (4) review and make recommendations relating to the inclusion of  
36 city and county correctional officers as eligible members of the Kansas  
37 police and firemen's retirement system; and

38 (5) review reports regarding working after retirement exceptions  
39 pursuant to K.S.A. 74-4914 and ~~74-4937~~, and amendments thereto. The  
40 joint committee may appoint a subcommittee to carry out the provisions of  
41 this subsection.

42 Sec. 2. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as  
43 follows: 74-4914. (1) The normal retirement date for a member of the

1 system shall be the first day of the month coinciding with or following  
2 termination of employment with any participating employer not followed  
3 by employment with any participating employer within 60 days and  
4 without any prearranged agreement for employment with any participating  
5 employer, and the attainment of age 65 or, commencing July 1, 1993, age  
6 62 with the completion of 10 years of credited service or the first day of  
7 the month coinciding with or following the date that the total of the  
8 number of years of credited service and the number of years of attained  
9 age of the member is equal to or more than 85. In no event shall a normal  
10 retirement date for a member be before six months after the entry date of  
11 the participating employer by whom such member is employed. A member  
12 may retire on the normal retirement date or on the first day of any month  
13 thereafter upon the filing with the office of the retirement system of an  
14 application in such form and manner as the board shall prescribe. Such  
15 application shall contain a certification by the member that the member  
16 will not be employed with any participating employer within 60 days of  
17 retirement and the member has not entered into a prearranged agreement  
18 for employment with any participating employer. Nothing herein shall  
19 prevent any person, member or retirant from being employed, appointed or  
20 elected as an employee, appointee, officer or member of the legislature.  
21 Elected officers may retire from the system on any date on or after the  
22 attainment of the normal retirement date, but no retirement benefits  
23 payable under this act shall be paid until the member has terminated such  
24 member's office.

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

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

33 (4) Any member may retire before such member's normal retirement  
34 date on the first day of any month coinciding with or following  
35 termination of employment with any participating employer not followed  
36 by employment with any participating employer within 60 days and the  
37 attainment of age 55 with the completion of 10 years of credited service,  
38 but in no event before six months after the entry date, upon the filing with  
39 the office of the retirement system of an application for retirement in such  
40 form and manner as the board shall prescribe. The member's application  
41 for retirement shall contain a certification by the member that the member  
42 will not be employed with any participating employer within 60 days of  
43 retirement and the member has not entered into a prearranged agreement

1 for employment with any participating employer.

2 (5) Except as provided in subsection (7), on or after July 1, 2006, for  
3 any retirant who is first employed or appointed in or to any position or  
4 office by a participating employer other than a participating employer for  
5 which such retirant was employed or appointed during the final two years  
6 of such retirant's participation, and, on or after April 1, 2009, for any  
7 retirant who is employed by a third-party entity who contracts services  
8 with a participating employer other than a participating employer for  
9 which such retirant was employed or appointed during the final two years  
10 of such retirant's participation to fill a position covered under K.S.A. 72-  
11 5410(a), and amendments thereto, with such retirant, such participating  
12 employer shall pay to the system the actuarially determined employer  
13 contribution and the statutorily prescribed employee contribution based on  
14 the retirant's compensation during any such period of employment or  
15 appointment. If a retirant is employed or appointed in or to any position or  
16 office for which compensation for service is paid in an amount equal to  
17 \$20,000 or more in any one such calendar year, or \$25,000 or more in any  
18 one calendar year between July 1, 2016, and July 1, 2020, by any  
19 participating employer for which such retirant was employed or appointed  
20 during the final two years of such retirant's participation, and, on or after  
21 April 1, 2009, by any third-party entity who contracts services to fill a  
22 position covered under K.S.A. 72-5410(a), and amendments thereto, with  
23 such retirant with a participating employer for which such retirant was  
24 employed or appointed during the final two years of such retirant's  
25 participation, such retirant shall not receive any retirement benefit for any  
26 month for which such retirant serves in such position or office. The  
27 participating employer who employs such retirant whether by contract  
28 directly with the retirant or through an arrangement with a third-party  
29 entity shall report to the system within 30 days of when the compensation  
30 paid to the retirant is equal to or exceeds any limitation provided by this  
31 section. Any participating employer who contracts services with any such  
32 third-party entity to fill a position covered under K.S.A. 72-5410(a), and  
33 amendments thereto, shall include in such contract a provision or condition  
34 which requires the third-party entity to provide the participating employer  
35 with the necessary compensation paid information related to any such  
36 position filled by the third-party entity with a retirant to enable the  
37 participating employer to comply with provisions of this subsection  
38 relating to the payment of contributions and reporting requirements. The  
39 provisions and requirements provided for in amendments made in this act  
40 which relate to positions filled with a retirant or employment of a retirant  
41 by a third-party entity shall not apply to any contract for services entered  
42 into prior to April 1, 2009, between a participating employer and third-  
43 party entity as described in this subsection. Any retirant employed by a

1 participating employer or a third-party entity as provided in this subsection  
2 shall not make contributions nor receive additional credit under such  
3 system for such service except as provided by this section. Upon request of  
4 the executive director of the system, the secretary of revenue shall provide  
5 such information as may be needed by the executive director to carry out  
6 the provisions of this act. The provisions of this subsection shall not apply  
7 to retirants employed as substitute teachers or officers, employees or  
8 appointees of the legislature. The provisions of this subsection shall not  
9 apply to members of the legislature prior to January 8, 2000. The  
10 provisions of this subsection shall not apply to any other elected officials  
11 prior to the term of office of such elected official which commences on or  
12 after July 1, 2000. The provisions of this subsection shall apply to any  
13 other elected official, except an elected city or county officer as further  
14 provided in this subsection, on and after the term of office of such other  
15 elected official which commences on or after July 1, 2000.  
16 Notwithstanding any provisions of law to the contrary, when an elected  
17 city or county officer is retired under the provisions of subsection (1) or  
18 (4) of this section and is paid an amount of compensation of \$25,000 or  
19 more in any one calendar year between July 1, 2016, and July 1, 2020,  
20 such officer may receive such officer's salary, and still be entitled to  
21 receive such officer's retirement benefit pursuant to the provisions of  
22 K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise  
23 provided, commencing January 8, 2001, the provisions of this subsection  
24 shall apply to members of the legislature. For determination of the amount  
25 of compensation paid pursuant to this subsection, for members of the  
26 legislature, compensation shall include any amount paid as provided  
27 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,  
28 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding  
29 any provision of law to the contrary, when a member of the legislature is  
30 paid an amount of compensation of \$20,000 or more in any one calendar  
31 year, the member may continue to receive any amount provided in K.S.A.  
32 46-137a(b) and (d), and amendments thereto, and still be entitled to  
33 receive such member's retirement benefit. Commencing July 1, 2005, the  
34 provisions of this subsection shall not apply to retirants who either retired  
35 under the provisions of subsection (1), or, if they retired under the  
36 provisions of subsection (4), were retired more than 30 days prior to the  
37 effective date of this act and are licensed professional nurses or licensed  
38 practical nurses employed by the state of Kansas in an institution as  
39 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments  
40 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing  
41 in this subsection shall be construed to create any right, or to authorize the  
42 creation of any right, which is not subject to amendment or nullification by  
43 act of the legislature. The participating employer of such retirant shall pay

1 to the system the actuarially determined employer contribution based on  
2 the retiree's compensation during any such period of employment.

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

10 (7) (a) Except as provided in K.S.A. 74-4937(3), ~~(4), or (5)~~, and  
11 amendments thereto, and the provisions of this subsection, commencing  
12 July 1, 2016, and ending July 1, 2020, any retiree who is employed or  
13 appointed in or to any position by a participating employer or a third-party  
14 entity who contracts services with a participating employer to fill a  
15 position, without any prearranged agreement with such participating  
16 employer and not prior to 60 days after such retiree's retirement date, shall  
17 not receive any retirement benefit for any month in any calendar year in  
18 which the retiree receives compensation in an amount equal to \$25,000 or  
19 more, pursuant to this subsection. The provisions of this subsection shall  
20 apply to members of the legislature.

21 (b) The provisions of this subsection shall not apply, except as  
22 specifically provided in this subsection, to retirees ~~that~~ who are:

23 (i) Licensed professional nurses or licensed practical nurses  
24 employed by the state of Kansas in an institution as defined in K.S.A. 76-  
25 12a01(b) or 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers'  
26 home or the Kansas veterans' home. The participating employer of such  
27 retiree shall pay to the system the actuarially determined employer  
28 contribution based on the retiree's compensation and the statutorily  
29 prescribed employee contribution during any such period of employment;

30 (ii) employed by a school district in a position as provided in K.S.A.  
31 74-4937(3), ~~(4) or (5)~~, and amendments thereto. ~~Any retiree employed by~~  
32 ~~a school district in a position under K.S.A. 74-4937(3), (4) or (5), and~~  
33 ~~amendments thereto, shall be subject to the provisions of subsection (7)(h)~~  
34 ~~which relate to a limitation on the total term of employment with any~~  
35 ~~participating employer in which a retiree may receive such retiree's full~~  
36 ~~retirement benefit;~~

37 (iii) certified law enforcement officers employed by the law  
38 enforcement training center. Such law enforcement officers shall receive  
39 their benefits notwithstanding this subsection. The law enforcement  
40 training center shall pay to the system the ~~actuarial~~ actuarially determined  
41 employer contribution and the statutorily prescribed employee contribution  
42 based on the retiree's compensation during any such period of  
43 employment;

1 (iv) members of the Kansas police and firemen's retirement system  
2 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members  
3 of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and  
4 amendments thereto;

5 (v) employed as substitute teachers or officers, employees or  
6 appointees of the legislature;

7 (vi) a poll worker hired to work an election day for a county election  
8 officer responsible for conducting all official elections held in the county;  
9 and

10 (vii) employed by, or have accepted employment from, a participating  
11 employer prior to May 1, 2015. Any break in continuous employment by a  
12 retirant or move to a different position by a retirant during the effective  
13 period of this subsection shall be deemed new employment and shall  
14 subject the retirant to the provisions of this subsection.

15 (c) The participating employer shall enroll all retirants and report to  
16 the system when compensation is paid to a retirant as provided in this  
17 subsection. Such report shall contain a certification by the appointing  
18 authority of the participating employer that any hired retirant has not been  
19 employed by the participating employer within 60 days of such retirant's  
20 retirement and that there was no prearranged agreement for employment  
21 between the participating employer and the hired retirant. Upon request of  
22 the executive director of the system, the participating employer shall  
23 provide such information as may be needed by the executive director to  
24 carry out the provisions of this subsection. Any participating employer  
25 who hires a retirant covered by this subsection shall pay to the system the  
26 statutorily prescribed employer contribution rate for such retirant, without  
27 regard to whether the retirant is receiving benefits. No retirant shall  
28 receive credit for service while employed under the provisions of this  
29 subsection.

30 (d) A participating employer may employ a retirant without regard to  
31 the compensation limitation in this subsection for a period of one calendar  
32 year or one school year, as the case may be, if the following requirements  
33 are met:

34 (i) The employer certifies to the board that the position being filled  
35 has been vacated due to an unexpected emergency or the employer has  
36 been unsuccessful in filling the position;

37 (ii) the employer pays to the system a 30% employer contribution  
38 based on the retirant's compensation during any such period of  
39 employment. On or before July 1, 2019, and at least every three years  
40 thereafter, the board, in consultation with the system's consulting actuary,  
41 shall evaluate the plan's experience with employment of such retirants and  
42 the corresponding employer contribution rate to assess whether the  
43 employer contribution rate can be expected to fund adverse experience or

1 higher liabilities accruing under the system in connection with  
2 employment of such retirants, to the extent that such liability can be  
3 ascertained or estimated. Based on this evaluation of the plan's experience,  
4 the board may certify to the division of the budget, in the case of the state,  
5 and to the agent for each other participating employer, a new rate if needed  
6 to more fully fund such adverse experience or additional liabilities, but  
7 such rate shall not be less than 30%; and

8 (iii) the employer maintains documentation of its efforts to fill the  
9 position with a non-retirant and provides such documentation to the joint  
10 committee on pensions, investments and benefits upon request of the  
11 committee.

12 (e) An employer may submit a written assurance protocol to the  
13 system to extend the exception provided for in subsection (7)(d) by one-  
14 year increments for a total extension not to exceed three years. A written  
15 assurance protocol shall be submitted to the system for each one-year  
16 increment extension. If a school district submits a written assurance  
17 protocol, such written assurance protocol shall be signed by the  
18 superintendent and the board president of such school district. If a  
19 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other  
20 than a school district, submits a written assurance protocol, such written  
21 assurance protocol shall be signed by the governing body or such  
22 governing body's designee for such municipality. Such written assurance  
23 protocol shall state that the position was advertised on multiple platforms  
24 for a minimum of 30 calendar days and that at least one of the following  
25 conditions occurred:

26 (i) No applications were submitted for the position;  
27 (ii) if applications were submitted, none of the applicants met the  
28 reference screening criteria of the employer; or  
29 (iii) if applications were submitted, none of the applicants possessed  
30 the appropriate licensure, certification or other necessary credentials for  
31 the position.

32 (f) On July 1, 2021, and at least every five years thereafter, the joint  
33 committee on pensions, investments and benefits shall study the issue of  
34 whether the compensation limitation prescribed in this subsection should  
35 be adjusted. The committee shall consider the effect of inflation and data  
36 on member retirement benefits and active employee compensation.

37 (g) Nothing in this subsection shall be construed to create any right,  
38 or to authorize the creation of any right, which is not subject to  
39 amendment or nullification by act of the legislature.

40 (h) Any retirant hired by any participating employer under the  
41 provisions of subsection (7)(d) ~~or K.S.A. 74-4937(3), (4) or (5), and~~  
42 ~~amendments thereto~~, may continue to receive such retirant's full retirement  
43 benefit so long as, commencing July 1, 2016, such retirant's total term of



1 employment with all participating employers under ~~one or more~~ of such  
2 provisions does not exceed 48 months or four school years, whichever is  
3 less. After such period, such retirant shall not receive any retirement  
4 benefit for any month in any calendar year in which such retirant receives  
5 compensation in an amount equal to \$25,000 or more in such calendar  
6 year.

7 (8) If determined by the retirement system that a retirant entered into  
8 a prearranged agreement for employment with a participating employer  
9 prior to such retirant's retirement and prior to the end of the subsequent 60-  
10 day waiting period, the monthly retirement benefit of such retirant shall be  
11 suspended during the period that begins on the month in which the retirant  
12 is re-employed and ends six months after the retirant's termination of such  
13 employment. The retirant shall repay to the retirement system all monthly  
14 retirement benefits paid to the retirant by the retirement system that the  
15 retirant received after such employment began. The participating employer  
16 which hired such retirant shall be required to pay to the system any fees,  
17 fines, penalties or any other cost imposed by the internal revenue service  
18 and indemnify the system for any cost incurred by the system to defend  
19 any action brought by the internal revenue service based on in-service  
20 distributions which are a result of any determined prearranged agreement  
21 and for any cost incurred by the system to collect any monthly retirement  
22 benefit required to be repaid by such retirant pursuant to this subsection.

23 (9) For the purposes of this section a prearranged agreement for  
24 employment may be determined by whether the facts and circumstances of  
25 the situation indicate that the employer and employee reasonably  
26 anticipated that further services would be performed after the employee's  
27 retirement.

28 Sec. 3. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as  
29 follows: 74-4937. (1) The normal retirement date of a member of the  
30 system who is in school employment and who is subject to K.S.A. 74-  
31 4940, and amendments thereto, shall be the first day of the month  
32 coinciding with or following termination of employment not followed by  
33 employment with any participating employer within 60 days and without  
34 any prearranged agreement for employment with any participating  
35 employer, and the attainment of age 65 or, commencing July 1, 1986, age  
36 65 or age 60 with the completion of 35 years of credited service or at any  
37 age with the completion of 40 years of credited service, or commencing  
38 July 1, 1993, any alternative normal retirement date already prescribed by  
39 law or age 62 with the completion of 10 years of credited service or the  
40 first day of the month coinciding with or following the date that the total  
41 of the number of years of credited service and the number of years of  
42 attained age of the member is equal to or more than 85. Each member  
43 upon giving prior notice to the appointing authority and the retirement

1 system may retire on the normal retirement date or the first day of any  
2 month thereafter. Such member's application for retirement shall contain a  
3 certification by the member that the member will not be employed with  
4 any participating employer within 60 days of retirement and the member  
5 has not entered into a prearranged agreement for employment with any  
6 participating employer.

7 (2) Any member who is in school employment and who is subject to  
8 K.S.A. 74-4940, and amendments thereto, may retire before such  
9 member's normal retirement date on the first day of the month coinciding  
10 with or following termination of employment not followed by employment  
11 with any participating employer within 60 days and the attainment of age  
12 55 with the completion of 10 years of credited service, upon the filing with  
13 the office of the retirement system of an application for retirement in such  
14 form and manner as the board shall prescribe. The member's application  
15 for retirement shall contain a certification by the member that the member  
16 will not be employed with any participating employer within 60 days of  
17 retirement and the member has not entered into a prearranged agreement  
18 for employment with any participating employer.

19 (3) ~~Before July 1, 2020,~~ The provisions of K.S.A. 74-4914(5) *or* (7),  
20 and amendments thereto, which relate to an earnings limitation which  
21 when met or exceeded requires that the retirant not receive a retirement  
22 benefit for any month for which such retirant serves in a position as  
23 described herein shall not apply to retirants *who retired on or after July 1,*  
24 *2009, and* who either retired under the provisions of K.S.A. 74-4914(l),  
25 and amendments thereto, related to normal retirement, or, if they retired  
26 under the provisions of K.S.A. 74-4914(4), and amendments thereto,  
27 related to early retirement, were retired more than 60 days prior to ~~May 28,~~  
28 ~~2009~~ *July 1, 2017,* and are subsequently hired in a position that requires a  
29 license under K.S.A. 72-1388, and amendments thereto, or other provision  
30 of law. ~~The provisions of this subsection shall only apply to retirants who~~  
31 ~~retired prior to May 1, 2015.~~ The provisions of this subsection do not  
32 apply to retirants who retired under K.S.A. 74-4914(4), and amendments  
33 thereto, which relates to early retirement prior to age 62. Except as  
34 otherwise provided, when a retirant is employed by the same school  
35 district or a different school district with which such retirant was employed  
36 during the final two years of such retirant's participation or employed by a  
37 third-party entity who contracts services with a school district to fill a  
38 position as described in this subsection, the participating employer of such  
39 retirant shall pay to the system the actuarially determined employer  
40 contribution based on the retirant's compensation during any such period  
41 of employment plus 8%. The participating employer shall enroll all  
42 retirants and report to the system when compensation is paid to a retirant  
43 as provided in this subsection. Such notice shall contain a certification by

1 the appointing authority of the participating employer that any hired  
2 retiree has not been employed by the participating employer within 60  
3 days of such retiree's retirement and that there was no prearranged  
4 agreement for employment between the participating employer and the  
5 hired retiree. Upon request of the executive director of the system, the  
6 participating employer shall provide such information as may be needed  
7 by the executive director to carry out the provisions of this subsection. The  
8 provisions of this subsection shall not apply to retirees employed as  
9 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments  
10 thereto, shall be applicable to retirees employed as described in this  
11 subsection, except as specifically provided in this subsection. Nothing in  
12 this subsection shall be construed to create any right, or to authorize the  
13 creation of any right, which is not subject to amendment or nullification by  
14 act of the legislature. ~~The provisions of this subsection shall expire on June~~  
15 ~~30, 2020. After such date the Kansas public employees retirement system~~  
16 ~~and its actuary shall report the experience to the joint committee on~~  
17 ~~pensions, investments and benefits.~~

18 ~~(4) (a) — On and after July 1, 2016, a school district may hire a retired~~  
19 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~  
20 ~~72-962, and amendments thereto, if such retiree is hired not prior to 60~~  
21 ~~days after such retiree's retirement date without any prearrangement with~~  
22 ~~such school district in the manner prescribed in this subsection. The~~  
23 ~~participating employer shall enroll all retirees and report to the system~~  
24 ~~when compensation is paid to a retiree as provided in this subsection.~~  
25 ~~Such notice shall contain a certification by the appointing authority of the~~  
26 ~~participating employer that any hired retiree has not been employed by~~  
27 ~~the participating employer within 60 days of such retiree's retirement and~~  
28 ~~that there was no prearranged agreement for employment between the~~  
29 ~~participating employer and the hired retiree. Upon request of the~~  
30 ~~executive director of the system, the participating employer shall provide~~  
31 ~~such information as may be needed by the executive director to carry out~~  
32 ~~the provisions of this subsection.~~

33 ~~(b) — A retiree hired under the provisions of this subsection may~~  
34 ~~continue to receive such retiree's full retirement benefit for a period not to~~  
35 ~~exceed three school years or 36 months, whichever is less, and shall not be~~  
36 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~  
37 ~~which relate to a compensation limitation which when met or exceeded~~  
38 ~~requires that the retiree not receive a retirement benefit for any month for~~  
39 ~~which such retiree serves in a position as described herein. Such retiree~~  
40 ~~may be employed by such employer for some or all of a school year, and~~  
41 ~~in subsequent school years if the employer is unable to permanently fill the~~  
42 ~~position with active members, so long as the retiree's total term of~~  
43 ~~employment with all employers under this subsection does not exceed 36~~

1 months or three school years, whichever is less. After such period, the  
2 retirant shall be subject to the provisions of K.S.A. 74-4914(7), and  
3 amendments thereto, which relate to a compensation limitation which  
4 when met or exceeded requires that the retirant not receive a retirement  
5 benefit for any month for which such retirant serves in a position as  
6 described herein. The participating employer of such retirant shall pay to  
7 the system a 30% employer contribution based on the retirant's  
8 compensation during any such period of employment. On or before July 1,  
9 2019, and at least every three years thereafter, the board, in consultation  
10 with the system's consulting actuary, shall evaluate the plan's experience  
11 with employment of such retirants and the corresponding employer  
12 contribution rate to assess whether the employer contribution rate can be  
13 expected to fund adverse experience or higher liabilities accruing under  
14 the system in connection with employment of such retirants, to the extent  
15 that such liability can be ascertained or estimated. Based on this evaluation  
16 of the plan's experience, the board may certify to the division of the  
17 budget, in the case of the state, and to the agent for each other participating  
18 employer, a new rate if needed to more fully fund such adverse experience  
19 or additional liabilities, but such rate shall not be less than 30%. The  
20 provisions of this subsection shall not apply to retirants employed as  
21 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments  
22 thereto, shall be applicable to retirants employed as special teachers,  
23 except as specifically provided in this subsection.

24 (e) Each school district that uses the provisions of this subsection to  
25 hire retirants shall maintain documentation describing their recruiting  
26 efforts to obtain non-retirant employees to fill the special teacher positions.  
27 Upon request of the joint committee on pensions, investments and  
28 benefits, an employer shall provide such documentation to the committee.  
29 If the committee finds that an employer has not made sufficient efforts to  
30 hire a non-retirant for the position or if the committee finds evidence of  
31 prearrangement in violation of this section, the three-year exemption  
32 provided pursuant to this subsection may be revoked. The committee shall  
33 notify the executive director of the system that a retirant's exemption has  
34 been revoked within 30 days of making such a determination.

35 (d) An employer may submit a written assurance protocol to the  
36 system to make a one-time extension to the exception provided for in this  
37 subsection by one year. Such written assurance protocol shall be signed by  
38 the superintendent and the board president of the school district. Such  
39 written assurance protocol shall state that the position was advertised on  
40 multiple platforms for a minimum of 30 calendar days and that at least one  
41 of the following conditions occurred:

- 42 (i) No applications were submitted for the position;  
43 (ii) if applications were submitted, none of the applicants met the

1 reference screening criteria of the employer; or

2 (iii) ~~if applications were submitted, none of the applicants possessed~~  
3 ~~an appropriate teaching license for the state of Kansas or possessed the~~  
4 ~~appropriate credentials to receive any type of teaching license from the~~  
5 ~~state of Kansas.~~

6 (e) ~~Nothing in this subsection shall be construed to create any right,~~  
7 ~~or to authorize the creation of any right, which is not subject to~~  
8 ~~amendment or nullification by act of the legislature.~~

9 (f) ~~The provisions of this subsection shall expire on July 1, 2020.~~

10 (5) (a) ~~On and after July 1, 2016, a school district may hire a retired~~  
11 ~~licensed professional to fill a non-special teacher position if such retirant is~~  
12 ~~hired not prior to 60 days after such retirant's retirement date without any~~  
13 ~~prearrangement with such school district, and if such school district hires a~~  
14 ~~retirant for a hard-to-fill position in the manner prescribed in this~~  
15 ~~subsection. The participating employer shall enroll all retirants and report~~  
16 ~~to the system when compensation is paid to a retirant as provided in this~~  
17 ~~subsection. Such notice shall contain a certification by the appointing~~  
18 ~~authority of the participating employer that any hired retirant has not been~~  
19 ~~employed by the participating employer within 60 days of such retirant's~~  
20 ~~retirement and that there was no prearranged agreement for employment~~  
21 ~~between the participating employer and the hired retirant. Upon request of~~  
22 ~~the executive director of the system, the participating employer shall~~  
23 ~~provide such information as may be needed by the executive director to~~  
24 ~~carry out the provisions of this subsection.~~

25 (b) ~~The state board of education shall annually certify the top five~~  
26 ~~types of licensed positions that are hard to fill. A school district may hire a~~  
27 ~~retirant to fill a hard-to-fill position for some or all of a school year and in~~  
28 ~~subsequent school years if the employer is unable to permanently fill the~~  
29 ~~position with an active member. A retirant first hired under the provisions~~  
30 ~~of this subsection may be retained by an employer even if such retirant's~~  
31 ~~type of position is no longer one of the five types of positions certified by~~  
32 ~~the state board of education. A retirant hired under the provisions of this~~  
33 ~~subsection may continue to receive such retirant's full retirement benefit~~  
34 ~~for a period not to exceed three school years or 36 months, whichever is~~  
35 ~~less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and~~  
36 ~~amendments thereto, which relate to a compensation limitation which~~  
37 ~~when met or exceeded requires that the retirant not receive a retirement~~  
38 ~~benefit for any month for which such retirant serves in a position as~~  
39 ~~described herein. Such retirant may be employed by such employer for~~  
40 ~~some or all of a school year, and in subsequent school years if the~~  
41 ~~employer is unable to permanently fill the position with active members,~~  
42 ~~so long as the retirant's total term of employment with all employers under~~  
43 ~~this subsection does not exceed 36 months or three school years,~~

1 whichever is less. After such period, the retirant shall be subject to the  
2 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to  
3 a compensation limitation which when met or exceeded requires that the  
4 retirant not receive a retirement benefit for any month for which such  
5 retirant serves in a position as described herein. The participating  
6 employer of such retirant shall pay to the system a 30% employer  
7 contribution based on the retirant's compensation during any such period  
8 of employment. On or before July 1, 2019, and at least every three years  
9 thereafter, the board, in consultation with the system's consulting actuary,  
10 shall evaluate the plan's experience with employment of such retirants and  
11 the corresponding employer contribution rate to assess whether the  
12 employer contribution rate can be expected to fund adverse experience or  
13 higher liabilities accruing under the system in connection with  
14 employment of such retirants, to the extent that such liability can be  
15 ascertained or estimated. Based on this evaluation of the plan's experience,  
16 the board may certify to the division of the budget, in the case of the state,  
17 and to the agent for each other participating employer, a new rate if needed  
18 to more fully fund such adverse experience or additional liabilities, but  
19 such rate shall not be less than 30%. The provisions of this subsection shall  
20 not apply to retirants employed as substitute teachers. The provisions of  
21 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to  
22 retirants employed as described in this subsection, except as specifically  
23 provided in this subsection:

24 (e) Each school district that uses the provisions of this subsection to  
25 hire retirants for hard-to-fill positions shall maintain documentation  
26 describing their recruiting efforts to obtain non-retirant employees to fill  
27 the hard-to-fill positions. Upon request of the joint committee on pensions,  
28 investments and benefits, a school district shall provide such  
29 documentation to the committee. If the committee finds that a school  
30 district has not made sufficient efforts to hire a non-retirant for the position  
31 or if the committee finds evidence of prearrangement in violation of this  
32 section, the three-year exemption provided pursuant to this subsection may  
33 be revoked. The committee shall notify the executive director of the  
34 system that a retirant's exemption has been revoked within 30 days of  
35 making such a determination:

36 (d) An employer may submit a written assurance protocol to the  
37 system to make a one-time extension to the exception provided for in this  
38 subsection by one year. Such written assurance protocol shall be signed by  
39 the superintendent and the board president of the school district. Such  
40 written assurance protocol shall state that the position was advertised on  
41 multiple platforms for a minimum of 30 calendar days and that at least one  
42 of the following conditions occurred:

43 (i) No applications were submitted for the position;

1       ~~(ii) if applications were submitted, none of the applicants met the~~  
2 ~~reference screening criteria of the employer; or~~

3       ~~(iii) if applications were submitted, none of the applicants possessed~~  
4 ~~an appropriate teaching license for the state of Kansas or possessed the~~  
5 ~~appropriate credentials to receive any type of teaching license from the~~  
6 ~~state of Kansas.~~

7       ~~(e) Nothing in this subsection shall be construed to create any right,~~  
8 ~~or to authorize the creation of any right, which is not subject to~~  
9 ~~amendment or nullification by act of the legislature.~~

10       ~~(f) The provisions of this subsection shall expire on July 1, 2020.~~

11       ~~(6)(4) The provisions of K.S.A. 74-4914(8), and amendments thereto,~~  
12 ~~shall apply to retirants under the provisions of this section.~~

13       ~~(7) Any retirant hired by any participating employer under the~~  
14 ~~provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and~~  
15 ~~amendments thereto, may continue to receive such retirant's full retirement~~  
16 ~~benefit so long as, commencing July 1, 2016, such retirant's total term of~~  
17 ~~employment with all participating employers under one or more of such~~  
18 ~~provisions does not exceed 48 months or four school years, whichever is~~  
19 ~~less. After such period, such retirant shall not receive any retirement~~  
20 ~~benefit for any month in any calendar year in which such retirant receives~~  
21 ~~compensation in an amount equal to \$25,000 or more in such calendar~~  
22 ~~year.~~

23       ~~(8)(5) For the purposes of this section a prearranged agreement for~~  
24 ~~employment may be determined by whether the facts and circumstances of~~  
25 ~~the situation indicate that the employer and employee reasonably~~  
26 ~~anticipated that further services would be performed after the employee's~~  
27 ~~retirement.~~

28       Sec. 4. K.S.A. 2016 Supp. 46-2201, 74-4914, 74-4914f and 74-4937  
29 are hereby repealed.

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