AN ACT concerning retirement and pensions; relating to the Kansas public
employees retirement system; limits on calculation of members' benefits, accumulated leave and amounts taxable under 409A and
457(f) plans; limiting accumulation of vacation leave for certain employees; amending K.S.A. 75-5517 and K.S.A. 2015 Supp. 74-4902
and repealing the existing sections.

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

New Section 1. (a) Except as otherwise provided by subsection (c),
no member employed by any participating employer as defined in K.S.A.
74-4902 and 74-4931, and amendments thereto, shall:
(1) Accumulate vacation leave in excess of 240 hours. Any member
with more than 240 hours of accumulated vacation leave as of July 1,
2016, shall be able to use such accumulated vacation leave in excess of
240 hours as of July 1, 2016, as a portion of compensation as defined in
K.S.A. 74-4902, and amendments thereto, upon such employee's
retirement; and
(2) use sick leave accumulated after July 1, 2016, for proportionate
pay out in accordance with the applicable statute, rules and regulations or
policies, as a portion of compensation as defined in K.S.A. 74-4902, and
amendments thereto, upon such member's retirement. Any member may
accumulate sick leave in excess of the amount accumulated as of July 1,
2016, but such additional amount of sick leave shall not be included in the
calculation of such member's compensation for retirement.
(b) Each participating employer shall report to the system the amount
of vacation leave and sick leave each member has accumulated and the
member's rate of compensation, as of July 1, 2016. Upon request of the
executive director, any state agency or participating employer shall
provide such additional information as may be needed by the executive
director to carry out the provisions of this section.
(c) The provisions of this section shall not apply to the Kansas police
and firemen's retirement system, K.S.A. 74-4951 et seq., and amendments
thereto.
Sec. 2. K.S.A. 2015 Supp. 74-4902 is hereby amended to read as
follows: 74-4902. As used in articles 49 and 49a of chapter 74 of the
Kansas Statutes Annotated, and amendments thereto, unless otherwise
provided or the context otherwise requires:
(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;
(2) "acts" means the provisions of articles 49 and 49a of the Kansas Statutes Annotated, and amendments thereto;
(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion;
(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;
(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;
(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;
(7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927, and amendments thereto, any natural person or persons, estate or trust, or any combination thereof, named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at the time of the member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; or (F) the estate of the deceased member; in the order of preference as specified in this subsection;
(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;
(9) "compensation" means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's
fiscal year which begins in calendar year 1991 or for employers other than
the state of Kansas, beginning with the fiscal year which begins in
calendar year 1992, when the compensation of a member who remains in
substantially the same position during any two consecutive years of
participating service used in calculating final average salary is increased
by an amount which exceeds 15%, then the amount of such increase which
exceeds 15% shall not be included in compensation, except that: (A) Any
amount of compensation for accumulated sick leave or vacation or annual
leave paid to the member; (B) any increase in compensation for any
member due to a reclassification or reallocation of such member's position
or a reassignment of such member's job classification to a higher range or
level; and (C) any increase in compensation as provided in any contract
entered into prior to January 1, 1991, and still in force on the effective date
of this act, pursuant to an early retirement incentive program as provided
in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in
the amount of compensation of such member used in determining such
member's final average salary and shall not be subject to the 15%
limitation provided in this subsection. Any contributions by such member
on the amount of such increase which exceeds 15% which is not included
in compensation shall be returned to the member. Unless otherwise
provided by law, beginning with the employer's fiscal year coinciding with
or following July 1, 1985, compensation shall include any amounts for tax
sheltered annuities or deferred compensation plans. Beginning with the
employer's fiscal year which begins in calendar year 1991, compensation
shall include amounts under sections 403b, 457(b) and 125 of the federal
internal revenue code of 1986 and, as the board deems appropriate, any
other section of the federal internal revenue code of 1986 which defers or
excludes amounts from inclusion in income. Beginning July 1, 2016,
"compensation" shall not include amounts taxable under sections 409A or
457(f) of the federal internal revenue code. For purposes of applying limits
under the federal internal revenue code "compensation" shall have the
meaning as provided in K.S.A. 74-49,123, and amendments thereto. For
purposes of this subsection and application to the provisions of subsection
(4) of K.S.A. 74-4927(4), and amendments thereto, "compensation" shall
not include any payments made by the state board of regents pursuant to
the provisions of subsection (5) of K.S.A. 74-4927a(5), and amendments
thereto, to a member of the faculty or other person defined in subsection
(1)(a) of K.S.A. 74-4925(1)(a), and amendments thereto;

No employee shall increase the amount of compensation during the
four-year period immediately prior to the retirement of such employee by
adding any portion of compensation that was earned by such employee but
not paid to such employee during the period of employment prior to the
four years before the retirement. For purposes of this subsection and
application to the provisions of subsection (17). "compensation" shall include any payment for accumulated sick leave, vacation or annual leave paid to the member at the salary pay rates of such member as of July 1, 2016. The provisions of this paragraph shall not apply to members of the Kansas police and firemen's retirement system;

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

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

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

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

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

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

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

(17) "final average salary" means in the case of a member who retires
prior to January 1, 1977, and in the case of a member who retires after
January 1, 1977, and who has less than five years of participating service
after January 1, 1967, the average highest annual compensation paid to
such member for any five years of the last 10 years of participating service
immediately preceding retirement or termination of employment, or in the
case of a member who retires on or after January 1, 1977, and who has five
or more years of participating service after January 1, 1967, the average
highest annual compensation paid to such member on or after January 1,
1967, for any five years of participating service preceding retirement or
termination of employment, or, in any case, if participating service is less
than five years, then the average annual compensation paid to the member
during the full period of participating service, or, in any case, if the
member has less than one calendar year of participating service such
member's final average salary shall be computed by multiplying such
member's highest monthly salary received in that year by 12; in the case of
a member who became a member under subsection (2) of K.S.A. 74-
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4925(3), and amendments thereto, or who became a member with a
participating employer as defined in subsection (3) of K.S.A. 74-4931(3),
and amendments thereto, and who elects to have compensation paid in
other than 12 equal installments, such compensation shall be annualized as
if the member had elected to receive 12 equal installments for any such
periods preceding retirement; in the case of a member who retires after
July 1, 1987, the average highest annual compensation paid to such
member for any four years of participating service preceding retirement or
termination of employment; in the case of a member who retires on or
after July 1, 1993, whose date of membership in the system is prior to July
1, 1993, and any member who is in such member's membership waiting
period on July 1, 1993, and whose date of membership in the system is on
or after July 1, 1993, the average highest annual compensation, as defined
in subsection (9), paid to such member for any four years of participating
service preceding retirement or termination of employment or the average
highest annual salary, as defined in subsection (34) (33), paid to such
member for any three years of participating service preceding retirement
or termination of employment, whichever is greater; and in the case of a
member who retires on or after July 1, 1993, and whose date of
membership in the system is on or after July 1, 1993, the average highest
annual salary, as defined in subsection (34) (33), paid to such member for
any three years of participating service preceding retirement or termination
of employment. Final average salary shall not include any purchase of
participating service credit by a member as provided in subsection (2) of
K.S.A. 74-4919h(2), and amendments thereto, which is completed within
five years of retirement. For any application to purchase or repurchase
service credit for a certain period of service as provided by law received
by the system after May 17, 1994, for any member who will have
contributions deducted from such member's compensation at a percentage
rate equal to two or three times the employee's rate of contribution or will
begin paying to the system a lump-sum amount for such member's
purchase or repurchase and such deductions or lump-sum payment
commences after the commencement of the first payroll period in the third
quarter, "final average salary" shall not include any amount of
compensation or salary which is based on such member's purchase or
repurchase. Any application to purchase or repurchase multiple periods of
service shall be treated as multiple applications. For purposes of this
subsection, the date that such member is first hired as an employee for
members who are employees of employers that elected to participate in the
system on or after January 1, 1994, shall be the date that such employee's
employer elected to participate in the system. In the case of any former
member who was eligible for assistance pursuant to K.S.A. 74-4925, and
amendments thereto, prior to July 1, 1998, for the purpose of calculating
final average salary of such member, such member's final average salary
shall be based on such member's salary while a member of the system or
while eligible for assistance pursuant to K.S.A. 74-4925, and amendments
thereto, whichever is greater;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(33) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving
expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457(b) and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. \textit{Beginning July 1, 2016, "salary" shall not include amounts taxable under sections 409A or 457(f) of the federal internal revenue code.} For purposes of applying limits under the federal internal revenue code "salary" shall have the meaning as provided in K.S.A. 74-49,123, and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12; 

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

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

Sec. 3. K.S.A. 75-5517 is hereby amended to read as follows: 75-5517. (a) Each person retiring from the classified or unclassified service of the state of Kansas who has accumulated one hundred (100) 100 days or more of sick leave \textit{as of July 1, 2016}, shall receive at the time of retirement, compensation for their accumulated sick leave as follows:

(1) Compensation for not more than thirty (30) 30 days, if such person has completed eight or more years of such service and has accumulated at least one hundred (100) 100 but less than one hundred-twenty-five (125) 125 days of sick leave;

(2) compensation for not more than forty-five (45) 45 days, if such
person has completed fifteen (15) 15 or more years of such service and has
accumulated at least one hundred twenty-five (125) 125 but less than one
hundred fifty (150) 150 days of sick leave; and
(3) compensation for not more than sixty (60) 60 days, if such person
has completed twenty-five (25) 25 or more years of such service and has
accumulated one hundred fifty (150) 150 days of sick leave or more.
(b) Retirement employee contributions shall be deducted from all
compensation for accumulated sick leave paid to each person who retires
and benefit calculations for such person shall include all such
compensation as defined in K.S.A. 74-4902, and amendments thereto,
upon such person's retirement in accordance with the provisions of section
1, and amendments thereto.
Sec. 4. K.S.A. 75-5517 and K.S.A. 2015 Supp. 74-4902 are hereby
repealed.
Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.