

## HOUSE BILL No. 2519

By Committee on Pensions and Benefits

1-28

1 AN ACT concerning retirement and pensions; enacting the Kansas public  
2 employees retirement system defined contribution act; providing terms,  
3 conditions and requirements related thereto; relating to plan document,  
4 membership, benefits, contributions and investment alternatives; death  
5 and disability benefits; eliminating the Kansas public employees  
6 retirement system act of 2015; repealing K.S.A. 2013 Supp. 74-49,301,  
7 74-49,302, 74-49,303, 74-49,304, 74-49,305, 74-49,306, 74-49,307,  
8 74-49,308, 74-49,309, 74-49,310, 74-49,311, 74-49,312, 74-49,313, 74-  
9 49,314, 74-49,315, 74-49,316, 74-49,317 and 74-49,318.

10

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

12 Section 1. (a) The provisions of sections 1 through 17, and  
13 amendments thereto, shall be known and may be cited as the Kansas  
14 public employees retirement system defined contribution act, and shall be  
15 effective on and after January 1, 2016.

16 (b) This act applies to any individual who is first employed by a  
17 participating employer on or after January 1, 2016.

18 (c) This act does not apply to members of the Kansas police and  
19 firemen's retirement system, K.S.A. 74-4951 et seq., and amendments  
20 thereto, and the retirement system for judges, K.S.A. 20-2601 et seq., and  
21 amendments thereto. The provisions of this act shall not apply to members  
22 of the Kansas public employees retirement system as provided in K.S.A.  
23 74-4901 et seq. and 74-49,201 et seq., and amendments thereto, unless  
24 otherwise provided in this act.

25 Sec. 2. Unless the context requires otherwise, terms that are used in  
26 this act have the meanings set forth for them in K.S.A. 74-4902, and  
27 amendments thereto, and the following definitions apply:

28 (a) "Act" means the provisions of section 1 et seq., and amendments  
29 thereto;

30 (b) "active DC plan member" means a DC plan member who is  
31 actively employed by a participating employer;

32 (c) "covered position" means a position with an affiliated employer  
33 that is eligible for membership in the Kansas public employees retirement  
34 system pursuant to the provisions of K.S.A. 74-4901 et seq., and  
35 amendments thereto;

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(d) "defined benefit plan" means the defined benefit plan for the

1 Kansas public employees retirement system, K.S.A. 74-4901 et seq. and  
2 74-49,201 et seq., and amendments thereto;

3 (e) "DC plan member" means an individual who is required by  
4 section 1, and amendments thereto, to be a member of the defined  
5 contribution plan. The term also includes any survivor or beneficiary of a  
6 DC plan member, who has a retirement account in the defined contribution  
7 plan;

8 (f) "employee" means the same as such term is defined in K.S.A. 74-  
9 4902, and amendments thereto, except that only employees who are first  
10 employed by a participating employer on or after January 1, 2016, or  
11 employees of a participating employer which affiliates on or after January  
12 1, 2016, are subject to the provisions of this act. The term employee shall  
13 include employees as provided in K.S.A. 74-4931 et seq., and amendments  
14 thereto, first employed by a participating employer on or after January 1,  
15 2016, or such employees of a participating employer which affiliates on or  
16 after January 1, 2016;

17 (g) "first employed" means an employee has not been an employee in  
18 a covered position of any participating employer prior to January 1, 2016,  
19 and is employed by a participating employer in a covered position on or  
20 after January 1, 2016; an employee who is a former member of the system  
21 who withdrew contribution accounts before January 1, 2016, and who is  
22 again employed by a participating employer in a covered position on or  
23 after January 1, 2016; or an employee who was an inactive non-vested  
24 member and who is again employed by a participating employer in a  
25 covered position on or after January 1, 2016;

26 (h) "plan" or "defined contribution plan" means the defined  
27 contribution retirement plan established by section 3, and amendments  
28 thereto.

29 Sec. 3. The board shall establish within the Kansas public employees  
30 retirement system a separate defined contribution plan in accordance with  
31 the provisions of this act. The plan must be established as a pension plan  
32 for the exclusive benefit of members and their beneficiaries and as a  
33 "qualified governmental plan" pursuant to sections 401(a) and 414(d) of  
34 the federal internal revenue code and its implementing regulations.  
35 Retirement accounts must be established for each DC plan member. Assets  
36 of the plan must be held in trust. The plan is established in addition to any  
37 retirement, pension, deferred compensation or other benefit plan  
38 administered by the state or a political subdivision.

39 Sec. 4. (a) The board has the powers and shall perform the duties  
40 regarding the defined contribution plan as provided in K.S.A. 74-4909,  
41 and amendments thereto, as applicable. The board may also exercise the  
42 powers and shall perform the duties provided in this act.

43 (b) The board shall adopt a plan document and reasonable and

1 necessary policies and procedures, without the need for corresponding  
2 rules and regulations.

3 Sec. 5. (a) The board may establish an account within the defined  
4 contribution plan for paying the plan's administrative expenses.

5 (b) The board may assess fees on DC plan member accounts to pay  
6 the reasonable administrative costs of the plan.

7 (c) All fees assessed must be fully disclosed to members and treated  
8 as public information.

9 (d) Costs for the board to secure investment advice, recordkeeping,  
10 contract oversight, educational materials for members, performance  
11 evaluations and other appropriate information and services are included as  
12 part of the administrative expenses of the plan.

13 Sec. 6. The statutory provisions governing the defined contribution  
14 plan are subject to amendment by the legislature. The board has the power  
15 to amend the plan document, policies and procedures, consistent with the  
16 statutory provisions governing the defined contribution plan at the time of  
17 the amendment.

18 Sec. 7. (a) This section shall not be implemented until the board has  
19 obtained approval from the federal internal revenue service. The board  
20 may implement the remainder of this act prior to implementation of this  
21 section. This section is severable from the remainder of this act and shall  
22 be repealed if the federal internal revenue service refuses to grant such  
23 approval or issues an adverse decision.

24 (b) Except as otherwise provided in this act, an active member of the  
25 defined benefit plan of the system on January 1, 2016, may elect to  
26 become a member of the defined contribution plan by making an election  
27 within a 90-day period established by the board.

28 (c) (1) Elections made pursuant to this section shall be made on a  
29 form and in a manner prescribed by the board.

30 (2) A defined benefit plan member failing to make an election  
31 prescribed by this section remains a member of the defined benefit plan.

32 (3) An election under this section, including the default election  
33 pursuant to subsection (c)(2), is a one-time irrevocable election.

34 (4) An election to become a member of the defined contribution plan  
35 is prospective only and such election shall be effective for all service on  
36 and after January 1, 2016. A defined benefit plan member who elects to  
37 become a defined contribution plan member shall retain all credited  
38 service earned under the defined benefit plan prior to January 1, 2016, and  
39 remains entitled to any benefits for such credited service in accordance  
40 with the provisions of the defined benefit plan. An election to become a  
41 defined contribution plan member terminates active membership in the  
42 defined benefit plan and the service of such member on and after January  
43 1, 2016, in the defined contribution plan shall not be credited for the

1 purposes of the defined benefit plan.

2 (d) A member in either the defined benefit plan or the defined  
3 contribution plan who becomes inactive after an election under this section  
4 and who returns to active membership remains in the plan previously  
5 elected, unless such member returns to active membership with a different  
6 participating employer on or after January 1, 2016, in which case such  
7 member shall become a member of the defined contribution plan.

8 (e) A member of the defined benefit plan who is subject to a domestic  
9 relations order or an execution or income-withholding order may not  
10 transfer to the defined contribution plan unless the order is modified to  
11 apply under the defined contribution plan.

12 (f) (1) A member of the defined benefit plan who is purchasing  
13 service credit through installment payments, either made directly to the  
14 board or pursuant to a payroll deduction agreement, may not transfer  
15 membership to the defined contribution plan unless the member first  
16 completes the contract for purchase of service credit.

17 (2) A member who files an election to transfer membership may  
18 make a lump-sum payment for up to the balance of the service credit  
19 remaining to be purchased prior to transferring, subject to the limitations  
20 of section 415 of the federal internal revenue code. The lump-sum  
21 payment, unless made by a rollover, shall be made with after-tax dollars.

22 (3) If a member who files an election to transfer membership fails to  
23 complete the contract for purchase of service credit by the end of the  
24 member's 90-day election window, the board shall terminate the service  
25 purchase contract and credit the member with the prorated amount of  
26 service credit purchased under the contract.

27 Sec. 8. The board shall accept the rollover of contributions and the  
28 income on those contributions from another eligible retirement plan to the  
29 member's rollover account only to the extent allowed under applicable  
30 federal law.

31 Sec. 9. (a) A DC plan member's mandatory contribution account  
32 includes the DC plan member's contributions and the income on those  
33 contributions and is vested from the date that the employee becomes a  
34 member of the plan.

35 (b) A DC plan member's employer contribution account includes the  
36 employer's contributions and the income on those contributions and is  
37 vested only when the member has a total of five years of participating  
38 service in the defined contribution plan.

39 (c) A DC plan member's rollover account includes the member's  
40 rollovers of contributions made pursuant to section 8, and amendments  
41 thereto, and income on those contributions and are vested from the date  
42 that the contributions are credited to the account.

43 (d) If the DC plan member's employer contribution account is not

1 vested upon termination of plan membership, as provided in this section,  
2 the employer contributions and income are forfeited as provided in section  
3 10, and amendments thereto.

4 Sec. 10. (a) An active DC plan member shall contribute 6% of  
5 compensation to the defined contribution plan. These contributions shall  
6 be picked up by the employer via a salary reduction as provided in section  
7 414(h)(2) of the federal internal revenue code.

8 (b) A DC plan member may not make voluntary contributions to the  
9 defined contribution plan.

10 (c) Subject to adjustment by the board as provided in section 11, and  
11 amendments thereto, an active DC plan member's employer shall  
12 contribute the following:

13 (1) Three percent of compensation to the active DC plan member's  
14 employer contribution account;

15 (2) a percentage of compensation, determined by the board under  
16 section 11, and amendments thereto, to the defined benefit plan as the plan  
17 funding rate as described in section 11, and amendments thereto;

18 (3) a percentage of compensation, determined by the board, must be  
19 allocated to the administrative account established by section 5, and  
20 amendments thereto; and

21 (4) a percentage of compensation, determined by the board, must be  
22 allocated to the death and long-term disability plan under K.S.A. 74-4927,  
23 and amendments thereto.

24 (d) Forfeitures of employer contributions and investment income on  
25 the employer contributions may not be used to increase a DC plan  
26 member's retirement account. The board shall allocate the forfeitures under  
27 section 9, and amendments thereto, to meet the plan's administrative  
28 expenses, including startup expenses.

29 Sec. 11. (a) The board shall periodically review the sufficiency of the  
30 plan funding rate and shall adjust the amount of contributions under  
31 section 10, and amendments thereto, as specified in this section. The board  
32 shall collect and maintain the data necessary to comply with this section.  
33 The plan funding rate set in section 10, and amendments thereto, must be  
34 adjusted as provided in this section and the plan document to actuarially  
35 fund the defined benefit plan's unfunded liabilities and the change in the  
36 normal cost contribution rate that is the result of the DC plan member's  
37 participation in the defined contribution plan.

38 (b) If the board determines that the plan funding rate should be  
39 increased or decreased, the plan funding rate under section 10, and  
40 amendments thereto, must be increased or decreased accordingly.

41 Sec. 12. (a) (1) The board shall establish investment alternatives  
42 under the defined contribution plan including:

43 (A) A money market fund;

- 1 (B) a bond fund;
- 2 (C) a large capitalization stock index investment fund;
- 3 (D) a small capitalization stock index investment fund;
- 4 (E) a speculative stock index investment fund;
- 5 (F) an international stock index investment fund; and
- 6 (G) hybrid funds mixing and matching various investment funds,
- 7 tailored to projected retirement years.

8 (2) (A) The board shall select an index which is a commonly  
9 recognized index comprised of common stock the aggregate market value  
10 of which is a reasonably complete representation of the United States  
11 equity markets.

12 (B) The large capitalization stock index investment fund shall be  
13 invested in a portfolio designed to replicate the performance of the index  
14 selected under paragraph (2)(A). The portfolio shall be designed such that,  
15 to the extent practicable, the percentage of the large capitalization stock  
16 index investment fund that is invested in each stock is the same as the  
17 percentage determined by dividing the aggregate market value of all shares  
18 of that stock by the aggregate market value of all shares of all stocks  
19 included in such index.

20 (3) (A) The board shall select an index which is a commonly  
21 recognized index comprised of common stock the aggregate market value  
22 of which represents the United States equity markets excluding the  
23 common stocks included in the large capitalization stock index investment  
24 fund.

25 (B) The small capitalization stock index investment fund shall be  
26 invested in a portfolio designed to replicate the performance of the index  
27 in paragraph (3)(A). The portfolio shall be designed such that, to the extent  
28 practicable, the percentage of the small capitalization stock index  
29 investment fund that is invested in each stock is the same as the percentage  
30 determined by dividing the aggregate market value of all shares of that  
31 stock by the aggregate market value of all shares of all stocks included in  
32 such index.

33 (4) (A) The board shall select an index which is a commonly  
34 recognized index comprised of stock the aggregate market value of which  
35 is a reasonably complete representation of the international equity markets  
36 excluding the United States equity markets.

37 (B) The international stock index investment fund shall be invested in  
38 a portfolio designed to replicate the performance of the index in paragraph  
39 (4)(A). The portfolio shall be designed such that, to the extent practicable,  
40 the percentage of the international stock index investment fund that is  
41 invested in each stock is the same percentage determined by dividing the  
42 aggregate market value of all shares of that stock by the aggregate market  
43 value of all shares of all stocks included in such index.

1 (b) The legislature may from time to time review the suitability and  
2 management of investment alternatives established by this section and may  
3 change the alternatives to be offered. The board shall notify affected DC  
4 plan members of potential changes before any changes become effective.

5 (c) The board shall establish a default investment option for any DC  
6 plan member who does not have an effective investment direction. The  
7 board may utilize the money market fund established pursuant to this  
8 section as the default investment fund.

9 (d) Assets within each member's accounts must be invested as  
10 directed by the member within the investment alternatives established by  
11 the board.

12 (e) A DC plan member may elect the investment funds and  
13 alternatives referred to in this section into which the sums in the member's  
14 accounts are to be invested or reinvested. The board shall develop and  
15 make available to all DC plan members an electronic means for investment  
16 allocation elections. Elections to allocate existing account balances among  
17 the various investment alternatives referred to in this section shall be  
18 permitted on a daily basis. Elections to allocate future contributions among  
19 the various investment alternatives referred to in this section shall be  
20 permitted on a monthly basis. All investment elections shall be made in  
21 one percent increments. The sum of the percentages elected for all  
22 investment alternatives shall equal 100%.

23 Sec. 13. Except as provided in section 17, and amendments thereto,  
24 any time after termination of service, a DC plan member or the DC plan  
25 member's beneficiary may terminate plan membership by filing a written  
26 application with the board and removing the DC plan member's vested  
27 account balance from the plan through any combination of the following  
28 payout options, each of which is subject to the provisions of the plan  
29 document and the federal internal revenue code and the applicable  
30 regulations of the internal revenue service:

31 (a) A direct rollover to an eligible retirement plan;

32 (b) a regular rollover to an eligible retirement plan;

33 (c) a lump-sum distribution of the DC plan member's vested account  
34 balance; or

35 (d) an optional form of distribution offered by the board under section  
36 14, and amendments thereto.

37 Sec. 14. (a) Subject to the provisions of the plan document, a DC plan  
38 member, after termination of service, may leave the DC plan member's  
39 vested account balance in the plan, and the DC plan member is eligible for  
40 a distribution as provided in this section.

41 (b) After termination of service and upon filing a written application  
42 with the board, a DC plan member may select any distribution option  
43 provided by the plan document.

1 (c) A DC plan member who is less than 70½ years of age who returns  
2 to service may not continue to receive a distribution under this section  
3 while actively employed in a covered position.

4 (d) The plan document shall provide that distributions must comply  
5 with the minimum distribution requirements established in the federal  
6 internal revenue code and applicable under K.S.A. 74-49,123, and  
7 amendments thereto.

8 (e) The plan document may specify minimum account balances for  
9 purposes of allowing benefit payment options and rollovers in accordance  
10 with federal law.

11 Sec. 15. A DC plan member's beneficiary must be determined as  
12 provided in the defined benefit plan regulations. Upon filing a written  
13 application with the board after the death of a DC plan member, the DC  
14 plan member's beneficiary is entitled to the DC plan member's vested  
15 account balance.

16 Sec. 16. Before termination of service, a DC plan member may not  
17 receive a refund of any portion of the DC plan member's vested account  
18 balance.

19 Sec. 17. (a) For the purposes of providing the "insured death benefit"  
20 and "insured disability benefit" as prescribed in K.S.A. 74-4927, and  
21 amendments thereto, the term "member" as used in K.S.A. 74-4927, and  
22 amendments thereto, shall include those members of the Kansas public  
23 employees retirement system's defined contribution plan as defined in  
24 section 2, and amendments thereto.

25 (b) Each participating employer shall pay to the Kansas public  
26 employees retirement system in such manner as the board of trustees shall  
27 prescribe each payroll period an amount sufficient to pay the employer's  
28 contribution to the group insurance reserve as provided in subsection (b)  
29 (5) of section 10, and amendments thereto.

30 (c) Except as otherwise provided, in the event that a DC plan member  
31 as defined in section 2, and amendments thereto, becomes eligible for and  
32 begins to receive the insured disability benefit prescribed in K.S.A. 74-  
33 4927, and amendments thereto, the member's participating employer shall  
34 continue to make the contributions on behalf of such individual to the  
35 retirement plan as required under subsection (b) of section 10, and  
36 amendments thereto, and shall also contribute to the retirement plan an  
37 amount equal to the individual's contribution under subsection (a) of  
38 section 10, and amendments thereto, if the DC plan member is  
39 permanently and totally disabled as defined in section 72(m) of the federal  
40 internal revenue code. Commencing on and after January 1, 2017, such  
41 contributions shall cease at the earlier of: (1) The date that the individual is  
42 no longer entitled to an insured disability benefit under K.S.A. 74-4927,  
43 and amendments thereto; or (2) the date that is five years after the date the



1 individual becomes eligible for and begins to receive the insured disability  
2 benefit prescribed in K.S.A. 74-4927, and amendments thereto. For  
3 purposes of applying this subsection, compensation under section 10, and  
4 amendments thereto, means the individual's compensation at the time the  
5 individual became disabled as defined under the insured disability program  
6 prescribed in K.S.A. 74-4927, and amendments thereto.

7 Sec. 18. K.S.A. 2013 Supp. 74-49,301, 74-49,302, 74-49,303, 74-  
8 49,304, 74-49,305, 74-49,306, 74-49,307, 74-49,308, 74-49,309, 74-  
9 49,310, 74-49,311, 74-49,312, 74-49,313, 74-49,314, 74-49,315, 74-  
10 49,316, 74-49,317 and 74-49,318 are hereby repealed.

11 Sec. 19. This act shall take effect and be in force from and after its  
12 publication in the statute book.