

STATE BOARDS, COMMISSIONS AND AUTHORITIES

74-133. Same; books, records and property of commission on fire protection personnel transferred to state fire marshal. On July 1, 1988, all books, records and other property of the governor's commission on fire protection personnel standards and education abolished by K.S.A. 74-131 are hereby transferred to the custody of the office of the state fire marshal.

History: L. 1988, ch. 301, § 3; May 26.

74-4919o. Purchase of participating service credit for certain members of local police and fire pension plan.

(1) Notwithstanding the provisions of K.S.A. 74-4913 and amendments thereto and except as provided in subsection (3), any member of the Kansas public employees retirement system who was previously employed by an employer who maintained its own police and fire pension plan as a city of the first or second class and who withdrew their accumulated contributions may purchase, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, participating service credit for periods of such service prior to retirement. Such member may purchase such service credit by submitting proof of such service acceptable to the board of trustees and electing in writing to have employee contributions deducted as provided in K.S.A. 74-4919 and amendments thereto from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919 and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all of the full quarters of such service have been purchased.

(2) Any member of the Kansas public employees retirement system who has not retired may purchase, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, participating service credit for such service as described in this section with a participating employer by making a single lump-sum payment in lieu of employee contributions as provided in this section. The lump-sum payment shall be in an amount determined by the actuary using (a) the member's then current annual rate of compensation, or if not actively employed, the member's annual rate of compensation when last participating, (b) the actuarial assumptions and tables currently in use by the system and (c) the member's attained age.

(3) No member may purchase such participating service credit for any service that is subject to a retirement under any other pension plan authorized pursuant to the laws of the state of Kansas.

History: L.1995, ch. 267, § 38; L.1998, ch.64, § 50; July 1.

74-4951. Purpose of act. The purpose of this act is to provide an orderly means whereby police and firemen employed by participating employers and who have attained retirement age or who have become disabled as herein set forth may be retired from active service without prejudice and without inflicting a hardship on the employees retired and to enable such employees to accumulate reserves for themselves and their dependents to provide for old age, disability, death and termination of employment, and for the purpose of effecting economy and efficiency in the administration of governmental affairs.

History: L. 1965, ch. 447, § 1; June 30.

AGO: 94-59, 91-76, 89-143

74-4952. Definitions. As used in K.S.A. 74-4951 et seq. and amendments thereto:

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

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

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

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

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

(6) "Final average salary" means:

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

(b) for members who are first hired as an employee, as defined in subsection (4), on and after July 1, 1993, the average highest annual salary, as defined in subsection (34) of K.S.A. 74-4902 and amendments thereto, paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual salary, as defined in subsection (34) of K.S.A. 74-4902 and amendments thereto, paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final aver-

age salary shall be computed by multiplying the member's highest monthly salary received in that year by 12;

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

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

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

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

(8) "Normal retirement date" means the date on or after which a member may retire with eligibility for retirement benefits for age and service as provided in subsections (1) and (3) of K.S.A. 74-4957 and amendments thereto;

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

(10) "Service-connected" means with regard to a death or any physical or mental disability, any such death or disability resulting from external force, violence or disease occasioned by an act of duty as a policeman or fireman and, for any member after five years of credited service, there shall be a rebuttable presumption, that any death or disability resulting from a heart disease or disease of the lung or respiratory tract or cancer as provided in this subsection, except that in the event that the member ceases to be a contributing member by reason of a service-connected

disability for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from a heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection shall not apply until such member has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection was in fact occasioned by an act of duty as a policeman or fireman. If the retirement system receives evidence to the contrary of such presumption, the burden of proof shall be on the member or other party to present evidence that such death or disability was service-connected. The provisions of this section relating to the presumption that the death or disability resulting from cancer is service-connected shall only apply if the condition that caused the death or disability is a type of cancer which may, in general, result from exposure to heat, radiation or a known carcinogen.

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

(12) Prior to July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department and engaged in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies; who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and is certified pursuant to the provisions of K.S.A. 74-5607a and amendments thereto; and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. Notwithstanding any other provisions of this subsection, "police," "policeman" or "policemen" shall include a city or county correctional officer

who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such commencing on July 1, 1998, and ending on June 30, 1999.

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

History: L. 1965, ch. 447, § 2; L. 1967, ch. 431, § 1; L. 1982, ch. 319, § 33; L. 1984, ch. 289, § 13; L. 1993, ch. 289, § 5; L. 1994, ch. 347, § 2; L. 1995, ch. 267, § 20; L. 1998, ch. 64, § 65; L. 1998, ch. 201, § 33; July 1.

AGO: 97-98, 94-97, 85-40

74-4953. Creation of Kansas police and firemen's retirement system as division of Kansas public employees retirement system; administration. (1) There is hereby created the "Kansas police and firemen's retirement system" which is a division of the Kansas public employees retirement system created by K.S.A. 74-4903 and amendments thereto, and which is subject to the provisions of K.S.A. 74-4901 *et seq.* and amendments thereto.

(2) The Kansas police and fireman's retirement system shall be administered by the board in the manner required to satisfy the applicable qualification requirements for governmental plans as specified in the federal internal revenue code, and as appropriate for a governmental plan. The provisions of K.S.A. 74-49,123 and amendments thereto shall apply to the administration of the system.

History: L. 1965, ch. 447, § 3; L. 1967, ch. 431, § 2; L. 1998, ch. 64, § 66; July 1.

74-4954. Eligible employers; application to affiliate; resolution; employees covered; affiliation of consolidated fire district. (1) Any eligible employer may join the system on January 1 of any year on or after January 1, 1967. Application for affiliation shall be by resolution approved by the governing body of the eligible employer and shall be submitted to the board of trustees in such form as the board shall determine, not later than 30 days prior to the date participation is to begin, except as such time limit is extended by the board. Such application may be for participation with regard to: (a) All policemen or firemen, or both, who are employed by the participating employer on or after the employer's entry date; (b) all policemen or firemen, or both, employed by the participating employer immediately prior to and on the employer's entry date and all retired members of all local police or fire pension plans which are maintained and funded by the employer, as those terms are defined in K.S.A. 12-5001 and amendments thereto; or (c) all individuals which are referred to in subsections (a) and (b). The application shall include a statement of the group or groups to be covered. Any such application, upon approval by the board of trustees, shall be irrevocable, except that extension of coverage to any of the above named employee groups not covered in the em-

ployer's initial application may be obtained by supplemental application to the board, in such form as may be provided by the board, with such coverage to be effective on January 1 of any succeeding year.

(2) Any eligible employer whose police or firemen, or both, are covered by the Kansas public employees retirement system may provide for the transfer of such police or firemen, or both, to the Kansas police and firemen's retirement system in the same manner as provided in subsection (1). Such transferred employees shall receive credit only for prior service as police or firemen, or both, except as otherwise provided in this act. Upon notice of such transfer authorization, the board of trustees shall transfer to the credit of the employee under the Kansas police and firemen's retirement system such amounts as may be presently credited to the employee's account for contribution under the Kansas public employees retirement system and an equivalent amount to the employer's account for contributions for such employee.

(3) Any eligible employer, prior to the filing of an application for coverage under this system, may request the board of trustees to submit a proposal for such coverage including an estimate of the employer's contribution rate necessary to comply with the actuarial standard of this system. Such eligible employer shall furnish all necessary data from which such proposal may be prepared, and shall pay all costs involved.

(4) Any fire district which is a participating employer and has consolidated with another fire district under the provisions of K.S.A. 19-3601 *et seq.* and amendments thereto, may affiliate for prior service coverage for the employees of the fire district consolidated with the participating employer. The participating employer may cause the value of any defined benefit pension plan or policy maintained by the district consolidated with the participating employer to be transferred to the Kansas police and firemen's retirement system, and any such amounts transferred shall be applied to the cost of affiliating for prior service coverage for the employees of the fire district consolidated with the participating employer.

History: L. 1965, ch. 447, § 4; L. 1967, ch. 431, § 3; L. 1976, ch. 348, § 8; L. 1988, ch. 302, § 15; L. 1991, ch. 237, § 12; July 1.

AGO: 97-98

74-4954a. Emergency medical service technicians; defined as fireman; affiliation by county or city. (a) As used in this section "emergency medical service technician" means any attendant as defined by subsection (d) of K.S.A. 65-6112 and amendments thereto who is certified pursuant to K.S.A. 65-6129 and amendments thereto.

(b) For the purposes of any affiliation under subsection (c), whenever the word "fireman" is used in article 49 of chapter 74 and amendments thereto, it shall be construed to include "emergency medical service technician" as defined by subsection (a).

(c) Any county or city providing emergency medical service as a third function apart from police and

fire, as an eligible employer under the Kansas police and firemen's retirement system, may make application or supplemental application to affiliate with the Kansas police and firemen's retirement system in accordance with and subject to K.S.A. 74-4954 and amendments thereto with regard to coverage of emergency medical service technicians under that system.

History: L.1984, ch.274, § 1; L.1995, ch. 267, § 21; July 1.

74-4954b. Option of certain employers to affiliate with Kansas police and firemen's retirement system; entry date of employees; definition of credited service; application of Kansas public employees retirement system act. (1) On and after July 1, 1985, any city, county, township or other political subdivision of the state employing one or more firemen or policemen, as defined by subsections (11) and (12) of K.S.A. 74-4952 and amendments thereto, or emergency medical technician, as defined by subsection (f) of K.S.A. 65-4314 and amendments thereto, which is currently a participating employer in the Kansas public employees retirement system, may affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 *et seq.* and amendments thereto. All such agencies shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954 and amendments thereto, to be effective on January 1 next following application.

(2) Each participating employer affiliating pursuant to the provisions of subsection (1) shall appropriate and pay to the system a sum sufficient to satisfy the obligations hereunder as certified by the board.

(3) Except as otherwise required by the provisions of USERRA, any policeman or fireman who shall be appointed on or after the entry date of such agency shall become a member of the Kansas police and firemen's retirement system upon the first day of such employment.

(4) For the purposes of determining and computing retirement benefits and death and disability benefits computed upon the basis of credited service of policemen or firemen appointed under the provisions of this act, the term "credited service," as used in K.S.A. 74-4951 *et seq.* and amendments thereto, means and includes only participating service with the participating employer, except as hereinafter provided:

(a) Credited service of any employee with any participating employer prior to becoming a member under these provisions shall be considered and included in determining if the death or disability of such employee was service connected under the provisions of subsection (10) of K.S.A. 74-4952 and amendments thereto and for the purposes of determining the eligibility of such officer for non-service-connected death and disability benefits under the provisions of subsection (2) of K.S.A. 74-4959 and amendments thereto and subsection (2) of K.S.A. 74-4960 and amendments thereto.

(b) Notwithstanding the provisions of K.S.A. 74-4957 and 74-4963 and amendments thereto, all credited service of any employee with any participating employer

prior to becoming a member under these provisions shall be included and counted together with credited participating service for the meeting of requirements of years of service fixed under the provisions of such sections.

Any rights and benefits accruing to any employee of an agency prior to the effective date of affiliation shall be determined and computed pursuant to the provisions of K.S.A. 74-4901 *et seq.* and amendments thereto. Any member who becomes a member pursuant to this section, who has a vested retirement benefit pursuant to K.S.A. 74-4917 and amendments thereto and who terminates employment prior to attaining a vested benefit pursuant to K.S.A. 74-4963 and amendments thereto may have such service credited for purposes of determining and computing retirement benefits pursuant to K.S.A. 74-4901 *et seq.* and amendments thereto.

History: L.1985, ch.254, § 29; L.1998, ch. 64, § 67; July 1.

74-4955. Eligible employees. (1) Any policeman or fireman of a participating employer shall become a member of the system upon the entry date of his or her employer, except that any policeman or fireman of a participating employer who is covered by the pension systems established under the provisions of K.S.A. 13-14a01 to 13-14a14 and amendments thereto, or K.S.A. 14-10a01 to 14-10a15 and amendments thereto, shall become a member of the system herein established only by filing with the board, on or before his or her employer's entry date, a written election to become a member of such system. Failure to file such written election shall be presumed to be an election not to become a member. Such election, whether to become a member or not to become a member, shall be irrevocable.

(2) Any person who shall be employed as a policeman or fireman by a participating employer who is participating in the system with respect to such group on or after the entry date shall become a member of the system upon the first day of such employment.

(3) Any policeman or fireman of a participating employer who is on an authorized leave of absence on the employer's entry date shall become a member of the system on the first day of his or her return to active employment and the employer's payroll, except that if such employee is covered by the pension systems established under the provisions of K.S.A. 13-14a01 to 13-14a14 and amendments thereto or K.S.A. 14-10a01 to 14-10a15 and amendments thereto, he or she shall become a member of the system herein established only by filing with the board within ten (10) days after returning to active employment, a written election to become a member of such system. Failure to file such written election shall be presumed to be an election not to become a member. Such election, whether to become a member or not to become a member, shall be irrevocable.

(4) Any person who holds the elective office of sheriff of a participating employer which is participating in the system with respect to such group may become a member by filing with the board a written election to become a member on or before taking office or the entry date of his or her employer. Failure to file such written election shall be pre-

sumed to be an election not to become a member. Such election, whether to become a member or not to become a member, shall be irrevocable. Any person who becomes a member by virtue of this subsection shall receive prior service credit only if such person becomes a member when first eligible to do so.

History: L. 1965, ch. 447, § 5; L. 1967, ch. 431, § 4; L. 1974, ch. 390, § 18; L. 1979, ch. 250, § 2; July 1.

AGO: 85-40

74-4955a. Eligible employees for and employees required to be covered by the provisions of 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a. (1) Except as provided in subsection (4), each member of the system who was appointed or employed prior to July 1, 1989, may elect to be covered by the provisions of K.S.A. 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a, and amendments thereto, on the first day of the first payroll period of such member coinciding with or following the receipt of such election in the office of the retirement system, only by filing with the board of trustees of the system prior to January 1, 1990, a written election to be covered by such provisions. Failure to file such written election shall be presumed to be an election not to be covered by such provisions. Such election, whether to become a member or not to become a member, shall be irrevocable.

(2) Each person appointed or employed on or after July 1, 1989, shall be covered by the provisions of K.S.A. 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a, and amendments thereto.

(3) The provisions of this section shall be effective on and after July 1, 1989.

(4) Each member of the system who was appointed or employed prior to July 1, 1989, and who did not elect to be covered by the provisions specified in subsection (1) prior to January 1, 1990, may elect to be covered by such provisions by filing a written election as provided in subsection (1) during the period commencing July 1, 1990, and ending September 30, 1990.

(5) Except as provided in this subsection, each member of the system who was appointed or employed prior to July 1, 1989, and who did not elect to be covered by the provisions specified in subsection (1) as provided in this section, may elect to be covered by such provisions by filing a written election as provided in subsection (1). The provisions of this subsection shall take effect on and after the date the system receives a private letter ruling from the internal revenue service that the provisions of this subsection do not contravene federal law. The period of such election as provided by this subsection shall commence on the date of receipt by the system of such private letter ruling, and shall end 90 days thereafter. Any member who elects as provided by this subsection shall pay the cost of such election by means of a single lump-sum payment in an amount equal to the then present value of the benefits being purchased as determined by the actuary using the member's attained age, annual compensation at the time of the pur-

chase and the actuarial assumptions and tables then in use by the system.

History: L. 1989, ch. 232, § 25; L. 1990, ch. 282, § 14; L. 1998, ch. 201, § 34; July 1.

74-4956. Credited service; prior service credit; additional prior service credit with a participating employer other than entry date employer; participating service credit. (1) Prior service shall be credited as follows:

(a) Each member shall receive:

(i) Full credit for all employment, whether or not continuous, as either a policeman or fireman prior to the entry date with such member's employer who is such member's employer on the entry date;

(ii) full credit for all employment, whether or not continuous, as either a police or fireman prior to the entry date of such police or firemen's employer, with a participating employer, if such member has at least 20 years of credited service; and

(iii) for all continuous employment with the same employer other than either as policeman or fireman, immediately preceding such service as a policeman or fireman, one month of credit for each two months of service. Any member or retirant who has been credited with prior service as provided in this section may apply to the board on such forms as the board prescribes for prior service credit with a participating employer under the Kansas police and firemen's retirement system other than such member's entry date employer. Each member shall receive full credit for all employment as either a policeman or fireman with such other participating employers and shall receive one month of credit for each two months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman. Upon receipt of written verification of such employment from such other participating employer, the board may grant such additional prior service credit. With respect to a retirant, the board shall adjust the amount of the retirement benefit accordingly commencing with the next monthly benefit payment due following receipt of written verification. In the case of any person other than a retirant receiving a retirement benefit, such person may make application for an adjustment in the benefit amount in the same manner as a member or retirant, and in such case the adjustment in the benefit amount shall be determined by the board upon the advice of the actuary, and shall commence with the next monthly benefit payment due following receipt of written verification, except that no additional prior service credit shall be granted for any service with another participating employer for which benefits are being received or will be received. A retirant or any other person receiving a retirement benefit shall not be entitled to any retroactive adjustment in the amount of retirement benefit as a result of the board granting such additional prior service credit.

If a member was employed as a fireman, other than as a volunteer fireman, by a township which is annexed by a participating employer the member's retirement benefits and death and disability benefits shall be computed

on the basis of credited service. Continuous service as a fireman with a township prior to annexation by a member, who became a member immediately following the annexation, shall be considered credited service.

No such service shall be considered credited service for the purpose of computing years of service if such fireman is receiving or will become eligible to receive benefits as a result of such service with the township.

(b) Leaves of absence and military service shall not be counted as breaks in continuous employment; however, military service which is preceded within 30 days and followed by employment with a participating employer shall be credited, except that after July 1, 1974, not more than five years credit for military service shall be granted hereunder to the extent required by the provisions of USERRA, but leaves of absence shall not be credited.

(2) Participating service shall be credited as follows: (a) A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the board. No more than one calendar quarter of participating service shall be credited for employment within any one calendar quarter.

(b) Leaves of absence shall not be counted as a termination of employment provided the member leaves such member's accumulated contributions on deposit with the system and returns to employment with the employer granting such leave; however, the period of leave of absence shall not be credited service.

(c) To the extent required under the provisions of USERRA, military service shall not count as a break in continuous employment.

(d) Termination of employment with a participating employer followed by employment with the same or another participating employer within two years shall not constitute a termination of membership provided the member leaves such member's accumulated contributions on deposit with the system; however, the period while not employed shall not be credited.

(3) In determining the number of years of credited service for calculation of retirement benefits a fractional year of six months or more of credited service shall be considered as one year and a fractional year of less than six months of credited service shall be disregarded.

History: L. 1965, ch. 447, § 6; L. 1967, ch. 431, § 5; L. 1968, ch. 71, § 1; L. 1974, ch. 342, § 1; L. 1982, ch. 319, § 34; L. 1989, ch. 232, § 16; L. 1994, ch. 293, § 20; L. 1998, ch. 64, § 68; L. 1998, ch. 201, § 35; July 1.

74-4957. Normal retirement date; early retirement; eligibility; employment after retirement with previous employer. (1) The normal retirement date for a member of the system who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 55 and the completion of 20 years of credited service.

Any member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) *Early retirement.* Any member who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section and K.S.A. 74-4955a, 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a and amendments thereto, the normal retirement date for any member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive, or 14-10a01 to 14-10a15, inclusive, and amendments thereto, shall be the first day of the month coinciding with or following the attainment of age 50 and the completion of 25 years of credited service.

(4) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(5) If a retirant who retired on or after July 1, 1994, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act.

History: L. 1965, ch. 447, § 7; L. 1967, ch. 431, § 6; L. 1973, ch. 327, § 1; L. 1981, ch. 311, § 3; L. 1987, ch. 299, § 27; L. 1989, ch. 232, § 17; L. 1994, ch. 293, § 21; L. 1995, ch. 267, § 22; L. 1998, ch. 201, § 36; L. 2001, ch. 209, § 29; May 31.

AGO: 96-29, 95-73

74-4957a. Normal retirement date for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; early retirement; eligibil-

ity; employment after retirement with previous employer. (1) The normal retirement date for a member of the system who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a and amendments thereto to be covered by the provisions of this act shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service. Any such member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(4) If a retirant who retired on or after July 1, 1996, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act.

(5) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

History: L. 1989, ch. 232, § 26; L. 1996, ch. 266, § 14; L. 1998, ch. 201, § 37; L. 2001, ch. 209, § 30; May 31.

AGO: 96-29

74-4958. Retirement benefits; early retirement benefit reduction; death of retirant, lump-sum and annual

spouse's benefit; refund of contributions to beneficiary.

(1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service except that in no case shall such retirement benefit exceed 80% of such member's final average salary.

(2) Any member who is appointed or employed prior to July 1, 1989, who does not make an election pursuant to K.S.A. 74-4955a and amendments thereto and who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of .4% multiplied by the number of months difference, to the nearest whole month, between the member's attained age at the time of retirement and age 55.

(3) Upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto, or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, and who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, a lump-sum benefit equal to 1/2 the member's final average salary at the time of the member's retirement; and (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the last day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age

of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the qualifications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

History: L. 1965, ch. 447, § 8; L. 1967, ch. 431, § 7; L. 1979, ch. 251, § 2; L. 1980, ch. 238, § 5; L. 1982, ch. 319, § 35; L. 1985, ch. 254, § 19; L. 1988, ch. 302, § 35; L. 1989, ch. 232, § 18; L. 1992, ch. 321, § 11; L. 1993, ch. 227, § 35; L. 1998, ch. 64, § 69; L. 2000, ch. 152, § 18; L. 2001, ch. 209, § 31; May 31.

74-4958a. Retirement benefits for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; early retirement benefit reduction; death of retirant, lump-sum and annual spouse's benefit; refund of contributions to beneficiary. (1) Any member who retires on or after July 1, 1993, shall be entitled to receive an age and service retirement benefit equal to 2.5% of such member's final average salary multiplied by the number of years of credited service except that in no case shall such retirement benefit exceed 80% of such member's final average salary.

(2) Any member who retires before such member's normal retirement date shall receive an early retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date reduced by an amount equal to the product of (A) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (B) the product of .4% multiplied by the number of months difference, to the nearest whole month, between the member's attained age at the time of retirement and age 55.

(3) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death after retirement of a member who was covered, up to the entry date of the member's employer, by a pension system under the provisions of K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto, or K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto, or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, and who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, the member's spouse, if such spouse was the member's lawfully wedded spouse for a period of not less than one year at the time of the member's retirement or if such spouse had been the member's lawfully wedded spouse for at least three years after the time of the member's retirement, shall receive: (A) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, a lump-sum benefit equal to 1/2 the member's final average salary at the time of the member's retirement; and (B) an annual spouse's benefit equal to 75% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto. No person shall be entitled to receive more than one benefit under the provisions of this subsection. Any person who otherwise meets the quali-

fications to receive more than one benefit under this subsection shall elect the benefit such person shall receive.

(4) Upon the death after retirement of a member who had not elected to retire under one of the options provided under K.S.A. 74-4964 and amendments thereto, such member's beneficiary shall receive an amount equal to the excess, if any, of such member's accumulated contributions over the sum of all retirement benefit payments made.

(5) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

6) The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

History: L. 1989, ch. 232, § 27; L. 1992, ch. 321, § 12; L. 1993, ch. 227, § 36; L. 1998, ch. 64, § 70; L. 2000, ch. 152, § 19; L. 2001, ch. 209, § 32; May 31.

74-4959. Death benefits. (1) Upon the death from service-connected causes as defined in this act, of an active contributing member prior to retirement, the following benefits shall be payable if a report of the event, in a form acceptable to the board, is filed in the office of the executive director of the board within 200 days after the date of the act of duty causing such death and an application for such benefits, in such form and manner as prescribed by the board, is filed in the office of the executive director of the board within two years of the date of death, but the board may waive such time limits for a reasonable period if in the judgment of the board the failure to meet these limits was due to lack of knowledge or incapacity:

(a) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual spouse's benefit equal to 50% of the member's final average salary, which shall accrue from the first day of the month coinciding with or following the member's death and shall end on the first day of the month in which the spouse's death occurs. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act.

(b) Subject to the provisions of K.S.A. 74-49,123 and amendments thereto, to the member's children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto an annual children's benefit equal to 10% of the member's final average salary for each such child, which shall accrue from the first day of the month coinciding with or following the member's death

and shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, except that if there is no eligible spouse, or if upon the death of the spouse there remain one or more children under the age of 18 years or under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the annual spouse's benefit shall be paid in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(c) In no case shall benefits payable under the provisions of paragraphs (a) and (b) of this subsection (1) exceed 75% of the member's final average salary.

(2) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death from causes not service-connected of an active contributing member prior to retirement, the member's spouse, if lawfully wedded to the member at the time of the member's death, shall receive immediately a lump-sum benefit equal to 100% of the member's final average salary and shall be entitled to receive an annual death benefit equal to the member's retirement benefit calculated as if the member had retired on the member's normal retirement date, but based upon the member's final average salary and years of credited service on the date of death but not to exceed the amount of the annual spouse's benefit provided in paragraph (a) of subsection (1). An application for such benefits in such form and manner as prescribed by the board must be filed in the office of the executive director of the board within two years of the date of death, but the board may waive such time limit for a reasonable period if in the judgment of the board the failure to meet this limit was due to the lack of knowledge or incapacity. On and after July 1, 1993, the annual spouse's benefit under this subsection (2) shall accrue from the first day of the month coinciding with or following the member's death and shall continue until the spouse's death. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage

but before the effective date of this act. If there is no eligible spouse or if after the death of the spouse there remain one or more children of the member under the age of 18 years or one or more children of the member under the age of 23 years, if such children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(3) Upon the death of a member prior to retirement, if no benefits are payable under the provisions of subsection (1) or (2), the sum of the following shall be paid to the member's beneficiary: (a) The member's accumulated contributions; and (b) a lump sum death benefit equal to 100% of the member's current annual salary reduced by the sum of the member's accumulated contributions paid as provided by this section.

(4) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor as provided in subsection (7) of K.S.A. 74-4902 and amendments thereto.

History: L. 1965, ch. 447, § 9; L. 1967, ch. 431, § 8; L. 1982, ch. 319, § 36; L. 1986, ch. 294, § 12; L. 1987, ch. 299, § 28; L. 1989, ch. 232, § 19; L. 1992, ch. 321, § 13; L. 1993, ch. 227, § 37; L. 1998, ch. 64, § 71; L. 2000, ch. 152, § 20; L. 2001, ch. 209, § 33; May 31.

AGO: 92-128

74-4960. Disability benefits; procedures and reports. (1)

If any active contributing member becomes totally and permanently disabled due to service-connected causes as defined in subsection (10) of K.S.A. 74-4952 and amendments thereto, such member shall be retired and the following benefits shall become payable and shall continue until the member's death or until the member recovers from the disability if: A report of the event in a form acceptable to the board is filed in the office of the executive director of the board within 220 days after the date of the event or act of duty causing such disability; and an application for such benefit, in such form and manner as the board prescribes, is filed by the member or the member's authorized representative in the office of the executive director of the board within two years of the date of disability, except the board may waive such two-year requirement if the board is presented with evidence that clearly warrants such a waiver:

(a) On and after July 1, 1993, the member shall receive a retirement benefit equal to 50% of the member's final average salary or, if the member has no dependents, as defined in subsection (1)(b), the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater. Such benefit shall accrue from the day upon which the member ceases to draw compensation.

(b) Except as otherwise provided by this subsection, each of the member's children under the age of 18 years or each of the member's children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto shall receive an annual benefit equal to 10% of the member's final average salary. Such benefit shall accrue from the day upon which the member ceases to draw compensation and shall end on the last day of the month in which each such child or children shall attain the age of 18 years or die, whichever occurs earlier or in which such children attain the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. For a member who becomes totally and permanently disabled as provided in this section on and after July 1, 2001, only the member's children who were born, conceived or adopted prior to the commencement of the member's disability are entitled to the annual benefit as provided in this subsection.

(c) In no case shall the total of the benefits payable under paragraphs (a) and (b) of this subsection (1) be in excess of 75% of the member's final average salary.

(d) In the event a member who is retired under subsection (1) dies within two years after the date of such retirement and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto.

(e) In the event a member who is retired under subsection (1) dies more than two years after the date of such retirement, and the proximate cause of such death is the service-connected cause from which the disability resulted and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto. The provisions of this paragraph (e) of this subsection (1) shall apply in all cases of such members who die after June 30, 1978.

(f) In the event a member who is retired under subsection (1) dies after the date of such retirement, and no benefits are payable under paragraphs (d) and (e) of sub-

section (1), nor under subsection (3) of K.S.A. 74-4958 and amendments thereto, the following benefits shall be payable:

(i) To the member's spouse, if lawfully wedded to the member at the time of the member's death, a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the annual spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (f) of subsection (1) shall apply in all cases of such members who die after December 1, 1984.

(2) (a) If any active contributing member, prior to such member's normal retirement, becomes totally and permanently disabled for a period of 180 days from causes not service-connected, and not as the result of a willfully negligent or intentional act of the member, such member shall be retired and the following benefit shall become payable and shall continue until the member's death or until the member recovers from such disability, whichever occurs first, if a report of the disability in a form acceptable to the board is filed in the office of the executive director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed

in the office of the executive director of the board within two years of the date of disability, except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.

A retirement benefit equal to 2.5% of the member's final average salary multiplied by the number of years of credited service or the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater, multiplied by the number of years of credited service except that such retirement benefit shall be at least equal to 25% of the member's final average salary but shall not exceed the amount of the retirement benefit provided in paragraph (a) of subsection (1). Such benefit shall not become payable until satisfactory evidence shall be presented to the board that the member is and has been totally and permanently disabled for a period of 180 days, but benefits shall accrue from the day upon which the member ceases to draw compensation.

(b) In the event a member who is retired under subsection (2) dies after the date of such retirement, the following benefits shall be payable:

(i) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, to the member's spouse, if lawfully wedded to the member at the time of the member's death and if no benefits are payable under subsection (3) of K.S.A. 74-4958, and amendments thereto, a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of

such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (b) of subsection (2) shall apply in all cases of such members who die after July 1, 1989.

(3) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (2).

(4) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1) or (2), the sum of the member's accumulated contributions shall be paid to the member.

(5) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by Kansas state board of healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the retirant is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A retirant who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952 and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(6) Any retirant who has been receiving benefits under the provisions of this section for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required.

(7) Refusal or neglect to submit to examination as provided in subsection (5) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(8) Any retirement benefits payable under the provisions of this section shall be in lieu of normal retirement benefits as provided in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto.

(9) Each member shall report to such member's participating employer any event or act of duty causing disability within 200 days after such event or act of duty. The member's participating employer shall file in the office of the executive director of the board, in a form acceptable

to the board, a report of the event or act of duty causing disability within 220 days after the event or act of duty.

(10) In any case of any event occurring prior to July 1, 1979, and after June 30, 1998, for which a report of the event was made by the participating employer to the director of workers compensation in accordance with K.S.A. 44-557 and amendments thereto, such report to the director of workers compensation shall satisfy the requirement under subsection (1) of this section to file a report of such event, in a form acceptable to the board within 220 days. No such report to the director of workers' compensation shall be deemed to satisfy such requirement with respect to events occurring on or after July 1, 1979, and prior to July 1, 1998.

(11) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(12) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

(13) Any retirant who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall be deemed no longer retired.

(14) Upon the death of a member after retirement, if no benefits are payable under the provisions of this section, the excess, if any, of the retirant's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

History: L. 1965, ch. 447, § 10; L. 1966, ch. 11, § 1 (Special Session); L. 1967, ch. 431, § 9; L. 1979, ch. 252, § 1; L. 1982, ch. 319, § 37; L. 1985, ch. 254, § 20; L. 1987, ch. 299, § 29; L. 1989, ch. 232, § 20; L. 1992, ch. 321, § 14; L. 1993, ch. 227, § 38; L. 1998, ch. 64, § 72; L. 1998, ch. 201, § 38; L. 2000, ch. 152, § 21; L. 2001, ch. 209, § 34; May 31.

AGO: 92-128

74-4960a. Disability benefits for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; procedures and reports. (1) If any active contributing member who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a and amendments thereto to be covered by the provisions of this act becomes disabled as defined in subsection (2), such member shall receive a monthly benefit equal to 50% of the member's final average salary at the time such member was disabled payable in monthly installments, accruing from the first day upon which the member ceases to draw compensation, if a report of the disability in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within two years of the date of the commencement of such disability.

ity, except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.

(2) For the purposes of this section, "disabled" means total inability to perform permanently the duties of the position of policeman or fireman.

(3) In the event a member who is disabled and entitled to such benefits as provided in subsection (1) dies after the date of such disability, the following benefits shall be payable:

(i) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, to the member's spouse, if lawfully wedded to the member at the time of the member's death, and if no benefits are payable under subsection (3) of K.S.A. 74-4958a, and amendments thereto, a lump-sum benefit equal to 50% of the member's final average salary at the time such member was disabled.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(4) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (1) or (3).

(5) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1), the sum of the member's accumulated contributions shall be paid to the member.

(6) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by the state board of healing arts to practice a branch of the healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the member is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A member who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952 and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(7) Any member who has been receiving benefits under the provisions of this section for a period of five years shall be deemed permanent and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the member remains totally and permanently disabled, a further medical examination or examinations may be required.

(8) Refusal or neglect to submit to examination as provided in subsection (6) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(9) In the event that a member becomes disabled and is eligible for benefits provided in this section, such member shall be given participating service credit for the entire period of such disability.

(10) Any member who is receiving benefits pursuant to this section shall file annually a statement of earnings for the previous year in such form and manner as the board shall prescribe. Any disability benefit paid to a member entitled to such benefit pursuant to this section shall be reduced by the board in an amount equal to a \$1 reduction in such benefit for every \$2 of earnings of such member which were earned during the previous year while such member was disabled. Such reduction shall apply only to a member's earnings which exceed \$10,000.

(11) Any benefits provided pursuant to this section and any participating service credit given pursuant to subsection (9) shall terminate upon the earliest date such member is eligible for retirement upon attainment of the normal retirement date as provided in K.S.A. 74-4964a and amendments thereto.

(12) Any member who has received benefits under the provisions of this section for a period of five years or more immediately preceding retirement shall have such

member's final average salary adjusted upon retirement by the actuarial salary assumption rates in existence during such period. Effective July 1, 1993, each member's current annual rate shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon retirement by an amount equal to the lesser of: (1) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus one percent; or (2) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(13) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(14) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(15) Any retirant who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall be deemed no longer retired.

(16) Upon the death of a member after retirement, if no benefits are payable under the provisions of this section, the excess, if any, of the retirant's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

History: L. 1989, ch. 232, § 28; L. 1990, ch. 282, § 15; L. 1992, ch. 321, § 15; L. 1993, ch. 227, § 39; L. 1998, ch. 64, § 73; L. 1998, ch. 201, § 39; L. 1999, ch. 87, § 20; L. 2000, ch. 152, § 22; L. 2001, ch. 209, § 35; May 31.

AGO: 92-128

74-4962. Payment of benefits. (1) All benefits except lump-sum benefits as provided in this subsection shall be payable in equal monthly installments, except that the board may provide for payment of benefits to a member's family in a single payment rather than separate payments to the member, to the widow or to minor children.

(2) Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified by the board in a way that precludes employer discretion.

History: L. 1965, ch. 447, § 12; L. 1998, ch. 64, § 74; July 1.

74-4963. Termination of employment; payment of accumulated contributions; vesting of benefits; return to covered employment, condition, purchase of service credit for previously forfeited service. (1) Upon termination of employment prior to the completion of 20 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on

deposit with the system. If the member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment shall be made immediately upon being notified of the amount due. Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or

K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 20 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, to purchase service credit for the previously forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

History: L. 1965, ch. 447, § 13; L. 1967, ch. 431, § 11; L. 1968, ch. 71, § 2; L. 1978, ch. 322, § 1; L. 1982, ch. 319, § 38; L. 1983, ch. 254, § 17; L. 1984, ch. 289, § 14; L. 1989, ch. 232, § 21; L. 1993, ch. 227, § 40; L. 1995, ch. 267, §

23; L. 1998, ch. 64, § 75; L. 1998, ch. 201, § 40; L. 2001, ch. 209, § 36; May 31.

AGO: 95-73, 94-97

74-4963a. Termination of employment for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; payment of accumulated contributions; vesting of benefits; return to covered employment, condition, purchase of service credit for previously forfeited service credit. (1) Upon termination of employment prior to the completion of 15 years of credited service, after 30 days after such termination a member may withdraw such member's accumulated contributions or elect to leave such accumulated contributions on deposit with the system. If the member elects to leave the accumulated contributions on deposit with the system and if the member returns to employment with the same or another participating employer within five years, such member shall receive credit for such member's service prior to such termination. If the member does not elect to leave the accumulated contributions on deposit or if the member does not return to covered employment within five years, such member shall no longer be a member of the system and the sum of such member's accumulated contributions then on deposit with this system shall be paid to such member after making application in a form prescribed by the board and after the system has a reasonable time to process the application for withdrawal. Upon proper notification by the system, member contributions not on deposit with the system shall be paid to the member by the participating employer.

(2) If, after termination and withdrawal of accumulated contributions, a former member returns to covered employment, except as otherwise provided in subsection (1), the former member shall become a member of the system as provided in subsection (2) of K.S.A. 74-4955 and amendments thereto. Any former member returning to covered employment may, at the former member's option, purchase service credit for such previously forfeited service credit, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased. Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, such member may elect to effect such purchase by means of a single lump-sum payment in lieu of the increased amount of the employee's contribution rate otherwise provided for in this act in an amount equal to the then present value of the benefits being purchased determined by the actuary using the member's attained age, annual compensation at the time of purchase and the actuarial assumptions and tables then in use by the retirement system. The lump-sum payment

shall be made immediately upon being notified of the amount due. Upon receipt of such payment by the system the member shall receive full credit for the number of previously forfeited quarters of participating service which the member has elected to repurchase. Any member who repurchases all of the member's previously forfeited participating service credit shall also receive all of the member's previously forfeited prior service credit.

(3) Upon termination and withdrawal of accumulated contributions, any member whose employment was, up to the member's employer's entry date, covered by a pension system established under the provisions of K.S.A. 13-14a01 through 13-14a14, and amendments thereto, or K.S.A. 14-10a01 through 14-10a15, and amendments thereto, shall be entitled to receive from the member's employer the sum of the member's accumulated contributions to the previous pension system.

(4) If a member has completed 15 years of credited service at date of termination, the member shall be granted automatically a vested retirement benefit in the system, but any time prior to the commencement of retirement benefit payments and before attaining age 55 the member may withdraw the member's accumulated contributions, whereupon the member's membership in this system ceases and no other amounts shall be payable for the member's prior and participating service credit. Eligibility of such member, who has not withdrawn the member's accumulated contributions, for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto, except that in lieu of the three-month notice of intention to retire being made to the employer, such member shall make application for retirement in a form prescribed by the board and retirement benefits shall accrue from the first day of the month following receipt of such application. The amount of the retirement benefit shall be determined as provided in K.S.A. 74-4958 and amendments thereto.

(5) If a member, who has a vested retirement benefit, again becomes an employee of a participating employer, the amount of the member's vested retirement benefit shall remain in effect, and any retirement benefit such member subsequently accrues shall be calculated separately based on credited service after again becoming an employee and shall be added to that which had been vested by virtue of previous service. Eligibility of such member for retirement benefits and procedures for making application for retirement benefits shall be in accordance with K.S.A. 74-4957 and amendments thereto.

(6) Any member of this system who was previously a member of the Kansas public employees retirement system or the retirement system for judges and who forfeited service credit under either of those systems by reason of termination of employment and withdrawal of their contributions to that system, may elect, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, to purchase service credit for the previously forfeited service credit by means of a single lump-sum payment and such service shall be recredited to that system. The amount of

the lump-sum payment shall be determined by the actuary using the member's then current annual rate of compensation and the actuarial assumptions and tables then currently in use by that retirement system.

(7) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

History: L. 1989, ch. 232, § 29; L. 1993, ch. 227, § 41; L. 1995, ch. 267, § 24; L. 1998, ch. 64, § 76; L. 1998, ch. 201, § 41; L. 2001, ch. 209, § 37; May 31.

AGO: 94-97

74-4964. Retirement benefit options; elections of member and spouse; joint annuitants. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 to 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided

in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(A) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 3/4 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the design-

nated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed 1/2 of the actuarial present value of the benefit provided in K.S.A. 74-4958, and amendments thereto.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall apply only to members who were appointed or employed prior to

July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

History: L. 1965, ch. 447, § 14; L. 1967, ch. 431, § 12; L. 1980, ch. 238, § 6; L. 1982, ch. 319, § 39; L. 1985, ch. 254, § 3; L. 1987, ch. 299, § 30; L. 1988, ch. 302, § 16; L. 1989, ch. 232, § 22; L. 1993, ch. 227, § 42; L. 1996, ch. 266, § 15; L. 1998, ch. 64, § 77; L. 2000, ch. 152, § 23; L. 2001, ch. 209, § 38; May 31.

74-4964a. Retirement benefit options for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; elections of member and spouse; joint annuitants.

(1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto. Such election must be made before the date of actual retirement. Only a specific individual person may be designated as a joint annuitant at the time of election of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of a retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under subsections (1) or (2) of K.S.A. 74-4958 and amendments thereto as prescribed under subsection (5). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) If a member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 through 13-14a14, inclusive or 14-10a01 through 14-10a15, inclusive, and amendments thereto so elects one of the options under this section, payment of such option shall be in lieu of any payments provided in subsection (3) of K.S.A. 74-4958 and amendments thereto.

(4) Such election of an option shall become null and void upon the death of a member prior to such member's retirement, except that if a member, who is eligible to retire in accordance with the provisions of subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto, dies without having actually retired the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, and no benefits are payable under subsections (1) and (2) of K.S.A. 74-4959 and amendments thereto, may elect to receive benefits under one of the options provided in this section, in lieu of receiving the member's accumulated contributions.

(5) The following retirement options which are subject to the provisions of K.S.A. 2001 Supp. 74-49,123 and amendments thereto, are available:

(A) *Joint and 1/2 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 94.5% minus .2% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .2% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 1/2 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 88% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and 3/4 to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 74-4958 and amendments thereto and (B) the percentage equal to 91% minus .3% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .3% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with 3/4 of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise pay-

able to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 99% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 92% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4958 and amendments thereto, and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments will be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4958a, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed 1/2 of the actuarial present value of the benefit provided in K.S.A. 74-4958a, and amendments thereto.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4958a, and amendments thereto, or subsections (5)(A) through (5)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (5)(A), (5)(B) or (5)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(6) On and after July 1, 1996, if a member with 20 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole

beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions or in lieu of receiving benefits as provided in K.S.A. 74-4959 and amendments thereto. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have attained retirement age.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (5)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (5)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

(10) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a and amendments thereto; and persons appointed or employed on or after July 1, 1989.

History: L. 1989, ch. 232, § 30; L. 1993, ch. 227, § 43; L. 1996, ch. 266, § 16; L. 1998, ch. 64, § 78; L. 2000, ch. 152, § 24; L. 2001, ch. 209, § 39; May 31.

74-4965. Member contributions; payroll deductions; disposition; interest; employer pickup of member contributions. (1) Except as otherwise provided in this section, each participating employer shall, beginning with the first payroll period for services performed after the entry date, deduct from the compensation of each member 7% of such member's compensation as employee contributions, except that in the case of a member whose employment is covered by social security and the member is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), the deduction from such member's compensation shall be reduced by the amount of such member's contributions to social security.

(2) For any member other than a member who is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), no employee contributions shall be reduced because of contributions to social security.

(3) All such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund and shall be credited to the members' individual accounts. Interest on each member's accumulated contributions at the rate determined under subsection (a) of K.S.A. 74-4922 and amendments thereto shall be added annually to the member's individual account.

(4) For all payroll periods commencing on or after the effective date of this act, each participating employer shall deduct from the compensation of each member who has received 32 years of credited service, 2% of such member's compensation as employee contributions.

(5) (a) Subject to the provisions of K.S.A. 74-49,123 and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund. Such contribu-

tions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

History: L. 1965, ch. 447, § 15; L. 1974, ch. 343, § 1; L. 1979, ch. 251, § 1; L. 1982, ch. 319, § 40; L. 1984, ch. 289, § 15; L. 1990, ch. 282, § 16; L. 1993, ch. 289, § 6; L. 1994, ch. 293, § 22; L. 1998, ch. 64, § 79; L. 2001, ch. 209, § 40; May 31.

74-4965a. Purchase of participating service credit for certain military service; terms and conditions. (1) Subject to the provisions of K.S.A. 74-49,123 and amendments thereto, any member of the Kansas police and firemen's retirement system may purchase participating credit for periods of active service in the armed forces of the United States or in the United States public health service and for periods of service required to fulfill the requirements of section 651 of title 10, United States code, which does not exceed six years. Except as otherwise required by the provisions of USERRA, such member shall be entitled to purchase one quarter of participating service credit for each year of service required to fulfill the requirements of section 651 of title 10, United States code. Such purchase shall be effected by the member submitting proof of such service acceptable to the board and electing in writing to have employee contributions as provided in K.S.A. 74-4965 and amendments thereto deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4965 and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following such election and shall remain in effect until all of the full quarters of such service have been purchased.

(2) Any member of the retirement system who has not retired may purchase, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, participating service credit for military service as described in this section by electing to effect such purchase by means of a single lump-sum payment in lieu of employee contributions as provided in this section. The lump-sum payment shall be an amount determined by the actuary using the member's then current annual rate of compensation, or if not actively employed, the member's annual rate of compensation when last participating, the actuarial assumptions and tables currently in use by the retirement system and the member's attained age.

(3) Except as otherwise required by the provisions of USERRA, any participating service credit purchased by a member as provided by this section shall not be counted toward or be used in determining whether such member meets the years of credited service requirement provided

for in K.S.A. 74-4957 or 74-4957a and amendments thereto.

(4) The provisions of this section shall take effect on and after July 1, 1994.

History: L. 1994, ch. 293, § 33; L. 1995, ch. 267, § 25; L. 1998, ch. 64, § 80; July 1.

74-4966. Reductions of benefits in relation to social security for certain members who are members of Brazelton class. (a) In the case of any member whose employment shall be covered by social security and who is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), any benefits payable under the provisions of K.S.A. 74-4958, 74-4959 and 74-4960, and amendments thereto, shall be reduced by an amount equal to 1/2 of the original social security benefits accruing from employment with the participating employer at the time the member retired. The actuarial calculation of such benefit and the social security reduction shall include an assumption that the member first commences receiving such member's benefit payments pursuant to social security at the age such member is first eligible for unreduced social security benefits or such member's actual retirement age, whichever occurs later. For any member already retired on the effective date of this act, no reduction of the original social security benefits shall be applicable to benefits paid prior to the effective date of this act. The member must make an initial application for social security benefits from employment with the participating employer and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Until such initial application for benefits has been approved by the social security administration, social security benefits may be estimated and may be deducted from the amount of any benefits payable as provided in this subsection.

(b) For any member other than a member who is a member of the class certified in the case of *Brazelton v. Kansas public employees retirement system*, 227 K. 443, 607 P.2d 510 (1980), no benefits shall be reduced because of social security benefits. Any benefits which first become payable on or after January 1, 1976, by reason of employment with a participating employer participating in the Kansas police and firemen's retirement system, which employment was also covered by social security, shall be reduced by an amount equal to the value of the difference between contributions actually made by the member and contributions which would have been made had there been no reduction for contributions to social security. The amount of reduction shall be made by the board upon the advice of the actuary at the time benefits become payable and shall continue until benefits are no longer payable. Should a member, whose employment prior to January 1, 1976, with a participating employer participating in the Kansas police and firemen's retirement system, such employment also being covered by social security, repay in a

lump-sum prior to January 1, 1977, or on date of retirement, whichever is earlier, an amount equal to the difference between contributions actually made by the member and contributions which would have been made had there been no reduction for contributions to social security, there shall be no reduction as heretofore provided. If the payment is made after January 1, 1977, but prior to retirement, the member will pay the actual amount plus interest which shall accrue from January 1, 1976, at a rate specified by the board of trustees.

History: L. 1965, ch. 447, § 16; L. 1974, ch. 343, § 2; L. 1975, ch. 412, § 1; L. 1993, ch. 227, § 45; L. 1998, ch. 201, § 42; L. 2002, ch. 116, § 8; May 23.

74-4967. Employer contributions; determination and payment; tax levy, use of proceeds; actuarial cost of new enactments. (1) Upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year to each participating employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such participating employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be uniform for all participating employers, and shall be comprised of a rate for benefits accruing after June 30, 1993, and a rate for amortization of the additional liability for benefits provided by this act which is attributable to service rendered before July 1, 1993. Such additional liability shall be amortized over a period of 40 years commencing on July 1, 1993, by annual payments that increase 4% for each year remaining in the amortization period. The employer's rate of contribution determined under this section shall not include the costs of administration of the system.

(2) The board shall determine for each employer separately an amount sufficient to amortize over a period of not to exceed 40 years all liabilities for past service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each participating employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that participating employer to pay all of the liabilities for such past service costs. Such rate shall be termed the employer's prior service contribution. The board may enter into agreements with any participating employer which has employees or retirants under the special pension systems established under K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto or K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, for the purpose of scheduling the payment of such past service costs in an orderly manner which will tend to stabilize the annual total financial burden on such employers in meeting their present and future obligations under this system and such special systems, but in no event shall the annual prior service contribution be

less than the interest cost on the total of such past service liability.

(3) Each participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligations under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each employer may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act, and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located in such county which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto.

(5) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(6) The rate of contribution certified to each participating employer as provided in this section shall apply during the fiscal year of such participating employer which begins in the second calendar year following the year of the actuarial valuation, but the rate of contribution during the first year following the employer's entry date shall be equal to 16% of the amount of compensation on which members contribute during the year.

(7) Each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within 20 days after the end of the period covered by the remittance or within 25 days after forms or written instructions from the system were mailed by the system to such employer, whichever is later. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection (7) shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204 and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, shall be reflected in the employer contribution rate in the fiscal year immediately following such enactment.

History: L. 1965, ch. 447, § 17; L. 1966, ch. 11, § 2 (Special Session); L. 1978, ch. 67, § 10; L. 1979, ch. 52, § 193;

L. 1981, ch. 314, § 2; L. 1982, ch. 319, § 41; L. 1987, ch. 299, § 31; L. 1990, ch. 66, § 49; L. 1991, ch. 237, § 3; L. 1992, ch. 321, § 31; L. 1993, ch. 227, § 46; L. 2000, ch. 112, § 7; L. 2001, ch. 209, § 41; May 31.

AGO: 85-171

74-4968. Retirement fund; investments; reserves. (1) All employee and employer contributions shall be deposited in the Kansas public employees retirement fund created by K.S.A. 74-4921 and shall be accounted for and invested as a part of that fund.

(2) Portions of such contributions shall be credited to the reserve funds provided for by K.S.A. 74-4922 and amendments thereto or to such comparable funds as the board may establish and payments shall be made from such reserves in the same manner as provided in that section.

History: L. 1965, ch. 447, § 18; L. 1982, ch. 319, § 42; July 1.

74-4969. Severability. If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

History: L. 1965, ch. 447, § 19; June 30.

74-4970. Application for benefits; time limitation. In the event that an application in such form as may be prescribed by the board for any amount due under the provisions of this act, is not filed with the office of the retirement system by the person entitled to same within five (5) years of the date that such amount became due and payable, an amount equal to same shall be transferred to the employer contribution reserve and such amount shall no longer be due and payable; however, if any such person shall present evidence satisfactory to the board that his failure to file such application within said time period was due to lack of knowledge or incapacity on his part, the amount equal to the amount originally due shall be transferred from the employer contribution reserve to the reserve or reserves from which such transfer was initially made and the amount originally due shall be paid to such person.

History: L. 1967, ch. 431, § 13; July 1.

74-4976. Employer contributions; included in budget; exception for first year. The division of the budget and the governor shall include in the budget and in the budget request for appropriation for personal services the sum required to satisfy the employer's obligation under this act as certified by the board in the manner prescribed in K.S.A. 74-4967 and shall present the same to the legislature for allowance and appropriation. In lieu of the rate of employer contribution for the first year set out in subsection (6) of K.S.A. 74-4967, the rate of contribution of the Kansas highway patrol during fiscal year 1969 shall be sixteen and eight-tenths percent (16.8%) of the amount of compensation on which members contribute during said period.

History: L. 1968, ch. 36, § 6; March 7.

74-4977. Termination of employment; conditions for prior service credit upon returning to employment. The provisions of K.S.A. 74-4963 and amendments thereto relating to termination of employment shall be applicable in all respects to patrolmen becoming members of the Kansas police and firemen's retirement system, except that a member who transfers from the Kansas highway patrol pension system and later terminates such member's employment and withdraws such member's accumulated contributions under the Kansas police and firemen's retirement system and the Kansas highway patrol pension system may upon returning to covered employment receive credit for such member's service prior to termination, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, by repaying such member's accumulated contributions plus interest, as determined by the board, to the Kansas police and firemen's retirement system and by also repaying the accumulated contributions withdrawn from the Kansas highway patrol pension system plus interest at a rate specified by the board of the Kansas highway patrol pension system.

History: L. 1968, ch. 36, § 7; L. 1998, ch. 64, § 81; July 1.

74-5602. Definitions. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of the division of continuing education of the university of Kansas.

(d) "Director," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; campus police officers at all state educational institutions or a municipal university; law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen

appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(f) "Full-time" means employment requiring at least 1,000 hours of work per year.

(g) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year.

(h) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 2002 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(i) "Auxiliary personnel" means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

History: L. 1968, ch. 81, § 2; L. 1973, ch. 331, § 1; L. 1976, ch. 351, § 1; L. 1977, ch. 278, § 1; L. 1978, ch. 365, § 3; L. 1978, ch. 324, § 1; L. 1979, ch. 255, § 1; L. 1982, ch. 315, § 2; L. 1982, ch. 322, § 2; L. 1982, ch. 323, § 1; L. 1985, ch. 257, § 1; L. 1987, ch. 292, § 27; L. 1987, ch. 277, § 2; L. 1987, ch. 112, § 39; L. 1989, ch. 118, § 183; L. 1995, ch. 180, § 3; L. 1997, ch. 168, § 2; L. 2001, ch. 177, § 13; July 1.

AGO: 2001-31, 99-34, 99-28, 98-59, 96-76, 96-69, 96-33, 94-5, 89-100, 86-139, 85-165, 85-27, 84-104, 84-62

74-5607a. Certification for permanent appointment; annual training; provisional appointment. (a) No person

shall receive a permanent appointment as a full-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to satisfactory completion of a course of not less than 320 hours of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524, and amendments thereto, on or before January 1, 1982. No person shall receive a permanent appointment as a part-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to the satisfactory completion of the basic course of not less than 80 hours of accredited instruction in law enforcement at the training center or at a certified state or local law enforcement training school.

(b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete annually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The director with the approval of the commission shall adopt rules and regulations regarding such education or training. Every city, county and state agency shall annually send to the director certified reports of the completion of such education or training. The director shall maintain a record of the reports in the central registry.

(c) Subject to the provisions of subsection (d):

(1) Any person who is appointed or elected as a police officer or law enforcement officer and who does not hold a certificate as required by subsection (a) may be elected or appointed as an officer on a provisional basis for a period of not more than one year. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of the person's original election or appointment shall forfeit such office or position at the end of such one-year period. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following such original appointment shall not be reappointed as a police officer or law enforcement officer on a provisional basis within one year following the date on which such person last served as a police officer or law enforcement officer.

(2) Any police officer or law enforcement officer who does not complete the education or training required by subsection (b) by the date such education or training is required to have been completed shall be subject to revocation or suspension of certification and loss of the officer's office or position.

(d) The director may extend the one-year time period for the 320 hour basic-reciprocity school or 80 hour part-time school and may extend, waive or modify the annual continuing education requirement, when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law.

History: L. 1982, ch. 322, § 4; L. 1988, ch. 306, § 2; L. 1995, ch. 180, § 10; July 1.

AGO: 1999-4, 96-76, 87-37, 86-166, 85-165, 85-84, 85-51, 85-27, 84-53

74-5608a. Certification of persons completing training in other jurisdictions; waiver of courses. (a) The director may, in the exercise of discretion, award a certificate attesting to the satisfactory completion of a basic course of instruction to any person who has been duly certified under the laws of another state or territory if, in the opinion of the director, the requirements for certification in such other jurisdiction equal or exceed the qualifications required to complete satisfactorily the basic course of instruction at the training center.

(b) The director may waive any number of the hours or courses required to complete the basic course of instruction at the training center, 80 hour part-time school, reciprocity school or for the hours required for annual continuing education for any person who, in the opinion of the director, has received sufficient training or experience that such hours of instruction at the training center would be, unless waived, unduly burdensome or duplicitous.

History: L. 1976, ch. 351, § 3; L. 1995, ch. 180, § 11; L. 1997, ch. 168, § 4; May 22.

74-5616. Eligibility for appointment as officer; certification by commission required; suspension, revocation or denial of certification; judicial review. (a) To be eligible for permanent appointment as a police officer or law enforcement officer, a person must first be certified to perform the function of law enforcement by the Kansas law enforcement training commission. The commission's certification shall be awarded to persons who:

(1) Are at least 21 years of age, have successfully completed or satisfied the training requirements specified by subsection (a) of K.S.A. 74-5607a and amendments thereto and meet the requirements of K.S.A. 74-5605 and amendments thereto; (2) received a permanent appointment as a police officer or law enforcement officer prior to July 1, 1969; or (3) hold a permanent appointment as a police officer or law enforcement officer on July 1, 1983.

(b) The commission may suspend, revoke or deny the certification of a police officer or law enforcement officer who fails to meet the requirements of K.S.A. 74-5605 or 74-5607a, and amendments thereto, or has met such requirements by falsifying documents or failing to disclose information required for certification.

(c) The commission shall immediately institute proceedings to revoke the certification of any police officer or law enforcement officer convicted of, or on or after July

1, 1995, diverted for a felony under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice or convicted of or diverted for a misdemeanor crime of domestic violence under the laws of this state, another state or the United States or of its equivalent under the uniform code of military justice, when such misdemeanor crime of domestic violence was committed on or after the effective date of this act.

(d) The procedure for the public or private censure, reprimand, probation, suspension, revocation and denial of certification of a person as a police officer or law enforcement officer or an applicant for certification shall be in accordance with the Kansas administrative procedure act.

(e) Any action of the commission pursuant to subsection (d) is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The attorney general shall prosecute or defend any action for review on behalf of the state, but the county or district attorney of the county where the police or law enforcement officer has been employed as such shall appear and prosecute or defend such action upon request of the attorney general.

History: L. 1983, ch. 256, § 1; L. 1988, ch. 306, § 3; L. 1995, ch. 180, § 14; L. 1997, ch. 168, § 5; May 22.

AGO:96-76

74-5617. Failure to meet minimum requirements of act, penalties; violations of act. (a) Every candidate for permanent appointment to a position as a police officer or law enforcement officer shall meet the minimum training criteria specified in K.S.A. 74-5605 and amendments thereto and shall have attained 21 years of age.

(b) For the purpose of determining the eligibility of an individual for certification under this act, the commission may require the submission of training and education records, and experience history, medical history, medical examination reports and records, and interview appraisal forms.

(c) Law enforcement agencies in Kansas shall be responsible for their agency's observance of the hiring requirements of this section.

(d) No law enforcement agency head or other appointing authority shall knowingly permit the hiring of any person in violation of the requirements of this act, or knowingly permit the continued employment of any person as a law enforcement officer after receiving written notice from the commission that the person has had such person's certification revoked as provided for under this act. No law enforcement agency head or other appointing authority shall knowingly permit any auxiliary personnel who have been convicted of a felony offense under the laws of Kansas or any other jurisdiction access to law enforcement records or communication systems that are restricted under state or federal law or appoint as a reserve officer any person who does not meet the requirements of K.S.A. 74-5605 and amendments thereto. Any violation of the requirements of this act shall be deemed to constitute misconduct in of-

office and shall subject the agency head or appointing authority to:

(1) Removal from office pursuant to K.S.A. 60-1205 and amendments thereto; or (2) a civil penalty in a sum set by the court of not to exceed \$500 for each occurrence of noncompliance in an action brought in the district court by the attorney general or by the county or district attorney, which penalty shall be paid to the state treasurer for deposit in the state treasury and credit to the state general fund, if the action is brought by the attorney general, or paid to the county treasurer for deposit in the county treasury and credit to the county general fund, if the action is brought by the county or district attorney.

(e) Whenever in the judgment of the commission any person has engaged in any acts or practices which constitute a violation of this act, or any rules and regulations of the commission, the commission may make application to the district court, without giving bond, for civil enforcement of this act or rules and regulations in accordance with the act for judicial review and civil enforcement of agency actions. The district or county attorney of any county shall at the request of the commission render such legal assistance as necessary in carrying out the provisions of this act. Upon the request of the commission, the district or county attorney of the proper county shall institute in the name of the state or commission proceedings for appropriate relief, whether mandatory, injunctive or declaratory, preliminary or final, temporary or permanent, equitable or legal, against any person regarding whom a complaint has been made charging such person with the violation of any provision of this act.

(f) The commission shall make such inquiry as necessary to determine compliance with the requirements of this section and the rules and regulations adopted under it.

(g) It shall be the responsibility of the agency head to ensure that every police officer or law enforcement officer under their supervision has the opportunity to receive the mandatory training as prescribed in K.S.A. 74-5604a and amendments thereto.

History: L. 1983, ch. 256, § 2; L. 1988, ch. 306, § 4; L. 1997, ch. 168, § 6; May 22.

74-5622. Certification; active status, time period; lapse; reinstatement. (a) Certification by the commission will remain active for a period of five years after leaving employment as a law enforcement officer. Certification which has lapsed due to more than five years since employment as a law enforcement officer may be reinstated if the applicant, within one year of reappointment:

(1) Satisfactorily completes the current basic training required under K.S.A. 74-5607a and amendments thereto;

(2) passes a written competency test and firearms proficiency qualification course developed and administered by the Kansas law enforcement training center; or

(3) obtains from the director pursuant to subsection (b) of K.S.A. 74-5608a and amendments thereto, a

waiver based on the training, experience and circumstances of the applicant.

(b) The provisions of this section shall be part of and supplemental to the Kansas law enforcement training act.

History: L. 1997, ch. 168, § 7; May 22.