

SENATE BILL No. 395

By Committee on Financial Institutions and Insurance

2-7

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; maximum
3 amount of final average salary for computing retirement benefits of
4 certain members; amending K.S.A. 20-2610 and K.S.A. 2017 Supp. 74-
5 4902, 74-4952 and 74-4995 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 20-2610 is hereby amended to read as follows: 20-
9 2610. (a) (1) A judge who retires under K.S.A. 20-2608, and amendments
10 thereto, shall be entitled to receive an annual annuity payable in monthly
11 amounts subject to subsection (b), each such annual annuity of which shall
12 be in an amount equal to the total of 5% of the final average salary of the
13 judge, determined as provided in subsection (b), multiplied by the number
14 of the judge's years of service up to 10 years, and 3.5% of the final average
15 salary of the judge, determined as provided in subsection (b), multiplied by
16 the number of the judge's years of service in excess of 10 years, but such
17 annual annuity shall not exceed 70% of the final average salary of such
18 judge, determined as provided in subsection (b). A judge who retires under
19 K.S.A. 20-2608, and amendments thereto, and who became a member of
20 the system after June 30, 1987, shall be entitled to receive an annual
21 annuity payable in monthly amounts subject to subsection (b), each such
22 annual amount of which shall be in an amount equal to the total of 3.5% of
23 the final average salary of the judge, determined as provided in subsection
24 (b), multiplied by the number of the judge's years of service, but such
25 annual annuity shall not exceed 70% of the final average salary of the
26 judge, determined as provided in subsection (b).

27 (2) For purposes of this subsection, the date of membership for a
28 district magistrate judge who became a member of the system as provided
29 by K.S.A. 20-2620, and amendments thereto, and who purchased service
30 as provided in ~~subsection (e)~~ of K.S.A. 20-2620(c) and K.S.A. 74-49,123,
31 and amendments thereto, shall be the day such district magistrate judge
32 became a district magistrate judge and if such district magistrate judge's
33 membership date as determined in this subsection is earlier than July 1,
34 1987, such district magistrate judge shall be entitled to the 5% of final
35 average salary calculation for up to 10 years of service as provided in this
36 subsection. Any additional cost associated with the provisions of this

1 subsection shall be paid by such district magistrate judge by means of a
2 single lump-sum payment or equal annual payments for not to exceed five
3 years. The lump-sum or annual payments shall be determined by the
4 system's actuary by using the member's final average salary at the time of
5 application, actuarial assumptions and tables currently in use by the system
6 and the member's attained age.

7 (b) (1) For any judge who retires under K.S.A. 20-2608 or 20-2609,
8 and amendments thereto, on or after July 1, 1975, the annuity shall be
9 based on the final average salary of such judge as provided in this
10 subsection. The final average salary of a judge who becomes permanently
11 physically or mentally disabled and who is retired under K.S.A. 20-2608
12 or 20-2609, and amendments thereto, shall be determined as if such judge
13 had retired on the date such judge became permanently physically or
14 mentally disabled. The final average salary of a former judge whose
15 service is terminated without retiring and who later retires under K.S.A.
16 20-2608, and amendments thereto, shall be determined as if such former
17 judge had retired at the time such service was terminated.

18 (2) In the case of judges who retire on or after July 1, 1993, *and who*
19 *became members prior to July 1, 2018*, the final average salary shall mean
20 the average highest annual salary paid to the judge for any three years of
21 the last 10 years of service as a judge immediately preceding retirement or
22 termination of employment, or if service as a judge is less than three years,
23 then the final average salary shall be the average annual salary paid to the
24 judge during the full period of service as a judge, or if service as a judge is
25 less than one year, then the final average salary shall be computed by
26 multiplying the amount of monthly salary such judge was receiving at the
27 time of retirement by 12.

28 (3) *In the case of judges who became members on or after July 1,*
29 *2018, or for any judge's' period of participating service under a contract*
30 *with a participating employer entered into on or after April 1, 2018, such*
31 *judge's final average salary shall not exceed \$99,636 annually, plus an*
32 *annual percentage increase equal to the annual percentage increase in the*
33 *contribution and benefit base for social security, beginning with calendar*
34 *year 2019 and for each calendar year thereafter, as determined in section*
35 *230 of the federal social security act, 42 U.S.C. § 430, as in effect on July*
36 *1, 2018.*

37 (c) The provisions of law in effect on the retirement date of a judge
38 under the retirement system for judges shall govern the retirement benefit
39 payable to the judge, any joint annuitant and any beneficiary.

40 (d) A judge who retires under K.S.A. 20-2608, and amendments
41 thereto, and who, after such retirement, again is appointed or elected as a
42 judge, shall have the judge's retirement annuity suspended as provided in
43 this subsection. Such judge shall become an active member and make

1 employee contributions to the system and receive service credit for any
2 service after the date of commencement of service in such position. Upon
3 again retiring, any credited service such member subsequently accrues
4 shall be added to all previous service and the retirement annuity shall be
5 recalculated in accordance with the provisions of this section.

6 Sec. 2. K.S.A. 2017 Supp. 74-4902 is hereby amended to read as
7 follows: 74-4902. As used in articles 49 and 49a of chapter 74 of the
8 Kansas Statutes Annotated, and amendments thereto, unless otherwise
9 provided or the context otherwise requires:

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

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

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

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

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

25 (6) "agent" means the individual designated by each participating
26 employer through whom system transactions and communication are
27 directed;

28 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,
29 and amendments thereto, any natural person or persons, estate or trust, or
30 any combination thereof, named by a member to receive any benefits as
31 provided for by this act. Designations of beneficiaries by a member who is
32 a member of more than one retirement system made on or after July 1,
33 1987, shall be the basis of any benefits payable under all systems unless
34 otherwise provided by law. Except as otherwise provided by subsection
35 ~~(33)~~ (32) of this section, if there is no named beneficiary living at the time
36 of the member's death, any benefits provided for by this act shall be paid
37 to: (A) The member's surviving spouse; (B) the member's dependent child
38 or children; (C) the member's dependent parent or parents; (D) the
39 member's nondependent child or children; (E) the member's nondependent
40 parent or parents; *or* (F) the estate of the deceased member; in the order of
41 preference as specified in this subsection;

42 (8) "board of trustees," "board" or "trustees" means the managing
43 body of the system which is known as the Kansas public employees

1 retirement system board of trustees;

2 (9) "compensation" means, except as otherwise provided, all salary,
3 wages and other remuneration payable to a member for personal services
4 performed for a participating employer, including maintenance or any
5 allowance in lieu thereof provided a member as part of compensation, but
6 not including reimbursement for travel or moving expenses or on and after
7 July 1, 1994, payment pursuant to an early retirement incentive program
8 made prior to the retirement of the member. Beginning with the employer's
9 fiscal year ~~which~~ *that* begins in calendar year 1991 or for employers other
10 than the state of Kansas, beginning with the fiscal year ~~which~~ *that* begins
11 in calendar year 1992, when the compensation of a member who remains
12 in substantially the same position during any two consecutive years of
13 participating service used in calculating final average salary is increased
14 by an amount which exceeds 15%, then the amount of such increase which
15 exceeds 15% shall not be included in compensation, except that: (A) Any
16 amount of compensation for accumulated sick leave or vacation or annual
17 leave paid to the member; (B) any increase in compensation for any
18 member due to a reclassification or reallocation of such member's position
19 or a reassignment of such member's job classification to a higher range or
20 level; and (C) any increase in compensation as provided in any contract
21 entered into prior to January 1, 1991, and still in force on the effective date
22 of this act, pursuant to an early retirement incentive program as provided
23 in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in
24 the amount of compensation of such member used in determining such
25 member's final average salary and shall not be subject to the 15%
26 limitation provided in this subsection. Any contributions by such member
27 on the amount of such increase which exceeds 15% which is not included
28 in compensation shall be returned to the member. Unless otherwise
29 provided by law, beginning with the employer's fiscal year coinciding with
30 or following July 1, 1985, compensation shall include any amounts for tax
31 sheltered annuities or deferred compensation plans. Beginning with the
32 employer's fiscal year ~~which~~ *that* begins in calendar year 1991,
33 compensation shall include amounts under sections 403b, 457 and 125 of
34 the federal internal revenue code of 1986 and, as the board deems
35 appropriate, any other section of the federal internal revenue code of 1986
36 which defers or excludes amounts from inclusion in income. For purposes
37 of applying limits under the federal internal revenue code "compensation"
38 shall have the meaning as provided in K.S.A. 74-49,123, and amendments
39 thereto. For purposes of this subsection and application to the provisions
40 of ~~subsection (4) of~~ K.S.A. 74-4927(4), and amendments thereto,
41 "compensation" shall not include any payments made by the state board of
42 regents pursuant to the provisions of ~~subsection (5) of~~ K.S.A. 74-4927a(5),
43 and amendments thereto, to a member of the faculty or other person

1 defined in ~~subsection (1)(a)~~ of K.S.A. 74-4925(1)(a), and amendments
2 thereto;

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

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

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

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

21 (14) "employee" means any appointed or elective officer or employee
22 of a participating employer whose employment is not seasonal or
23 temporary and whose employment requires at least 1,000 hours of work
24 per year, and any such officer or employee who is concurrently employed
25 performing similar or related tasks by two or more participating
26 employers, who each remit employer and employee contributions on
27 behalf of such officer or employee to the system, and whose combined
28 employment is not seasonal or temporary, and whose combined
29 employment requires at least 1,000 hours of work per year, but not
30 including: (A) Any employee who is a contributing member of the United
31 States civil service retirement system; (B) any employee who is a
32 contributing member of the federal employees retirement system; (C) any
33 employee who is a leased employee as provided in section 414 of the
34 federal internal revenue code of a participating employer; and (D) any
35 employee or class of employees specifically exempted by law. After June
36 30, 1975, no person who is otherwise eligible for membership in the
37 Kansas public employees retirement system shall be barred from such
38 membership by reason of coverage by, eligibility for or future eligibility
39 for a retirement annuity under the provisions of K.S.A. 74-4925, and
40 amendments thereto, except that no person shall receive service credit
41 under the Kansas public employees retirement system for any period of
42 service for which benefits accrue or are granted under a retirement annuity
43 plan under the provisions of K.S.A. 74-4925, and amendments thereto.

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

19 (15) "entry date" means the date as of which an eligible employer
20 joins the system. The first entry date pursuant to this act is January 1,
21 1962;

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

24 (17) "final average salary" means in the case of a member who retires
25 prior to January 1, 1977, and in the case of a member who retires after
26 January 1, 1977, and who has less than five years of participating service
27 after January 1, 1967, the average highest annual compensation paid to
28 such member for any five years of the last 10 years of participating service
29 immediately preceding retirement or termination of employment, or in the
30 case of a member who retires on or after January 1, 1977, and who has five
31 or more years of participating service after January 1, 1967, the average
32 highest annual compensation paid to such member on or after January 1,
33 1967, for any five years of participating service preceding retirement or
34 termination of employment, or, in any case, if participating service is less
35 than five years, then the average annual compensation paid to the member
36 during the full period of participating service, or, in any case, if the
37 member has less than one calendar year of participating service such
38 member's final average salary shall be computed by multiplying such
39 member's highest monthly salary received in that year by 12; in the case of
40 a member who became a member under ~~subsection (3) of K.S.A. 74-~~
41 ~~4925(3), and amendments thereto, or who became a member with a~~
42 ~~participating employer as defined in subsection (3) of K.S.A. 74-4931(3),~~
43 and amendments thereto, and who elects to have compensation paid in

1 other than 12 equal installments, such compensation shall be annualized as
2 if the member had elected to receive 12 equal installments for any such
3 periods preceding retirement; in the case of a member who retires after
4 July 1, 1987, the average highest annual compensation paid to such
5 member for any four years of participating service preceding retirement or
6 termination of employment; in the case of a member who retires on or
7 after July 1, 1993, whose date of membership in the system is prior to July
8 1, 1993, and any member who is in such member's membership waiting
9 period on July 1, 1993, and whose date of membership in the system is on
10 or after July 1, 1993, the average highest annual compensation, as defined
11 in subsection (9), paid to such member for any four years of participating
12 service preceding retirement or termination of employment or the average
13 highest annual salary, as defined in subsection ~~(34)~~ (33), paid to such
14 member for any three years of participating service preceding retirement
15 or termination of employment, whichever is greater; ~~and~~ in the case of a
16 member who retires on or after July 1, 1993, and whose date of
17 membership in the system is on or after July 1, 1993, the average highest
18 annual salary, as defined in subsection ~~(34)~~ (33), paid to such member for
19 any three years of participating service preceding retirement or termination
20 of employment; *and in the case of a member whose date of membership in*
21 *the system is on or after July 1, 2018, or for any member's period of*
22 *participating service under a contract with a participating employer*
23 *entered into on or after April 1, 2018, the average highest annual salary*
24 *as defined in subsection (33), but not to exceed \$99,636 annually, plus an*
25 *annual percentage increase equal to the annual percentage increase in the*
26 *contribution and benefit base for social security, beginning with calendar*
27 *year 2019 and for each calendar year thereafter, as determined in section*
28 *230 of the federal social security act, 42 U.S.C. § 430, as in effect on July*
29 *1, 2018, paid to such member for any three years of participating service*
30 *preceding retirement or termination of employment. Final average salary*
31 *shall not include any purchase of participating service credit by a member*
32 *as provided in ~~subsection (2)~~ of K.S.A. 74-4919h(2), and amendments*
33 *thereto, which is completed within five years of retirement. For any*
34 *application to purchase or repurchase service credit for a certain period of*
35 *service as provided by law received by the system after May 17, 1994, for*
36 *any member who will have contributions deducted from such member's*
37 *compensation at a percentage rate equal to two or three times the*
38 *employee's rate of contribution or will begin paying to the system a lump-*
39 *sum amount for such member's purchase or repurchase and such*
40 *deductions or lump-sum payment commences after the commencement of*
41 *the first payroll period in the third quarter, "final average salary" shall not*
42 *include any amount of compensation or salary which is based on such*
43 *member's purchase or repurchase. Any application to purchase or*

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

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

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

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

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

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

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

1 4914, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

38 Sec. 3. K.S.A. 2017 Supp. 74-4952 is hereby amended to read as
39 follows: 74-4952. As used in K.S.A. 74-4951 et seq., and amendments
40 thereto:

41 (1) "Accumulated contributions" means the sum of all contributions
42 by a member to the system which shall be credited to the member's
43 account with interest allowed thereon after June 30, 1982.

1 (2) "Disability" means the total inability to perform permanently the
2 duties of the position of a policeman or fireman.

3 (3) "Eligible employer" means any city, county, township or other
4 political subdivision of the state employing one or more employees as
5 firemen or policemen.

6 (4) "Employee" means any policeman or fireman employed by a
7 participating employer whose employment for police or fireman purposes
8 is not seasonal or temporary and requires at least 1,000 hours of work per
9 year.

10 (5) "Entry date" means the date as of which an eligible employer
11 joins the system; the first entry date pursuant to this act is January 1, 1967.

12 (6) "Final average salary" means:

13 (a) For members who are first hired as an employee, as defined in
14 subsection (4), before July 1, 1993, the average highest annual
15 compensation paid to a member for any three of the last five years of
16 participating service immediately preceding retirement or termination of
17 employment, or if participating service is less than three years, then the
18 average annual compensation paid to the member during the full period of
19 participating service, or if a member has less than one calendar year of
20 participating service, then the member's final average salary shall be
21 computed by multiplying the member's highest monthly salary received in
22 that year by 12;

23 (b) for members who are first hired as an employee, as defined in
24 subsection (4), on and after July 1, 1993, the average highest annual salary,
25 as defined in K.S.A. 74-4902(33), and amendments thereto, paid to a
26 member for any three of the last five years of participating service
27 immediately preceding retirement or termination of employment, or if
28 participating service is less than three years, then the average annual
29 salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to
30 the member during the full period of participating service, or if a member
31 has less than one calendar year of participating service, then the member's
32 final average salary shall be computed by multiplying the member's
33 highest monthly salary received in that year by 12;

34 (c) *for members who are first hired as an employee, as defined in*
35 *subsection (4), on and after July 1, 2018, or for any member's period of*
36 *participating service under a contract with a participating employer*
37 *entered into on or after April 1, 2018, the average highest annual salary,*
38 *as defined in K.S.A. 74-4902(33), and amendments thereto, paid to a*
39 *member for any three of the last five years of participating service*
40 *immediately preceding retirement or termination of employment, or if*
41 *participating service is less than three years, then the average annual*
42 *salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to*
43 *the member during the full period of participating service, or if a member*

1 *has less than one calendar year of participating service, then the*
 2 *member's final average salary shall be computed by multiplying the*
 3 *member's highest monthly salary received in that year by 12, except that*
 4 *such member's final average salary shall not exceed \$99,636 annually,*
 5 *plus an annual percentage increase equal to the annual percentage*
 6 *increase in the contribution and benefit base for social security, beginning*
 7 *with calendar year 2019 and for each calendar year thereafter, as*
 8 *determined in section 230 of the federal social security act, 42 U.S.C. §*
 9 *430, as in effect on July 1, 2018;*

10 ~~(e) (d)~~ for purposes of ~~subparagraphs paragraphs~~ paragraphs (a) and (b) of this
 11 ~~subsection~~ and (c), the date that such member is first hired as an employee
 12 for members who are employees of employers that elected to participate in
 13 the system on or after January 1, 1994, shall be the date that such
 14 employee's employer elected to participate in the system; and

15 ~~(d) (e)~~ for any application to purchase or repurchase service credit for
 16 a certain period of service as provided by law received by the system after
 17 May 17, 1994, for any member who will have contributions deducted from
 18 such member's compensation at a percentage rate equal to two or three
 19 times the employee's rate of contribution or who will have contributions
 20 deducted from such member's compensation at an additional rate of
 21 contribution, in addition to the employee's rate of contribution as provided
 22 in K.S.A. 74-4919, and amendments thereto, or will begin paying to the
 23 system a lump-sum amount for such member's purchase or repurchase, and
 24 such deductions or lump-sum payment commences after the
 25 commencement of the first payroll period in the third quarter, "final
 26 average salary" shall not include any amount of compensation or salary
 27 which is based on such member's purchase or repurchase. Any application
 28 to purchase or repurchase multiple periods of service shall be treated as
 29 multiple applications.

30 ~~(e) (f)~~ Notwithstanding any other provision of this section, for
 31 purposes of applying limits as provided by the federal internal revenue
 32 code, salary shall have the meaning as determined pursuant to K.S.A. 74-
 33 49,123, and amendments thereto.

34 (7) "Retirement benefit" means a monthly income or the actuarial
 35 equivalent thereof paid in such manner as specified by the member as
 36 provided under the system or as otherwise allowed to be paid at the
 37 discretion of the board, with benefits accruing from the first day of the
 38 month coinciding with or following retirement and ending on the last day
 39 of the month in which death occurs. Upon proper identification such
 40 surviving spouse may negotiate the warrant issued in the name of the
 41 retiree.

42 (8) "Normal retirement date" means the date on or after which a
 43 member may retire with eligibility for retirement benefits for age and

1 service as provided in K.S.A. 74-4957(1) and (3), and amendments
2 thereto.

3 (9) "Retirement system" or "system" means the Kansas police and
4 firemen's retirement system as established by this act and as it may be
5 hereafter amended.

6 (10) "Service-connected" means with regard to a death or any
7 physical or mental disability, any such death or disability resulting from
8 external force, violence or disease occasioned by an act of duty as a
9 policeman or fireman and, for any member after five years of credited
10 service, there shall be a rebuttable presumption, that any death or disability
11 resulting from a heart disease or disease of the lung or respiratory tract or
12 cancer as provided in this subsection, except that in the event that the
13 member ceases to be a contributing member by reason of a service-
14 connected disability for a period of six months or more and then again
15 becomes a contributing member, the provision relating to death or
16 disability resulting from a heart disease, disease of the lung or respiratory
17 tract or cancer as provided in this subsection shall not apply until such
18 member has again become a contributing member for a period of not less
19 than two years or unless clear and precise evidence is presented that the
20 heart disease, disease of the lung or respiratory tract or cancer as provided
21 in this subsection was in fact occasioned by an act of duty as a policeman
22 or fireman. If the retirement system receives evidence to the contrary of
23 such presumption, the burden of proof shall be on the member or other
24 party to present evidence that such death or disability was service-
25 connected. The provisions of this section relating to the presumption that
26 the death or disability resulting from cancer is service-connected shall only
27 apply if the condition that caused the death or disability is a type of cancer
28 which may, in general, result from exposure to heat, radiation or a known
29 carcinogen.

30 (11) Prior to July 1, 1998, "fireman" or "firemen" means an employee
31 assigned to the fire department and engaged in the fighting and
32 extinguishment of fires and the protection of life and property therefrom or
33 in support thereof and who is specifically designated, appointed,
34 commissioned or styled as such by the governing body or city manager of
35 the participating employer and certified to the retirement system as such.
36 On and after July 1, 1998, "fireman" or "firemen" means an employee
37 assigned to the fire department whose principal duties are engagement in
38 the fighting and extinguishment of fires and the protection of life and
39 property therefrom and who is specifically designated, appointed,
40 commissioned or styled as such by the governing body or city manager of
41 the participating employer and certified to the retirement system as such.

42 (12) Prior to July 1, 1998, "police," "policeman" or "policemen"
43 means an employee assigned to the police department and engaged in the

1 enforcement of law and maintenance of order within the state and its
2 political subdivisions, including sheriffs and sheriffs' deputies, or in
3 support thereof and who is specifically designated, appointed,
4 commissioned or styled as such by the governing body or city manager of
5 the participating employer and certified to the retirement system as such.
6 On and after July 1, 1998, "police," "policeman" or "policemen" means an
7 employee assigned to the police department whose principal duties are
8 engagement in the enforcement of law and maintenance of order within the
9 state and its political subdivisions, including sheriffs and sheriffs' deputies;
10 who has successfully completed the required course of instruction for law
11 enforcement officers approved by the Kansas law enforcement training
12 center and is certified pursuant to the provisions of K.S.A. 74-5607a, and
13 amendments thereto; and who is specifically designated, appointed,
14 commissioned or styled as such by the governing body or city manager of
15 the participating employer and certified to the retirement system as such.
16 "Police," "policeman" or "policemen" who have been assigned to the
17 police department, whose duties have included engagement in the
18 enforcement of law and maintenance of order within the state and its
19 political subdivisions, who have been certified pursuant to K.S.A. 74-
20 5607a, and amendments thereto, who have been designated as "police,"
21 "policeman" or "policemen" as provided in this subsection and for whom
22 required contributions have been made to the Kansas police and firemen's
23 retirement system shall not be denied benefits due to a temporary or full-
24 time assignment to a jail, adult detention center or other correctional
25 facility by the state or any of its political subdivisions, and this provision
26 shall be applied retroactively to July 1, 1999, to any member meeting such
27 requirements as provided in this enactment.

28 (13) Except as otherwise defined in this act, words and phrases used
29 in K.S.A. 74-4951 et seq., and amendments thereto, shall have the same
30 meanings ascribed to them as are defined in K.S.A. 74-4902, and
31 amendments thereto.

32 Sec. 4. K.S.A. 2017 Supp. 74-4995 is hereby amended to read as
33 follows: 74-4995. (a) Employer and employee contributions shall be
34 governed by the provisions of K.S.A. 74-4919 and 74-4920, and
35 amendments thereto. For purposes of contributions to and benefits under
36 the Kansas public employees retirement system, compensation of a
37 member of the legislature under this act shall be a monthly amount equal
38 to: (1) The compensation to which the member was entitled for services as
39 a member of the legislature during the first 30 calendar days of the most
40 recent session in which the member has served; and (2) any amount to
41 which the member makes an election pursuant to this subsection. In
42 addition to the provisions of subsection (a)(1) and any election made
43 pursuant to this subsection, the compensation of a member shall include an

1 additional five days of compensation to which such member was entitled
2 for services as a member of the legislature of the most recent session in
3 which the member has served beyond the days provided for in subsection
4 (a)(1). In addition to the provisions of subsection (a)(1), a member of the
5 legislature may elect to participate with a rate of compensation that
6 includes: (A) For service as a member after July 18, 1982, a monthly
7 amount equal to $\frac{1}{12}$ of the annualized amount received for monthly
8 allowance under subsection (c) of K.S.A. 46-137a, and amendments
9 thereto; (B) a monthly amount equal to $\frac{1}{12}$ of the annualized amount
10 received for expenses allowance under subsection (b) of K.S.A. 46-137a,
11 and amendments thereto; or (C) an amount equal to the combined amounts
12 provided for in subsections (2)(A) and (2)(B). A member of the legislature
13 who has filed an election to become a member of the system pursuant to
14 the provisions of K.S.A. 74-4992, and amendments thereto, prior to July 1,
15 2006, shall file an election with the system to include any amounts
16 specified in subsection (2)(A), (2)(B) or (2)(C) prior to August 1, 2006,
17 except that nothing contained in this act shall be construed to permit a
18 member of the legislature who has made an election pursuant to this
19 section prior to the effective date of this act to revoke any such election
20 previously made by such member. In the event that any such member fails
21 to file such election prior to August 1, 2006, it shall be presumed that such
22 member has elected to not include any amounts specified in subsection (2)
23 (A), (2)(B) or (2)(C), and participate at a rate of compensation that
24 includes only the amount provided in subsection (a)(1). A member of the
25 legislature who files an election to become a member of the system
26 pursuant to the provisions of K.S.A. 74-4992, and amendments thereto, on
27 and after July 1, 2006, shall file an election with the system to include any
28 amounts specified in subsection (2)(A), (2)(B) or (2)(C) at the same time
29 that such member files the election to become a member of the system. In
30 the event that any such member fails to file such election, it shall be
31 presumed that such member has elected to not include any amounts
32 specified in subsection (2)(A), (2)(B) or (2)(C), and participate at a rate of
33 compensation that includes only the amount provided in subsection (a)(1).

34 (b) The employee rate of contribution shall be applied to any amounts
35 to which a member has elected pursuant to the provisions of subsection (a)
36 (2). The employee and employer contributions shall be remitted to the
37 system quarterly with a report of such contributions as may be required by
38 the board. Any changes in a member's rate of compensation and
39 contributions as a result of any election mandated by this section for a
40 member of the legislature who had filed an election to become a member
41 of the system prior to July 1, 2006, shall be effective on October 1, 2006.
42 All such elections pursuant to this section shall be in the form and manner
43 prescribed by the board of trustees.

1 (c) Any member of the legislature making the election pursuant to
2 subsection (a)(2) may not revoke such election while they remain a
3 participating employee for service as a member of the legislature.

4 (d) *For any member of the legislature who files an election to become*
5 *a member of the system pursuant to the provisions of K.S.A. 74-4992, and*
6 *amendments thereto, on or after July 1, 2018, such member's final average*
7 *salary shall not exceed \$99,636 annually, plus an annual percentage*
8 *increase equal to the annual percentage increase in the contribution and*
9 *benefit base for social security, beginning with calendar year 2019 and for*
10 *each calendar year thereafter, as determined in section 230 of the federal*
11 *social security act, 42 U.S.C. § 430, as in effect on July 1, 2018.*

12 Sec. 5. K.S.A. 20-2610 and K.S.A. 2017 Supp. 74-4902, 74-4952 and
13 74-4995 are hereby repealed.

14 Sec. 6. This act shall take effect and be in force from and after its
15 publication in the statute book.