

As Amended by House Committee

Session of 2016

HOUSE BILL No. 2489

By Committee on Pensions and Benefits

1-20

1 AN ACT concerning **retirement; relating to** the Kansas public employees
2 retirement system; ~~relating to~~ death and long-term disability benefits;
3 employer payments to group insurance reserve fund; Kansas public
4 employees retirement system act of 2015; accidental death benefit;
5 annuity interest rate; **Kansas public employees deferred**
6 **compensation act; sharing of account information; tax treatment;**
7 **local governmental unit plan option;** amending K.S.A. 74-4916 and
8 K.S.A. 2015 Supp. 74-4927 ~~and~~, 74-49,313, **74-49b10, 74-49b14 and**
9 **74-49b15** and repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 74-4916 is hereby amended to read as follows: 74-
13 4916. (1) Upon the death of a member before retirement, the member's
14 accumulated contributions shall be paid to the member's beneficiary.

15 (2) (a) In the event that a member dies before retirement as a result of
16 an accident arising out of and in the course of the member's actual
17 performance of duty in the employ of a participating employer
18 independent of all other causes and not as a result of a willfully negligent
19 or intentional act of the member, an accidental death benefit shall be
20 payable if: (A) A report of the accident, in a form acceptable to the board,
21 is filed in the office of the executive director of the board within 60 days
22 after the date of the accident causing such death and an application for
23 such benefit, in such form and manner as the board shall prescribe, is filed
24 in the office of the executive director of the board within two years of the
25 date of the accident, but the board may waive such time limits for a
26 reasonable period if in the judgment of the board the failure to meet these
27 limits was due to lack of knowledge or incapacity; and (B) the board finds
28 from such evidence as it may require, to be submitted in such form and
29 manner as it shall prescribe, that the natural and proximate cause of death
30 was the result of an accident arising out of and in the course of the
31 member's employment with a participating employer independent of all
32 other causes at a definite time and place. Such accidental death benefit
33 shall be a lump-sum amount of \$50,000 and an annual amount of $\frac{1}{2}$ of the
34 member's final average salary, *and for members who were first employed*
35 *by a participating employer and covered as a member of the system under*
36 *the provisions of K.S.A. 74-49,301 et seq., and amendments thereto, an*

1 *annual amount of 50% of such member's salary averaged over the final*
2 *three years of such member's covered employment, which shall accrue*
3 *from the first day of the month following the date of death and which shall*
4 *be payable in monthly installments or as the board may direct, but, after*
5 *June 30, 1982, in no case shall the accidental death benefit be less than*
6 *\$100 per month. The accidental death benefit payments shall be paid to the*
7 *surviving spouse of such deceased member, such payments to continue so*
8 *long as such surviving spouse lives or if there is no surviving spouse, or in*
9 *the case the spouse dies before the youngest child of such deceased*
10 *member attains age 18 or before the youngest child of such deceased*
11 *member attains age 23 years, if such child is a full-time student as*
12 *provided in K.S.A. 74-49,117, and amendments thereto, or if there are one*
13 *or more children of the member who are totally disabled and dependent on*
14 *the member or spouse, then to the child or children of such member under*
15 *age 18 or under age 23, if such child or children are full-time students as*
16 *provided in K.S.A. 74-49,117, and amendments thereto, and to the child or*
17 *children of the member who are totally disabled and dependent on the*
18 *member or spouse, divided in such manner as the board in its discretion*
19 *shall determine, to continue until the youngest surviving child dies or*
20 *attains age 18 or attains age 23 if such child is a full-time student as*
21 *provided in K.S.A. 79-49,117, and amendments thereto, or, in the case of*
22 *the child or children who are totally disabled and dependent on the*
23 *member or spouse, until death or until no longer totally disabled, or if*
24 *there is no surviving spouse or child eligible for accidental death benefits*
25 *under this subsection (2) at the time of the member's death, then to the*
26 *parent or parents of such member who are dependent on such member, to*
27 *continue until the last such parent dies. All payments due under this*
28 *subsection (2) to a minor shall be made to a legally appointed conservator*
29 *of such minor or totally disabled child as provided in ~~subsection (7) of~~*
30 *K.S.A. ~~74-4902~~ 74-49,127, and amendments thereto. Commencing on the*
31 *effective date of this act, any surviving spouse, who was receiving benefits*
32 *pursuant to this section and who had such benefits terminated by reason of*
33 *such spouse's remarriage, shall be entitled to once again receive benefits*
34 *pursuant to this section, except that such surviving spouse shall not be*
35 *entitled to recover any benefits not received after the termination of*
36 *benefits by reason of such surviving spouse's remarriage but before the*
37 *effective date of this act.*

38 (b) In construction of this section of the act there shall be no
39 presumption that the death of the member was the result of an accident nor
40 shall there be a liberal interpretation of the law or evidence in favor of the
41 person claiming under this subsection (2). In the event of the death of a
42 member resulting from a heart, circulatory or respiratory condition there
43 must be clear and precise evidence that death was the result of an accident

1 independent of all other causes which arose out of and in the course of the
2 member's actual performance of duties in the employ of a participating
3 employer.

4 (c) The annual benefit under this subsection (2) shall be reduced by
5 any workers compensation benefit payable. If the workers compensation
6 benefit is paid in a lump-sum, the amount of such reduction shall be
7 calculated on a monthly basis over the period of time for which workers
8 compensation benefits would have been payable had such lump-sum not
9 been paid. For any recipient already in receipt of such benefits on the
10 effective date of this act, no change in the original reduction for workers
11 compensation benefits shall be applicable to benefits paid prior to July 1,
12 1994. In the event that a member should die as a result of an accident as
13 described in this subsection (2), all elections or options previously made
14 by the deceased member shall become void and of no effect whatsoever
15 and the retirement system shall be liable only for the accidental death
16 benefit, refund of accumulated contributions as described in subsection (1)
17 and any insured death benefit that may be due. The benefit payable under
18 this subsection (2) shall be known and referred to as the "accidental death
19 benefit."

20 (3) (a) Upon the application of a member, or the member's appointing
21 authority acting for the member, a member who is in the employ of a
22 participating employer and becomes totally and permanently disabled for
23 duty in the employ of a participating employer, by reason of an accident
24 which occurred prior to July 1, 1975, may be retired by the board if: (A)
25 The board finds the total and permanent disability to be the natural and
26 proximate result of an accident causing personal injury or disease
27 independent of all other causes and arising out of and in the course of the
28 member's actual performance of duties as an employee of a participating
29 employer; ~~and~~ (B) a report of the accident, in a form acceptable to the
30 board is filed in the office of the executive director of the board within 200
31 days after the date of the accident causing such injury; ~~and~~ (C) such
32 application for retirement under this provision, in such form and manner as
33 shall be prescribed by the board, is filed in the office of the executive
34 director of the board within two years of the date of the accident; ~~and~~ (D)
35 after a medical examination of the member has been made by or under the
36 direction of a medical physician or physicians or any other practitioner
37 holding a valid license to practice a branch of the healing arts issued by the
38 state board of healing arts designated by the board and the medical
39 physician or physicians or any other practitioner holding a valid license to
40 practice a branch of the healing arts issued by the state board of healing
41 arts report in writing to the board that the member is physically or
42 mentally totally disabled for duty in the employ of a participating
43 employer and that such disability will probably be permanent; and (E) the

1 board finds that the member became permanently and totally disabled on a
2 date certain based on the evidence furnished and the professional guidance
3 obtained and that such disability was not the result of a willfully negligent
4 or intentional act of the member. If the board shall so retire the applicant,
5 the member shall receive annually an accidental total disability benefit
6 equal to $\frac{1}{2}$ of the member's final average salary which shall accrue from
7 the first day of the month following the date of such accidental total and
8 permanent disability as found by the board payable in monthly
9 installments or as the board may direct.

10 (b) In construction of this subsection (3) there shall be no
11 presumption that the disability of the member was the result of an accident
12 nor shall there be a liberal interpretation of the law or evidence in favor of
13 the member claiming under this subsection (3). In the event of the
14 disability of a member resulting from a heart, circulatory or respiratory
15 condition there must be clear and precise evidence that disability was the
16 result of an accident independent of all other causes which arose out of and
17 in the course of the member's actual performance of duties in the employ
18 of a participating employer.

19 (c) A member will continue to receive such accidental total disability
20 benefit so long as the member is wholly and continuously disabled by such
21 injury and prevented thereby from engaging in any gainful occupation or
22 employment for which the member is reasonably qualified by reason of
23 education, training or experience. The accidental loss of both hands by
24 actual severance through or above the wrist joint, or the accidental loss of
25 both feet by actual severance through or above the ankle joint or the entire
26 and irrecoverable accidental loss of sight of both eyes, or such severance
27 of one hand and one foot, and such severance of one hand or one foot and
28 such loss of sight of one eye, shall be deemed accidental total and
29 permanent disability and accidental total disability benefits shall be paid so
30 long as the member lives.

31 (d) Any retirant retired by reason of such accidental total and
32 permanent disability who has been receiving benefits under the provisions
33 of this subsection (3) for a period of five years shall be deemed finally
34 retired and shall not be subject to further medical examinations, except
35 that if the board of trustees has reasonable grounds to question whether the
36 retirant remains totally and permanently disabled, a further medical
37 examination or examinations may be required. Refusal or neglect to
38 submit to examination shall be sufficient cause for suspending or
39 discontinuing the accidental total disability benefit. If the refusal or neglect
40 continues for a period of one year, all of the member's rights with respect
41 to such accidental total disability benefit may be revoked by the board.

42 (e) In the event that a retirant who is receiving an accidental total
43 disability benefit dies within five years after the date of the retirant's

1 retirement, an accidental death benefit shall then be payable as provided in
2 subsection (2) of this section.

3 (f) A member who retires under the provisions of this subsection (3)
4 shall receive such benefits as provided in this subsection (3) in lieu of all
5 other retirement benefits provided under the retirement system except that
6 no member shall be entitled to receive any payments under this subsection
7 (3) for a period for which insured disability benefits are received.

8 (g) The value, as determined by the board upon recommendation of
9 the actuary, of any workmen's compensation benefits paid or payable to
10 the recipient of an accidental total disability benefit shall be deducted from
11 the amount payable under this section.

12 (h) The benefit payable under subsection (3) of this section shall be
13 known and referred to as "accidental total disability benefit."

14 (4) The payment of benefits as provided in this section is subject to
15 the provisions of K.S.A. 74-49,123, and amendments thereto.

16 Sec. 2. K.S.A. 2015 Supp. 74-4927 is hereby amended to read as
17 follows: 74-4927. (1) The board may establish a plan of death and long-
18 term disability benefits to be paid to the members of the retirement system
19 as provided by this section. The long-term disability benefit shall be
20 payable in accordance with the terms of such plan as established by the
21 board, except that for any member who is disabled prior to the effective
22 date of this act, the annual disability benefit amount shall be an amount
23 equal to $66\frac{2}{3}\%$ of the member's annual rate of compensation on the date
24 such disability commenced. Such plan shall provide that:

25 (A) ~~For deaths occurring prior to January 1, 1987, the right to receive~~
26 ~~such death benefit shall cease upon the member's attainment of age 70 or~~
27 ~~date of retirement whichever first occurs.~~ The right to receive such long-
28 term disability benefit shall cease: (i) For a member who becomes eligible
29 for such benefit before attaining age 60, upon the date that such member
30 attains age 65 or the date of such member's retirement, whichever first
31 occurs; and (ii) for a member who becomes eligible for such benefit at or
32 after attaining age 60, the date that such member has received such benefit
33 for a period of five years, or upon the date of such member's retirement,
34 whichever first occurs.

35 (B) Long-term disability benefit payments shall be in lieu of any
36 accidental total disability benefit that a member may be eligible to receive
37 ~~under subsection (3) of K.S.A. 74-4916(3), and amendments thereto.~~ The
38 member must make an initial application for social security disability
39 benefits and, if denied such benefits, the member must pursue and exhaust
40 all administrative remedies of the social security administration which
41 include, but are not limited to, reconsideration and hearings. Such plan
42 may provide that any amount which a member receives as a social security
43 benefit or a disability benefit or compensation from any source by reason

1 of any employment including, but not limited to, workers compensation
2 benefits may be deducted from the amount of long-term disability benefit
3 payments under such plan. However, in no event shall the amount of long-
4 term disability benefit payments under such plan be reduced by any
5 amounts a member receives as a supplemental disability benefit or
6 compensation from any source by reason of the member's employment,
7 provided such supplemental disability benefit or compensation is based
8 solely upon the portion of the member's monthly compensation that
9 exceeds the maximum monthly compensation taken into account under
10 such plan. As used in this paragraph, "maximum monthly compensation"
11 means the dollar amount that results from dividing the maximum monthly
12 disability benefit payable under such plan by the percentage of
13 compensation that is used to calculate disability benefit payments under
14 such plan. During the period in which such member is pursuing such
15 administrative remedies prior to a final decision of the social security
16 administration, social security disability benefits may be estimated and
17 may be deducted from the amount of long-term disability benefit payments
18 under such plan. If the social security benefit, workers compensation
19 benefit, other income or wages or other disability benefit by reason of
20 employment other than a supplemental benefit based solely on
21 compensation in excess of the maximum monthly compensation taken into
22 account under such plan, or any part thereof, is paid in a lump-sum, the
23 amount of the reduction shall be calculated on a monthly basis over the
24 period of time for which the lump-sum is given. As used in this section,
25 "workers compensation benefits" means the total award of disability
26 benefit payments under the workers compensation act notwithstanding any
27 payment of attorney fees from such benefits as provided in the workers
28 compensation act.

29 (C) The plan may include other provisions relating to qualifications
30 for benefits; schedules and graduation of benefits; limitations of eligibility
31 for benefits by reason of termination of employment or membership;
32 conversion privileges; limitations of eligibility for benefits by reason of
33 leaves of absence, military service or other interruptions in service;
34 limitations on the condition of long-term disability benefit payment by
35 reason of improved health; requirements for medical examinations or
36 reports; or any other reasonable provisions as established by rule and
37 regulation of uniform application adopted by the board.

38 (D) Any visually impaired person who is in training at and employed
39 by a sheltered workshop for the blind operated by the secretary for
40 children and families and who would otherwise be eligible for the long-
41 term disability benefit as described in this section shall not be eligible to
42 receive such benefit due to visual impairment as such impairment shall be
43 determined to be a preexisting condition.

1 (2) (A) In the event that a member becomes eligible for a long-term
2 disability benefit under the plan authorized by this section such member
3 shall be given participating service credit for the entire period of such
4 disability. Such member's final average salary shall be computed in
5 accordance with ~~subsection (17) of K.S.A. 74-4902(17)~~, and amendments
6 thereto, except that the years of participating service used in such
7 computation shall be the years of salaried participating service.

8 (B) In the event that a member eligible for a long-term disability
9 benefit under the plan authorized by this section shall be disabled for a
10 period of five years or more immediately preceding retirement, such
11 member's final average salary shall be adjusted upon retirement by the
12 actuarial salary assumption rates in existence during such period of
13 disability. ~~Effective July 1, 1993, such member's final average salary shall~~
14 ~~be adjusted upon retirement by 5% for each year of disability after July 1,~~
15 ~~1993, but before July 1, 1998.~~ Effective July 1, 1998, such member's final
16 average salary shall be adjusted upon retirement by an amount equal to the
17 lesser of: (i) The percentage increase in the consumer price index for all
18 urban consumers as published by the bureau of labor statistics of the
19 United States department of labor minus 1%; or (ii) four percent per
20 annum, measured from the member's last day on the payroll to the month
21 that is two months prior to the month of retirement, for each year of
22 disability after July 1, 1998.

23 (C) In the event that a member eligible for a long-term disability
24 benefit under the plan authorized by this section shall be disabled for a
25 period of five years or more immediately preceding death, such member's
26 current annual rate shall be adjusted by the actuarial salary assumption
27 rates in existence during such period of disability. ~~Effective July 1, 1993,~~
28 ~~such member's current annual rate shall be adjusted upon death by 5% for~~
29 ~~each year of disability after July 1, 1993, but before July 1, 1998.~~ Effective
30 July 1, 1998, such member's current annual rate shall be adjusted upon
31 death by an amount equal to the lesser of: (i) The percentage increase in
32 the consumer price index for all urban consumers published by the bureau
33 of labor statistics of the United States department of labor minus 1%; or
34 (ii) four percent per annum, measured from the member's last day on the
35 payroll to the month that is two months prior to the month of death, for
36 each year of disability after July 1, 1998.

37 (3) (A) To carry out the legislative intent to provide, within the funds
38 made available therefor, the broadest possible coverage for members who
39 are in active employment or involuntarily absent from such active
40 employment, the plan of death and long-term disability benefits shall be
41 subject to adjustment from time to time by the board within the limitations
42 of this section. The plan may include terms and provisions which are
43 consistent with the terms and provisions of group life and long-term

1 disability policies usually issued to those employers who employ a large
2 number of employees. The board shall have the authority to establish and
3 adjust from time to time the procedures for financing and administering
4 the plan of death and long-term disability benefits authorized by this
5 section. Either the insured death benefit or the insured disability benefit or
6 both such benefits may be financed directly by the system or by one or
7 more insurance companies authorized and licensed to transact group life
8 and group accident and health insurance in this state.

9 (B) The board may contract with one or more insurance companies,
10 which are authorized and licensed to transact group life and group accident
11 and health insurance in Kansas, to underwrite or to administer or to both
12 underwrite and administer either the insured death benefit or the long-term
13 disability benefit or both such benefits. Each such contract with an
14 insurance company under this subsection shall be entered into on the basis
15 of competitive bids solicited and administered by the board. Such
16 competitive bids shall be based on specifications prepared by the board.

17 (i) In the event the board purchases one or more policies of group
18 insurance from such company or companies to provide either the insured
19 death benefit or the long-term disability benefit or both such benefits, the
20 board shall have the authority to subsequently cancel one or more of such
21 policies and, notwithstanding any other provision of law, to release each
22 company which issued any such canceled policy from any liability for
23 future benefits under any such policy and to have the reserves established
24 by such company under any such canceled policy returned to the system
25 for deposit in the group insurance reserve of the fund.

26 (ii) In addition, the board shall have the authority to cancel any policy
27 or policies of group life and long-term disability insurance in existence on
28 the effective date of this act and, notwithstanding any other provision of
29 law, to release each company which issued any such canceled policy from
30 any liability for future benefits under any such policy and to have the
31 reserves established by such company under any such canceled policy
32 returned to the system for deposit in the group insurance reserve of the
33 fund. Notwithstanding any other provision of law, no premium tax shall be
34 due or payable by any such company or companies on any such policy or
35 policies purchased by the board nor shall any brokerage fees or
36 commissions be paid thereon.

37 (4) (A) There is hereby created in the state treasury the group
38 insurance reserve fund. Investment income of the fund shall be added or
39 credited to the fund as provided by law. The cost of the plan of death and
40 long-term disability benefits shall be paid from the group insurance
41 reserve fund, which shall be administered by the board. ~~For the period~~
42 ~~commencing July 1, 2013, and ending June 30, 2015, each participating~~
43 ~~employer shall appropriate and pay to the system in such manner as the~~

1 ~~board shall prescribe in addition to the employee and employer retirement~~
2 ~~contributions an amount equal to .85% of the amount of compensation on~~
3 ~~which the members' contributions to the Kansas public employees~~
4 ~~retirement system are based for deposit in the group insurance reserve~~
5 ~~fund. For the period commencing July 1, 2015, and all periods thereafter,~~
6 Each participating employer shall appropriate and pay to the system in
7 such manner as the board shall prescribe in addition to the employee and
8 employer retirement contributions an amount equal to 1.0% of the amount
9 of compensation on which the members' contributions to the Kansas public
10 employees retirement system are based for deposit in the group insurance
11 reserve fund. Notwithstanding the provisions of this subsection, no
12 participating employer *other than the state of Kansas* shall appropriate and
13 pay to the system any amount provided for by this subsection for deposit
14 in the group insurance reserve fund for the period commencing on April 1,
15 ~~2013~~ 2016, and ending on June 30, ~~2013~~ 2016. *Notwithstanding the*
16 *provisions of this subsection, the state of Kansas shall not appropriate and*
17 *pay to the system any amount provided for by this subsection for deposit in*
18 *the group insurance reserve fund for the period commencing on March 25,*
19 *2016, and ending on June 30, 2016. Notwithstanding the provisions of this*
20 *subsection, no participating employer shall appropriate and pay to the*
21 *system any amount provided for by this subsection for deposit in the group*
22 *insurance reserve fund for the period commencing on April 1, 2017, and*
23 *ending on June 30, 2017.*

24 (B) The director of the budget and the governor shall include in the
25 budget and in the budget request for appropriations for personal services a
26 sum to pay the state's contribution to the group insurance reserve fund as
27 provided by this section and shall present the same to the legislature for
28 allowances and appropriation.

29 (C) The provisions of ~~subsection (4)~~ of K.S.A. 74-4920(4), and
30 amendments thereto, shall apply for the purpose of providing the funds to
31 make the contributions to be deposited to the group insurance reserve
32 fund.

33 (D) Any dividend or retrospective rate credit allowed by an insurance
34 company or companies shall be credited to the group insurance reserve
35 fund and the board may take such amounts into consideration in
36 determining the amounts of the benefits under the plan authorized by this
37 section.

38 (5) The death benefit provided under the plan of death and long-term
39 disability benefits authorized by this section shall be known and referred to
40 as insured death benefit. The long-term disability benefit provided under
41 the plan of death and long-term disability benefits authorized by this
42 section shall be known and referred to as long-term disability benefit.

43 (6) The board is hereby authorized to establish an optional death

1 benefit plan for employees and spouses and dependents of employees.
2 Except as provided in subsection (7), such optional death benefit plan shall
3 be made available to all employees who are covered or may hereafter
4 become covered by the plan of death and long-term disability benefits
5 authorized by this section. The cost of the optional death benefit plan shall
6 be paid by the applicant either by means of a system of payroll deductions
7 or direct payment to the board. The board shall have the authority and
8 discretion to establish such terms, conditions, specifications and coverages
9 as it may deem to be in the best interest of the state of Kansas and its
10 employees which should include term death benefits for the person's
11 period of active state employment regardless of age, but in no case, shall
12 the maximum allowable coverage be less than \$200,000. The cost of the
13 optional death benefit plan shall not be established on such a basis as to
14 unreasonably discriminate against any particular age group. The board
15 shall have full administrative responsibility, discretion and authority to
16 establish and continue such optional death benefit plan and the director of
17 accounts and reports of the department of administration shall when
18 requested by the board and from funds appropriated or available for such
19 purpose establish a system to make periodic deductions from state payrolls
20 to cover the cost of the optional death benefit plan coverage under the
21 provisions of this subsection (6) and shall remit all deductions together
22 with appropriate accounting reports to the system. There is hereby created
23 in the state treasury the optional death benefit plan reserve fund.
24 Investment income of the fund shall be added or credited to the fund as
25 provided by law. All funds received by the board, whether in the form of
26 direct payments, payroll deductions or otherwise, shall be accounted for
27 separately from all other funds of the retirement system and shall be paid
28 into the optional death benefit plan reserve fund, from which the board is
29 authorized to make the appropriate payments and to pay the ongoing costs
30 of administration of such optional death benefit plan as may be incurred in
31 carrying out the provisions of this subsection (6).

32 (7) Any employer other than the state of Kansas which is currently a
33 participating employer of the Kansas public employees retirement system
34 or is in the process of affiliating with the Kansas public employees
35 retirement system may also elect to affiliate for the purposes of subsection
36 (6). All such employers shall make application for affiliation with such
37 system, to be effective on January 1 or July 1 next following application.

38 (8) For purposes of the death benefit provided under the plan of death
39 and long-term disability benefits authorized by this section and the
40 optional death benefit plan authorized by subsection (6), commencing on
41 the effective date of this act, in the case of medical or financial hardship of
42 the member as determined by the executive director, or otherwise
43 commencing January 1, 2005, the member may name a beneficiary or

1 beneficiaries other than the beneficiary or beneficiaries named by the
2 member to receive other benefits as provided by the provisions of K.S.A.
3 74-4901 et seq., and amendments thereto.

4 Sec. 3. K.S.A. 2015 Supp. 74-49,313 is hereby amended to read as
5 follows: 74-49,313. (a) Except as provided in subsection (e), a member
6 who has a nonforfeitable interest in the member's retirement annuity
7 account, at any time after termination from service and the attainment of
8 normal retirement age, shall receive an annuity based upon the balance in
9 such member's retirement annuity account, using mortality rates
10 established by the board by official action as of the member's annuity start
11 date and an interest rate equal to the actuarial assumed investment rate of
12 return established by the board minus 2%, as of the member's annuity start
13 date. The legislature may from time to time prospectively change the
14 interest rate and the board may from time to time prospectively change the
15 mortality rates, and the legislature expressly reserves such rights to do so.

16 (b) Except as provided in subsection (e), a member who has a vested
17 interest in the member's retirement annuity account, who terminates
18 covered employment, without forfeiting such member's account, with the
19 completion of at least 10 years of service, shall be eligible to receive, upon
20 attainment of age 55, an annuity based upon employer credits and interest
21 credits in such member's retirement annuity account, using mortality rates
22 established by the board by official action as of the member's annuity start
23 date and an interest rate established by the legislature as of the member's
24 annuity start date, and such interest rate shall ~~initially be 6% equal to the~~
25 *actuarial assumed investment rate of return established by the board*
26 *minus 2%, as of the member's annuity start date.* The legislature may from
27 time to time prospectively change the interest rate and the board may from
28 time to time prospectively change the mortality rates, and the legislature
29 expressly reserves such rights to do so.

30 (c) The form of benefit payable under subsections (a) and (b) shall be
31 a single life annuity with 10-year certain. The member may elect any
32 option described in K.S.A. 74-4918, and amendments thereto, except the
33 partial lump-sum option, subject to actuarial factors established by the
34 board from time to time. The benefit option selected may include a self-
35 funded cost-of-living adjustment feature, in which the account value is
36 converted to a benefit amount that increases by a fixed percentage over
37 time. One or more fixed percentages shall be established by the board,
38 which may be changed from time to time. In lieu of a part of an annuity,
39 for a member entitled to a benefit under subsection (a), the member may
40 elect to receive a lump-sum of such member's retirement annuity account
41 of any fixed dollar amount or percent, but in no event may the lump-sum
42 option elected under this section and the lump-sum option elected under
43 ~~subsection (a) of K.S.A. 2015 Supp. 74-49,311(a), and amendments~~

1 thereto, exceed 30% of the total value of such member's annuity savings
2 account and retirement annuity account.

3 (d) Except as provided in subsection (e), in the case of an active or
4 inactive member:

5 (1) Who is vested in the member's retirement annuity account;

6 (2) who has five or more years of service at death; and

7 (3) who dies before attaining normal retirement age, with such
8 member's spouse at time of death designated as such member's sole
9 primary beneficiary, the member's surviving spouse on and after the date
10 the member would have attained normal retirement age had such member
11 not died, shall receive an annuity based upon employer credits and interest
12 credits in the retirement annuity account, using factors established by the
13 board by official action as of the beneficiary's annuity start date. The form
14 of benefit shall be a single life annuity with 10-year certain.

15 (e) If a member's vested retirement annuity account is less than
16 \$1,000 upon separation from service, or the total of the member's vested
17 retirement annuity account and annuity savings account balance is less
18 than \$1,000, the account balance or balances shall be mandatorily
19 distributed to the member in accordance with section 401(a)(31)(B) of the
20 federal internal revenue code. If the member does not elect to have such
21 distribution paid directly to an eligible retirement plan specified by the
22 participant in a direct rollover or to receive the distribution directly, then
23 the board will pay the distribution to the member directly.

24 **Sec. 4. K.S.A. 2015 Supp. 74-49b10 is hereby amended to read as**
25 **follows: 74-49b10. (a) The board is authorized to enter into a**
26 **voluntary participation agreement with any employee of the state**
27 **whereby a portion of the employee's salary or compensation from the**
28 **state shall be deferred and deducted each payroll period in accordance**
29 **with subsection (b) and the Kansas public employees deferred**
30 **compensation plan. Such participation agreement may require each**
31 **participant to pay a service charge to defray all or part of any**
32 **significant costs incurred and to be recovered by the state pursuant to**
33 **subsection ~~(e)~~ of K.S.A. 2015 Supp. 74-49b09(c), and amendments**
34 **thereto, as a result of the administration of this act.**

35 (b) Pursuant to this act and such participation agreements, the
36 director of accounts and reports, as a part of the system of regular
37 payroll deductions and using funds either appropriated or otherwise
38 available for such purpose, shall establish a system for the following
39 purposes: (1) To defer each payroll period the amounts authorized in
40 such participation agreements from the salary or compensation of
41 each employee who has entered into a participation agreement; and

42 (2) to remit these moneys in accordance with the Kansas public
43 employees deferred compensation plan.

1 (c) (1) Pursuant to section 401(a) of the federal internal revenue
2 code, the board may establish a qualified plan under which the state
3 may contribute a specified amount, subject to appropriations, to the
4 deferred compensation plan for state employees who have entered into
5 a voluntary participation agreement with the board under this section.

6 (2) Any state agency that has on its payroll persons participating
7 in any qualified plan established under subsection (c)(1), shall pay
8 from any moneys available to the state agency for such purpose an
9 amount specified in the qualified plan, subject to appropriations for
10 that purpose.

11 (d) The Kansas public employees deferred compensation plan
12 shall exist and be in addition to, and shall not be a part of any
13 retirement or pension system for employees. The state shall not be
14 responsible for any loss incurred by any participant under the Kansas
15 public employees deferred compensation plan established and
16 approved pursuant to this act.

17 (e) *Notwithstanding the provisions of K.S.A. 74-4909(10), and*
18 *amendments thereto, for those employees who entered into a voluntary*
19 *participation agreement pursuant to the provisions of this section or*
20 *K.S.A. 2015 Supp. 74-49b15, and amendments thereto, and who are also*
21 *members of a retirement system administered by the board, the board may*
22 *share information from the participants' retirement or pension system*
23 *accounts with a contracting party pursuant to the provisions of K.S.A.*
24 *2015 Supp. 74-49b09, and amendments thereto, for the purpose of*
25 *facilitating the participants' comprehensive retirement income planning.*

26 (f) **Any amount of the employee's salary or compensation that is**
27 **deferred on a pre-tax basis under ~~such an~~ authorized participation**
28 **agreement shall continue to be included as regular compensation for**
29 **all purposes of computing retirement and pension benefits earned by**
30 **any such employee, ~~but~~ Any sum so deferred or deducted shall not be**
31 **subject to any state or local income taxes for the year in which such**
32 **sum is earned ~~contributed~~ but shall be subject to applicable state and**
33 **local income taxes for the year in which ~~such sum is~~ distributions are**
34 **received by the employee. Any amounts contributed to a Roth 457 plan**
35 **under this act shall be subject to state withholding and income taxes for**
36 **the year in which such sum is contributed to the plan, but shall not be**
37 **subject to applicable state income taxes for the year in which distributions**
38 **are received by the employee, unless the provisions of article 32 of chapter**
39 **79 of the Kansas Statutes Annotated, and amendments thereto, provide**
40 **otherwise.**

41 ~~(f)~~(g) **A deferred compensation clearing fund shall be established**
42 **in the state treasury in which all compensation deferred, deducted or**
43 **contributed in accordance with this act and as provided for in each**

1 participation agreement shall be temporarily placed.

2 Sec. 5. K.S.A. 2015 Supp. 74-49b14 is hereby amended to read as
3 follows: 74-49b14. (a) The board may enter into an agreement with
4 any local government of the state of Kansas making the services under
5 contracts entered into by the board under ~~subsection (b)~~ of K.S.A. 2015
6 Supp. 74-49b09(b), and amendments thereto, available to the local
7 government, subject to the terms and conditions of those contracts
8 and the agreement entered into between the board and the local
9 governmental unit, if the local governmental unit meets all of the
10 following conditions: (1) The local governmental unit meets the
11 definition of eligible employer as defined in K.S.A. 74-4902, and
12 amendments thereto;

13 (2) the governing body of the local governmental unit has enacted
14 an ordinance or resolution adopting the terms of the deferred
15 compensation plan for state employees established under K.S.A. 2015
16 Supp. 74-49b09, and amendments thereto, as the local government
17 deferred compensation plan for the employees of that local
18 governmental unit; and

19 (3) the governing body certified that the local governmental unit
20 will make such local government deferred compensation plan
21 available to its employees and will administer it in accordance with the
22 provisions of this act, section 457 of the federal internal revenue code
23 of 1986, and amendments thereto, and the deferred compensation plan
24 established by the board under K.S.A. 2015 Supp. 74-49b09, and
25 amendments thereto.

26 (b) *Pursuant to section 401(a) of the federal internal revenue code,*
27 *and subject to the provisions of K.S.A. 2015 Supp. 74-49b10, and*
28 *amendments thereto, the board may establish a qualified plan under which*
29 *local governmental units participating in the deferred compensation plan*
30 *may contribute a specified amount to such plan.*

31 (c) Except for such agreement, the board or any other state
32 officer or employee shall not be involved nor incur any expense in the
33 administration of a plan adopted by a local governmental unit under
34 subsection (a) or (b), except to the extent that such costs are
35 reimbursed under one or both of the methods identified in ~~subsection~~
36 ~~(e)~~ of K.S.A. 2015 Supp. 74-49b09(c), and amendments thereto.

37 ~~(e)-(d)~~ The state shall not be responsible for any loss incurred by
38 or obligation of any local governmental unit participant under a local
39 government deferred compensation plan established as provided
40 pursuant to subsection (a) or (b).

41 Sec. 6. K.S.A. 2015 Supp. 74-49b15 is hereby amended to read as
42 follows: 74-49b15. (a) Subject to the agreement entered into under the
43 provisions of K.S.A. 2015 Supp. 74-49b14, and amendments thereto,

1 the governing body of a local government unit may establish such
2 conditions as the governing body deems advisable to govern the
3 voluntary participation of its employees in the local government
4 deferred compensation plan established by the local governmental
5 unit under the provisions of K.S.A. 2015 Supp. 74-49b14, and
6 amendments thereto.

7 **(b) Any amount of an employee's salary or compensation that is**
8 **deferred** *on a pre-tax basis under such plan an authorized participation*
9 *agreement shall continue to be included as regular compensation for all*
10 *purposes of computing retirement and pension benefits earned by*
11 *such employee, but. Any sum so deferred or deducted shall not be*
12 *subject to any state or local income tax for the year in which such sum*
13 *is earned contributed but shall be subject to applicable state and local*
14 *income taxes for the year in which such sum is distributions are*
15 *received by the employee. Any amounts contributed to a Roth 457 plan*
16 *under this act shall be subject to state withholding and income taxes for*
17 *the year in which such sum is contributed to the plan, but shall not be*
18 *subject to applicable state income taxes for the year in which distributions*
19 *are received by the employee, unless the provisions of article 32 of chapter*
20 *79 of the Kansas Statutes Annotated, and amendments thereto, provide*
21 *otherwise.*

22 Sec.-4- 7. K.S.A. 74-4916 and K.S.A. 2015 Supp. 74-4927-~~and~~, 74-
23 49,313, ~~74-49b10, 74-49b14 and 74-49b15~~ are hereby repealed.

24 Sec.-5- 8. This act shall take effect and be in force from and after its
25 publication in the statute book.