

SENATE BILL No. 274

By Committee on Financial Institutions and Insurance

1-16

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; eliminating
3 employer contribution when first employing retirants aged 65 or older;
4 amending K.S.A. 74-4937 and K.S.A. 2019 Supp. 74-4914 and
5 repealing the existing sections.
6

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

8 Section 1. K.S.A. 2019 Supp. 74-4914 is hereby amended to read as
9 follows: 74-4914.(1) The normal retirement date for a member of the
10 system shall be the first day of the month coinciding with or following
11 termination of employment with any participating employer not followed
12 by employment with any participating employer within 60 days, or 180
13 days as provided in subsection (10), and without any prearranged
14 agreement for employment with any participating employer, and the
15 attainment of age 65 or, commencing July 1, 1993, age 62 with the
16 completion of 10 years of credited service or the first day of the month
17 coinciding with or following the date that the total of the number of years
18 of credited service and the number of years of attained age of the member
19 is equal to or more than 85. In no event shall a normal retirement date for a
20 member be before six months after the entry date of the participating
21 employer by whom such member is employed. A member may retire on
22 the normal retirement date or on the first day of any month thereafter upon
23 the filing with the office of the retirement system of an application in such
24 form and manner as the board shall prescribe. Such application shall
25 contain a certification by the member that the member will not be
26 employed with any participating employer within 60 days, or 180 days as
27 provided in subsection (10), of retirement and the member has not entered
28 into a prearranged agreement for employment with any participating
29 employer. Nothing herein shall prevent any person, member or retirant
30 from being employed, appointed or elected as an employee, appointee,
31 officer or member of the legislature. Elected officers may retire from the
32 system on any date on or after the attainment of the normal retirement
33 date, but no retirement benefits payable under this act shall be paid until
34 the member has terminated such member's office.

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

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

7 (4) Any member may retire before such member's normal retirement
8 date on the first day of any month coinciding with or following
9 termination of employment with any participating employer not followed
10 by employment with any participating employer within 60 days, or 180
11 days as provided in subsection (10), and the attainment of age 55 with the
12 completion of 10 years of credited service, but in no event before six
13 months after the entry date, upon the filing with the office of the retirement
14 system of an application for retirement in such form and manner as the
15 board shall prescribe. The member's application for retirement shall
16 contain a certification by the member that the member will not be
17 employed with any participating employer within 60 days, or 180 days as
18 provided in subsection (10), of retirement and the member has not entered
19 into a prearranged agreement for employment with any participating
20 employer.

21 (5) Except as provided in subsections (7) and (10), on or after July 1,
22 2006, through December 31, 2017, for any retiree who is first employed
23 or appointed in or to any position or office by a participating employer
24 other than a participating employer for which such retiree was employed
25 or appointed during the final two years of such retiree's participation, and,
26 on or after April 1, 2009, for any retiree who is employed by a third-party
27 entity who contracts services with a participating employer other than a
28 participating employer for which such retiree was employed or appointed
29 during the final two years of such retiree's participation to fill a position
30 covered under K.S.A. 72-5410(a), and amendments thereto, with such
31 retiree, such participating employer shall pay to the system the actuarially
32 determined employer contribution and the statutorily prescribed employee
33 contribution based on the retiree's compensation during any such period
34 of employment or appointment. If a retiree is employed or appointed in or
35 to any position or office for which compensation for service is paid in an
36 amount equal to \$25,000 or more in any one calendar year between July 1,
37 2016, and January 1, 2018, by any participating employer for which such
38 retiree was employed or appointed during the final two years of such
39 retiree's participation, and, on or after April 1, 2009, by any third-party
40 entity who contracts services to fill a position covered under K.S.A. 72-
41 5410(a), and amendments thereto, with such retiree with a participating
42 employer for which such retiree was employed or appointed during the
43 final two years of such retiree's participation, such retiree shall not

1 receive any retirement benefit for any month for which such retirant serves
2 in such position or office. The participating employer who employs such
3 retirant whether by contract directly with the retirant or through an
4 arrangement with a third-party entity shall report to the system within 30
5 days of when the compensation paid to the retirant is equal to or exceeds
6 any limitation provided by this section. Any participating employer who
7 contracts services with any such third-party entity to fill a position covered
8 under K.S.A. 72-5410(a), and amendments thereto, shall include in such
9 contract a provision or condition which requires the third-party entity to
10 provide the participating employer with the necessary compensation paid
11 information related to any such position filled by the third-party entity
12 with a retirant to enable the participating employer to comply with
13 provisions of this subsection relating to the payment of contributions and
14 reporting requirements. The provisions and requirements provided for in
15 amendments made in this act which relate to positions filled with a retirant
16 or employment of a retirant by a third-party entity shall not apply to any
17 contract for services entered into prior to April 1, 2009, between a
18 participating employer and third-party entity as described in this
19 subsection. Any retirant employed by a participating employer or a third-
20 party entity as provided in this subsection shall not make contributions nor
21 receive additional credit under such system for such service except as
22 provided by this section. Upon request of the executive director of the
23 system, the secretary of revenue shall provide such information as may be
24 needed by the executive director to carry out the provisions of this act. The
25 provisions of this subsection shall not apply to retirants employed as
26 substitute teachers without a contract or officers, employees or appointees
27 of the legislature. The provisions of this subsection shall not apply to
28 members of the legislature. The provisions of this subsection shall not
29 apply to any other elected officials. Commencing July 1, 2005, the
30 provisions of this subsection shall not apply to retirants who either retired
31 under the provisions of subsection (1), or, if they retired under the
32 provisions of subsection (4), were retired more than 30 days prior to the
33 effective date of this act and are licensed professional nurses or licensed
34 practical nurses employed by the state of Kansas in an institution as
35 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments
36 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
37 in this subsection shall be construed to create any right, or to authorize the
38 creation of any right, which is not subject to amendment or nullification by
39 act of the legislature. The participating employer of such retirant shall pay
40 to the system the actuarially determined employer contribution based on
41 the retirant's compensation during any such period of employment. The
42 provisions of the subsection shall expire on January 1, 2018.

43 (6) For purposes of this section, any employee of a local

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

7 (7) (a) (i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and
8 amendments thereto, and the provisions of this subsection, commencing
9 July 1, 2016, and ending January 1, 2018, any retirant who is employed or
10 appointed in or to any position by a participating employer, an independent
11 contractor or a third-party entity who contracts services with a
12 participating employer to fill a position, without any prearranged
13 agreement with such participating employer and not prior to 60 days after
14 such retirant's retirement date, shall not receive any retirement benefit for
15 any month in any calendar year in which the retirant receives
16 compensation in an amount equal to \$25,000 or more, pursuant to this
17 subsection. Any participating employer who hires a retirant covered by this
18 subsection shall pay to the system the statutorily prescribed employer
19 contribution rate for such retirant, without regard to whether the retirant is
20 receiving benefits.

21 (ii) Commencing January 1, 2018, for all retirements that occurred
22 prior to such date, any retirant who is employed or appointed in or to any
23 position by a participating employer, an independent contractor or a third-
24 party entity who contracts services with a participating employer to fill a
25 position, without any prearranged agreement with such participating
26 employer and not prior to 60 days after such retirant's retirement date, shall
27 not be subject to an earnings limitation that when met or exceeded requires
28 that the retirant not receive a retirement benefit for any month for which
29 such retirant serves in such position. If a retirant is employed in a covered
30 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
31 participating employer of such retirant shall pay to the system the
32 statutorily prescribed employer contribution rate on the first \$25,000 of
33 such retirant's compensation in a calendar year and a 30% employer
34 contribution on any compensation in excess of \$25,000 in a calendar year
35 during any such period of employment, *except that if such retirant is aged*
36 *65 or older at the date of first employment with such participating*
37 *employer; no employer contribution shall be paid to the system.* If a
38 retirant is employed by more than one participating employer or
39 performing duties in more than one position, contributions shall be made
40 on compensation from all such employment for that calendar year. If a
41 retirant is employed in a non-covered position, no employer contribution
42 shall be paid to the system.

43 (b) The provisions of this subsection shall not apply, except as

1 specifically provided in this subsection, to retirants who are:

- 2 (i) Licensed professional nurses or licensed practical nurses employed
3 by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or
4 38-2302(k), and amendments thereto, the Kansas soldiers' home or the
5 Kansas veterans' home. The participating employer of such retirant shall
6 pay to the system the actuarially determined employer contribution based
7 on the retirant's compensation and the statutorily prescribed employee
8 contribution during any such period of employment;
- 9 (ii) employed by a school district in a position as provided in K.S.A.
10 74-4937(3), (4) or (5), and amendments thereto;
- 11 (iii) certified law enforcement officers employed by the law
12 enforcement training center. Such law enforcement officers shall receive
13 their benefits notwithstanding this subsection. The law enforcement
14 training center shall pay to the system the actuarially determined employer
15 contribution and the statutorily prescribed employee contribution based on
16 the retirant's compensation during any such period of employment;
- 17 (iv) members of the Kansas police and firemen's retirement system
18 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of
19 the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
20 amendments thereto, or members of the state board of regents retirement
21 plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;
- 22 (v) employed as substitute teachers without a contract or officers,
23 employees or appointees of the legislature;
- 24 (vi) a poll worker hired to work an election day for a county election
25 officer responsible for conducting all official elections held in the county;
- 26 (vii) employed by, or have accepted employment from, a participating
27 employer prior to May 1, 2015. Any break in continuous employment by a
28 retirant or move to a different position by a retirant during the effective
29 period of this subsection shall be deemed new employment and shall
30 subject the retirant to the provisions of this subsection. Commencing
31 January 1, 2018, the participating employer of a retirant described in this
32 subsection (7)(b)(vii) who is employed in a covered position, as defined in
33 K.S.A. 74-49,202, and amendments thereto, shall pay to the system the
34 statutorily prescribed employer contribution rate on the first \$25,000 of
35 such retirant's compensation in a calendar year and a 30% employer
36 contribution on any compensation in excess of \$25,000 in a calendar year
37 during any such period of employment. If a retirant is employed by more
38 than one participating employer or performing duties in more than one
39 position, contributions shall be made on compensation from all such
40 employment for that calendar year. If a retirant is employed in a non-
41 covered position, no employer contribution shall be paid to the system;
- 42 (viii) state or local elected officials. A retirant shall not be employed
43 in an elected office within 30 days of such retirant's retirement, except that

1 if a retirant is filling a vacant elected office, no waiting period shall be
2 required; or

3 (ix) employed by the Kansas academies of the United States
4 department of defense STARBASE program.

5 (c) The participating employer shall enroll all retirants, including
6 retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to
7 the system when compensation is paid to a retirant as provided in this
8 subsection. Such report shall contain a certification by the appointing
9 authority of the participating employer that any hired retirant has not been
10 employed by the participating employer within 60 days of such retirant's
11 retirement and that there was no prearranged agreement for employment
12 between the participating employer and the hired retirant. Upon request of
13 the executive director of the system, the participating employer shall
14 provide such information as may be needed by the executive director to
15 carry out the provisions of this subsection. No retirant shall make
16 contributions to the system or receive credit for service while employed
17 under the provisions of this subsection.

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

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

25 (ii) the employer pays to the system a 30% employer contribution
26 based on the retirant's compensation during any such period of
27 employment; and

28 (iii) the employer maintains documentation of its efforts to fill the
29 position with a non-retirant and provides such documentation to the joint
30 committee on pensions, investments and benefits upon request of the
31 committee.

32 The provisions of this paragraph shall expire on January 1, 2018.

33 (e) An employer may submit a written assurance protocol to the
34 system to extend the exception provided for in subsection (7)(d) by one-
35 year increments for a total extension not to exceed three years. A written
36 assurance protocol shall be submitted to the system for each one-year
37 increment extension. If a school district submits a written assurance
38 protocol, such written assurance protocol shall be signed by the
39 superintendent and the board president of such school district. If a
40 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other
41 than a school district, submits a written assurance protocol, such written
42 assurance protocol shall be signed by the governing body or such
43 governing body's designee for such municipality. Such written assurance

1 protocol shall state that the position was advertised on multiple platforms
2 for a minimum of 30 calendar days and that at least one of the following
3 conditions occurred:

- 4 (i) No applications were submitted for the position;
- 5 (ii) if applications were submitted, none of the applicants met the
6 reference screening criteria of the employer; or
- 7 (iii) if applications were submitted, none of the applicants possessed
8 the appropriate licensure, certification or other necessary credentials for
9 the position.

10 The provisions of this paragraph shall expire on January 1, 2018.

11 (f) Retirants who are independent contractors or employees of third-
12 party entities who contract with a participating employer, shall not be
13 subject to the compensation limitation or employer contribution
14 requirements in this subsection or the requirements of subsection (7)(c)
15 regarding enrollment and reporting to the system, so long as all of the
16 following apply:

17 (A) The contractual relationship was not created to allow the retirant
18 to continue employment with the participating employer after retirement in
19 a position similar to the one such retirant held prior to retirement;

20 (B) the activities performed by the independent contractor or third-
21 party entity are not normally performed exclusively by employees of that
22 participating employer; and

23 (C) the retirant meets the classification of independent contractor as
24 provided in K.S.A. 2019 Supp. 44-768, and amendments thereto, or
25 activities performed by the third-party entity that employs the retirant are
26 performed on a limited-term basis and the third-party entity is not a
27 participating employer in the system.

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

31 (8) (a) Except as provided in subsection (8)(b), if determined by the
32 retirement system that a retirant entered into a prearranged agreement for
33 employment with a participating employer prior to such retirant's
34 retirement and prior to the end of the subsequent 60-day waiting period, or
35 the 180-day waiting period under subsection (10), the monthly retirement
36 benefit of such retirant shall be suspended during the period that begins on
37 the month in which the retirant is re-employed and ends six months after
38 the retirant's termination of such employment. The retirant shall repay to
39 the retirement system all monthly retirement benefits paid to the retirant by
40 the retirement system that the retirant received after such employment
41 began. The participating employer which hired such retirant shall be
42 required to pay to the system any fees, fines, penalties or any other cost
43 imposed by the internal revenue service and indemnify the system for any

1 cost incurred by the system to defend any action brought by the internal
2 revenue service based on in-service distributions which are a result of any
3 determined prearranged agreement and for any cost incurred by the system
4 to collect any monthly retirement benefit required to be repaid by such
5 retirant pursuant to this subsection.

6 (b) For members who retired on and after July 1, 2016, and on or
7 before July 1, 2019, if determined by the retirement system that a retirant
8 entered into a prearranged agreement for employment with a participating
9 employer prior to such retirant's retirement date and the subsequent 60-day
10 waiting period, or the 180-day waiting period under subsection (10), and
11 upon being notified of the violation, the retirant terminated such
12 employment, the provisions of subsection (a) shall not apply. If any
13 retirant had benefits suspended prior to July 1, 2019, such benefits shall be
14 reimbursed by the retirement system, if the retirant terminated such
15 prearranged employment in accordance with the provisions of this act. On
16 and after July 1, 2019, the executive director may waive such penalties
17 under this subsection if it is determined by the retirement system that any
18 of the following conditions were satisfied:

19 (i) The retirant's total length of reemployment was less than 21
20 calendar days;

21 (ii) the retirant's total compensation during the total length of
22 reemployment was less than 10% of the amount of such retirant's
23 retirement benefit that would be suspended pursuant to this subsection; or

24 (iii) other facts and circumstances indicated that the retirant would
25 not have been reemployed but for an error on the part of the participating
26 employer or the retirement system in verifying the retirement status of
27 such retirant and such retirant immediately terminated employment upon
28 being notified of the violation.

29 (c) On or before the first day of each regular session of the
30 legislature, beginning with the 2020 regular session, the executive director
31 shall submit an annual report on the number of waivers granted pursuant to
32 subsection (8)(b) in the prior calendar year to the joint committee on
33 pensions, investments and benefits, the house of representatives standing
34 committee on financial institutions and pensions and the senate standing
35 committee on financial institutions and insurance, or the successors of
36 such committees.

37 (9) For the purposes of this section a prearranged agreement for
38 employment may be determined by whether the facts and circumstances of
39 the situation indicate that the employer and employee reasonably
40 anticipated that further services would be performed after the employee's
41 retirement.

42 (10) (a) Notwithstanding the provisions of subsection (5) or (7) to the
43 contrary, commencing January 1, 2018, any retirant who is retired more

1 than 60 days, if such retirant's age on the date of retirement is 62 or older,
2 or is retired more than 180 days, if such retirant's age on the date of
3 retirement is less than 62, and who is subsequently hired without any
4 prearranged agreement with the participating employer in a covered
5 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
6 independent contractor or a third-party entity who contracts service to fill
7 such covered position shall not be subject to an earnings limitation that
8 when met or exceeded requires that the retirant not receive a retirement
9 benefit for any month for which such retirant serves in such covered
10 position. The participating employer of such retirant shall pay to the
11 system the statutorily prescribed employer contribution rate on the first
12 \$25,000 of such retirant's compensation in a calendar year and a 30%
13 employer contribution on any compensation in excess of \$25,000 in a
14 calendar year during any such period of employment, *except that if such*
15 *retirant is aged 65 or older at the date of first employment with such*
16 *participating employer, no employer contribution shall be paid to the*
17 *system.* If a retirant is employed by more than one participating employer
18 or performing duties in more than one position, contributions shall be
19 made on compensation from all such employment for that calendar year.

20 (b) Notwithstanding the provisions of subsection (5) or (7) to the
21 contrary, commencing January 1, 2018, any retirant who is retired more
22 than 60 days, if such retirant's age on the date of retirement is 62 or older,
23 or is retired more than 180 days, if such retirant's age on the date of
24 retirement is less than 62, and who is subsequently hired without any
25 prearranged agreement with the participating employer in a non-covered
26 position, or an independent contractor or a third-party entity who contracts
27 service to fill such non-covered position, shall not be subject to an
28 earnings limitation that when met or exceeded requires that the retirant not
29 receive a retirement benefit for any month for which such retirant serves in
30 such non-covered position. No employer contribution shall be paid to the
31 system on compensation paid to a retirant hired in a non-covered position.

32 (c) The participating employer shall enroll all retirants, including
33 retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to
34 the system when compensation is paid to a retirant as provided in this
35 subsection. Such report shall contain a certification by the appointing
36 authority of the participating employer that any hired retirant has not been
37 employed by the participating employer within 60 days of such retirant's
38 retirement in the case of a retirant whose age on the date of retirement is
39 62 or older, or within 180 days of such retirant's retirement in the case of a
40 retirant whose age on the date of retirement is less than 62, and that there
41 was no prearranged agreement for employment between the participating
42 employer and the hired retirant. Upon request of the executive director of
43 the system, the participating employer shall provide such information as

1 may be needed by the executive director to carry out the provisions of this
2 subsection. No retirant shall make contributions to the system or receive
3 credit for service while employed under the provisions of this subsection.

4 (d) The provisions of this subsection relating to an earnings limitation
5 and employer contributions shall not apply to any retirant described in
6 subsection (7)(b) or to retirants who are independent contractors or
7 employees of third-party entities who contract with a participating
8 employer as described in subsection (7)(f), except as specifically provided
9 in this subsection.

10 (e) Nothing in this subsection shall be construed to create any right,
11 or to authorize the creation of any right that is not subject to amendment or
12 nullification by act of the legislature.

13 Sec. 2. K.S.A. 74-4937 is hereby amended to read as follows: 74-
14 4937. (1) The normal retirement date of a member of the system who is in
15 school employment and who is subject to K.S.A. 74-4940, and
16 amendments thereto, shall be the first day of the month coinciding with or
17 following termination of employment not followed by employment with
18 any participating employer within 60 days, or 180 days as provided in
19 K.S.A. 74-4914(10), and amendments thereto, and without any
20 prearranged agreement for employment with any participating employer,
21 and the attainment of age 65 or, commencing July 1, 1986, age 65 or age
22 60 with the completion of 35 years of credited service or at any age with
23 the completion of 40 years of credited service, or commencing July 1,
24 1993, any alternative normal retirement date already prescribed by law or
25 age 62 with the completion of 10 years of credited service or the first day
26 of the month coinciding with or following the date that the total of the
27 number of years of credited service and the number of years of attained
28 age of the member is equal to or more than 85. Each member upon giving
29 prior notice to the appointing authority and the retirement system may
30 retire on the normal retirement date or the first day of any month
31 thereafter. Such member's application for retirement shall contain a
32 certification by the member that the member will not be employed with
33 any participating employer within 60 days, or 180 days as provided in
34 K.S.A. 74-4914(10), and amendments thereto, of retirement and the
35 member has not entered into a prearranged agreement for employment
36 with any participating employer.

37 (2) Any member who is in school employment and who is subject to
38 K.S.A. 74-4940, and amendments thereto, may retire before such
39 member's normal retirement date on the first day of the month coinciding
40 with or following termination of employment not followed by employment
41 with any participating employer within 60 days, or 180 days as provided in
42 K.S.A. 74-4914(10), and amendments thereto, and the attainment of age
43 55 with the completion of 10 years of credited service, upon the filing with

1 the office of the retirement system of an application for retirement in such
2 form and manner as the board shall prescribe. The member's application
3 for retirement shall contain a certification by the member that the member
4 will not be employed with any participating employer within 60 days, or
5 180 days as provided in K.S.A. 74-4914(10), and amendments thereto, of
6 retirement and the member has not entered into a prearranged agreement
7 for employment with any participating employer.

8 (3) The provisions of K.S.A. 74-4914(5), (7) and (10), and
9 amendments thereto, which relate to an earnings limitation which when
10 met or exceeded requires that the retirant not receive a retirement benefit
11 for any month for which such retirant serves in a position as described
12 herein shall not apply to retirants who either retired under the provisions of
13 K.S.A. 74-4914(l), and amendments thereto, related to normal retirement,
14 or, if they retired under the provisions of K.S.A. 74-4914(4), and
15 amendments thereto, related to early retirement, and are subsequently
16 hired in a position that requires a license under K.S.A. 72-2157, and
17 amendments thereto, or other provision of law. The provisions of this
18 subsection shall only apply to retirants who retired prior to January 1,
19 2018. Except as otherwise provided, when a retirant is employed by the
20 same school district or a different school district with which such retirant
21 was employed during the final two years of such retirant's participation or
22 employed as an independent contractor or by a third-party entity who
23 contracts services with a school district to fill a position as described in
24 this subsection, the participating employer of such retirant shall pay to the
25 system the actuarially determined employer contribution based on the
26 retirant's compensation during any such period of employment plus 8%.
27 Commencing January 1, 2018, if a retirant is employed in a covered
28 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
29 participating employer shall pay to the system the statutorily prescribed
30 employer contribution rate on the first \$25,000 of such retirant's
31 compensation in a calendar year and a 30% employer contribution on any
32 compensation in excess of \$25,000 in a calendar year during any such
33 period of employment, *except that if such retirant is aged 65 or older at*
34 *the date of first employment with such participating employer, no*
35 *employer contribution shall be paid to the system.* If a retirant is employed
36 by more than one participating employer or performing duties in more than
37 one position, contributions shall be made on compensation from all such
38 employment for that calendar year. If a retirant is employed in a non-
39 covered position, no employer contribution shall be paid to the system.
40 The participating employer shall enroll all retirants and report to the
41 system when compensation is paid to a retirant as provided in this
42 subsection. Such notice shall contain a certification by the appointing
43 authority of the participating employer that any hired retirant has not been

1 employed by the participating employer within 60 days of such retirant's
2 retirement and that there was no prearranged agreement for employment
3 between the participating employer and the hired retirant. Upon request of
4 the executive director of the system, the participating employer shall
5 provide such information as may be needed by the executive director to
6 carry out the provisions of this subsection. The provisions of this
7 subsection shall not apply to retirants employed as substitute teachers
8 without a contract. The provisions of K.S.A. 74-4914(5), and amendments
9 thereto, shall be applicable to retirants employed as described in this
10 subsection, except as specifically provided in this subsection. Nothing in
11 this subsection shall be construed to create any right, or to authorize the
12 creation of any right, which is not subject to amendment or nullification by
13 act of the legislature.

14 (4) (a) On and after July 1, 2016, a school district may hire a retired
15 licensed professional to fill a special teacher position as defined in K.S.A.
16 72-3404, and amendments thereto, if such retirant is hired not prior to 60
17 days after such retirant's retirement date without any prearrangement with
18 such school district in the manner prescribed in this subsection. The
19 participating employer shall enroll all retirants and report to the system
20 when compensation is paid to a retirant as provided in this subsection.
21 Such notice shall contain a certification by the appointing authority of the
22 participating employer that any hired retirant has not been employed by
23 the participating employer within 60 days of such retirant's retirement and
24 that there was no prearranged agreement for employment between the
25 participating employer and the hired retirant. Upon request of the
26 executive director of the system, the participating employer shall provide
27 such information as may be needed by the executive director to carry out
28 the provisions of this subsection.

29 (b) A retirant hired under the provisions of this subsection may
30 continue to receive such retirant's full retirement benefit for a period not to
31 exceed three school years or 36 months, whichever is less, and shall not be
32 subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,
33 which relate to a compensation limitation which when met or exceeded
34 requires that the retirant not receive a retirement benefit for any month for
35 which such retirant serves in a position as described herein. Such retirant
36 may be employed by such employer for some or all of a school year, and
37 in subsequent school years if the employer is unable to permanently fill the
38 position with active members, so long as the retirant's total term of
39 employment with all employers under this subsection does not exceed 36
40 months or three school years, whichever is less. After such period, the
41 retirant shall be subject to the provisions of K.S.A. 74-4914(7), and
42 amendments thereto, which relate to a compensation limitation which
43 when met or exceeded requires that the retirant not receive a retirement

1 benefit for any month for which such retirant serves in a position as
2 described herein. The participating employer of such retirant shall pay to
3 the system a 30% employer contribution based on the retirant's
4 compensation during any such period of employment. The provisions of
5 this subsection shall not apply to retirants employed as substitute teachers
6 without a contract. The provisions of K.S.A. 74-4914(5), and amendments
7 thereto, shall be applicable to retirants employed as special teachers,
8 except as specifically provided in this subsection.

9 (c) Each school district that uses the provisions of this subsection to
10 hire retirants shall maintain documentation describing their recruiting
11 efforts to obtain non-retirant employees to fill the special teacher positions.
12 Upon request of the joint committee on pensions, investments and
13 benefits, an employer shall provide such documentation to the committee.
14 If the committee finds that an employer has not made sufficient efforts to
15 hire a non-retirant for the position or if the committee finds evidence of
16 prearrangement in violation of this section, the three-year exemption
17 provided pursuant to this subsection may be revoked. The committee shall
18 notify the executive director of the system that a retirant's exemption has
19 been revoked within 30 days of making such a determination.

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

27 (i) No applications were submitted for the position;
28 (ii) if applications were submitted, none of the applicants met the
29 reference screening criteria of the employer; or
30 (iii) if applications were submitted, none of the applicants possessed
31 an appropriate teaching license for the state of Kansas or possessed the
32 appropriate credentials to receive any type of teaching license from the
33 state of Kansas.

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

37 (f) The provisions of this subsection shall expire on January 1, 2018.

38 (5) (a) On and after July 1, 2016, a school district may hire a retired
39 licensed professional to fill a non-special teacher position if such retirant is
40 hired not prior to 60 days after such retirant's retirement date without any
41 prearrangement with such school district, and if such school district hires a
42 retirant for a hard-to-fill position in the manner prescribed in this
43 subsection. The participating employer shall enroll all retirants and report

1 to the system when compensation is paid to a retirant as provided in this
2 subsection. Such notice shall contain a certification by the appointing
3 authority of the participating employer that any hired retirant has not been
4 employed by the participating employer within 60 days of such retirant's
5 retirement and that there was no prearranged agreement for employment
6 between the participating employer and the hired retirant. Upon request of
7 the executive director of the system, the participating employer shall
8 provide such information as may be needed by the executive director to
9 carry out the provisions of this subsection.

10 (b) The state board of education shall annually certify the top five
11 types of licensed positions that are hard to fill. A school district may hire a
12 retirant to fill a hard-to-fill position for some or all of a school year and in
13 subsequent school years if the employer is unable to permanently fill the
14 position with an active member. A retirant first hired under the provisions
15 of this subsection may be retained by an employer even if such retirant's
16 type of position is no longer one of the five types of positions certified by
17 the state board of education. A retirant hired under the provisions of this
18 subsection may continue to receive such retirant's full retirement benefit
19 for a period not to exceed three school years or 36 months, whichever is
20 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and
21 amendments thereto, which relate to a compensation limitation which
22 when met or exceeded requires that the retirant not receive a retirement
23 benefit for any month for which such retirant serves in a position as
24 described herein. Such retirant may be employed by such employer for
25 some or all of a school year, and in subsequent school years if the
26 employer is unable to permanently fill the position with active members,
27 so long as the retirant's total term of employment with all employers under
28 this subsection does not exceed 36 months or three school years,
29 whichever is less. After such period, the retirant shall be subject to the
30 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to
31 a compensation limitation which when met or exceeded requires that the
32 retirant not receive a retirement benefit for any month for which such
33 retirant serves in a position as described herein. The participating
34 employer of such retirant shall pay to the system a 30% employer
35 contribution based on the retirant's compensation during any such period
36 of employment. The provisions of this subsection shall not apply to
37 retirants employed as substitute teachers without a contract. The provisions
38 of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
39 retirants employed as described in this subsection, except as specifically
40 provided in this subsection.

41 (c) Each school district that uses the provisions of this subsection to
42 hire retirants for hard-to-fill positions shall maintain documentation
43 describing their recruiting efforts to obtain non-retirant employees to fill

1 the hard-to-fill positions. Upon request of the joint committee on pensions,
2 investments and benefits, a school district shall provide such
3 documentation to the committee. If the committee finds that a school
4 district has not made sufficient efforts to hire a non-retirant for the position
5 or if the committee finds evidence of prearrangement in violation of this
6 section, the three-year exemption provided pursuant to this subsection may
7 be revoked. The committee shall notify the executive director of the
8 system that a retirant's exemption has been revoked within 30 days of
9 making such a determination.

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

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

18 (ii) if applications were submitted, none of the applicants met the
19 reference screening criteria of the employer; or

20 (iii) if applications were submitted, none of the applicants possessed
21 an appropriate teaching license for the state of Kansas or possessed the
22 appropriate credentials to receive any type of teaching license from the
23 state of Kansas.

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

27 (f) The provisions of this subsection shall expire on January 1, 2018.

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

30 (7) For the purposes of this section a prearranged agreement for
31 employment may be determined by whether the facts and circumstances of
32 the situation indicate that the employer and employee reasonably
33 anticipated that further services would be performed after the employee's
34 retirement.

35 Sec. 3. K.S.A. 74-4937 and K.S.A. 2019 Supp. 74-4914 are hereby
36 repealed.

37 Sec. 4. This act shall take effect and be in force from and after its
38 publication in the statute book.