Session of 2011

SENATE BILL No. 49

By Joint Committee on Pensions, Investments and Benefits

1-24

AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system and systems thereunder; employer and employee contributions; benefits; amending K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-4914d, 74-4920, 74-49,205 and 74-49,210 and repealing the existing sections.

6 7

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

8 Section 1. K.S.A. 2010 Supp. 74-4914d is hereby amended to read as follows: 74-4914d. Any additional cost resulting from the normal 9 10 retirement date and retirement before such normal retirement date for security officers as provided in K.S.A. 74-4914c, and amendments 11 12 thereto, and disability benefits as provided in K.S.A. 74-4914e, and amendments thereto, shall be added to the employer rate of contribution 13 for the department of corrections as otherwise determined under K.S.A. 14 15 74-4920, and amendments thereto, except that the employer rate of contribution for the department of corrections including any such 16 additional cost added to such employer rate of contribution pursuant to 17 this section shall in no event exceed the employer rate of contribution for 18 19 the department of corrections for the immediately preceding fiscal year 20 by more than the following amounts expressed as a percentage of 21 compensation upon which security officers contribute during the period: 22 (a) For the fiscal year commencing in calendar year 2006, an amount not 23 to exceed more than 0.5% of the amount of the immediately preceding 24 fiscal year; and (b) for the fiscal year commencing in calendar year 2007, 25 and in each subsequent calendar year years 2010 and 2011, an amount 26 not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; and (b) for the fiscal year commencing in calendar 27 year 2012, and in each subsequent calendar year, an amount not to 28 29 exceed more than 1% of the amount of the immediately preceding fiscal vear. 30

Sec. 2. K.S.A. 74-4915 is hereby amended to read as follows: 74-4915. (1) Any member who retires on or after such member's normal retirement date shall be entitled to receive an annual retirement benefit equal to the sum obtained by adding an amount for participating service and an amount for prior service determined as provided in this section. The amount for prior service shall be equal to 1% of the member's prior

1 service annual salary multiplied by the number of years of prior service 2 entitled to credit as provided in K.S.A. 74-4913, and amendments thereto, 3 except that for members retiring on or after July 1, 1981, who were last 4 employed by a participating employer which had affiliated with the 5 system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, and for the period commencing January 1, 1986, for 6 7 members retiring before July 1, 1981, who were last employed by a 8 participating employer which had affiliated with the system under K.S.A. 9 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, except that any increase in benefits under this section shall be reduced by any 10 postretirement benefit adjustments received by such member prior to July 11 2, 1985, the amount for prior service shall be calculated using final 12 13 average salary in lieu of prior service annual salary and, in the case of any such member who became a member under subsection (3) of K.S.A. 74-14 15 4925, and amendments thereto, and for whom a final average salary 16 cannot be otherwise determined, such member's final average salary shall 17 be based on all service for which such member received assistance in a 18 plan under subsection (2) of K.S.A. 74-4925, and amendments thereto, as 19 certified by such employer upon request of the board. For any member who retires on or after July 1, 1993, the amount for participating service 20 21 shall be equal to the total of 1.75% of the member's final average salary 22 multiplied by the number of years of participating service *earned prior to* 23 January 1, 2013, and 1.85% of the member's final average salary 24 multiplied by the number of years of participating service earned on and after January 1, 2013. Notwithstanding any provision of law to the 25 26 contrary, in no event shall service that is purchased under the provisions 27 of K.S.A. 74-4919a et seq., and amendments thereto, be credited at a rate 28 that exceeds 1.75% of the purchasing member's final average salary.

29 (2) (A) Any member who retires on or after July 1, 1993, but before 30 the normal retirement date and has attained age 60 but has not attained 31 age 62 with the completion of 10 years of credited service, shall receive 32 an annual retirement benefit equal to the annual retirement benefit 33 payable had the member retired on the normal retirement date but based 34 upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an 35 36 amount equal to the product of (i) such annual retirement benefit payable 37 had the member retired on the normal retirement date, multiplied by (ii) 38 the product of .2% multiplied by the number of months' difference, to the 39 nearest whole month, between the member's attained age at the time of 40 retirement and age 62.

(B) Any member who retires on or after July 1, 1993, but before the
normal retirement date and has attained age 55 but has not attained age 60
with the completion of 10 years of credited service, shall receive an

1 annual retirement benefit equal to the annual retirement benefit payable

2 had the member retired on the normal retirement date but based upon the 3 member's final average salary and years of participating and prior service 4 credited to the date of actual retirement reduced by an amount equal to 5 the total of: (i) (a) The product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (b) 6 7 the product of .6% multiplied by the number of months' difference, to the 8 nearest whole month, between the member's attained age at the time of 9 retirement and age 60; and

(ii) on and after July 1, 1993, the product of such annual retirement
benefit payable had the member retired on the normal retirement date,
multiplied by 4.8%.

(3) Upon death of a retirant, there shall be paid to such retirant's
beneficiary an amount equal to the excess, if any, of such retirant's
accumulated contributions over the sum of all retirement benefit
payments made.

17 (4) Such annual retirement benefits shall be paid in equal monthly 18 installments, except, that the board may provide for the payment of 19 retirement benefits which total less than \$240 a year on other than a 20 monthly basis.

21 (5) In the event that an application in such form as may be 22 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 23 24 entitled to same within five years of the date such amount became due and payable, an amount equal to same shall be transferred to the 25 26 retirement benefit accumulation reserve and such amount shall no longer 27 be due and payable, except that if any such person shall present evidence satisfactory to the board that such person's failure to file such application 28 within that time period was due to lack of knowledge or incapacity on 29 30 such person's part, the amount equal to the amount originally due shall be 31 transferred from the retirement benefit accumulation reserve to the 32 reserve or reserves from which such transfer was initially made and the 33 amount originally due shall be paid to such person.

34 (6) The participating employer, when an employee files an application for retirement, shall certify to the system all member 35 contributions of such employee which have not been reported previously. 36 37 In the event the amount certified results in an overpayment of retirement benefits, the employer shall be held responsible for the contribution 38 39 amount previously certified from the time of commencement of the overpayment of retirement benefits until the time that such overpayment 40 is discovered by the system. At the time that such overpayment of 41 42 retirement benefits is discovered by the system, the system shall adjust 43 the amount of retirement benefits paid to the employee to the correct 4

1 amount based on the participating employer's certification of member 2 contributions which had not been previously reported. The participating 3 employer of the employee who has had such member's retirement 4 benefits adjusted as provided in this subsection shall notify such 5 employee of such overpayment and such adjustment of retirement benefits. If the contributions previously certified are lower than the actual 6 7 amount reported, the employer shall be responsible for remitting the 8 correct amount and the member's monthly benefit shall be recalculated 9 based on the amount reported by the employer. When an employee in school employment files such an application, the participating employer 10 responsible for any such amounts as provided in this subsection shall be 11 12 the employee's eligible employer as specified in subsection (1), (2) or (3)of K.S.A. 74-4931, and amendments thereto, and shall not be the state of 13 Kansas. The provisions of law in effect on the retirement date of a 14 15 member under the system shall govern the retirement benefit payable to 16 the retirant, any joint annuitant and any beneficiary.

17 Sec. 3. K.S.A. 74-4919 is hereby amended to read as follows: 74-18 4919. (1) Except as otherwise provided, each participating employer, 19 beginning with the first payroll for services performed after the entry 20 date, shall deduct from the compensation of each member 4% of such 21 member's compensation as employee contributions. Each participating 22 employer, for services performed by an employee first employed prior to 23 July 1, 2009, shall deduct from the compensation of each member, the 24 following amounts expressed as a percentage of compensation during the 25 following periods: (a) Commencing January 1, 2013, 4.5% of such 26 member's compensation as employee contributions; (b) commencing 27 January 1, 2014, 5% of such member's compensation as employee 28 contributions; (c) commencing January 1, 2015, 5.5% of such member's 29 compensation as employee contributions; and (d) commencing January 30 1, 2016, and in each subsequent calendar year, 6% of such member's 31 compensation as employee contributions. Such deductions shall be 32 remitted quarterly, or as the board may otherwise provide, to the 33 executive director for deposit in the Kansas public employees retirement 34 fund. Such deductions shall be credited to the members' individual 35 accounts and interest shall be added annually to such accounts.

36 (2) (a) Subject to the provisions of K.S.A. 74-49,123, and 37 amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall 38 39 pick up and pay the contributions which would otherwise be payable by 40 members as prescribed in subsection (1) commencing with the third 41 quarter of 1984. The contributions so picked up shall be treated as 42 employer contributions for purposes of determining the amounts of 43 federal income taxes to withhold from the member's compensation.

1 (b) Member contributions picked up by the employer shall be paid 2 from the same source of funds used for the payment of compensation to a 3 member. A deduction shall be made from each member's compensation 4 equal to the amount of the member's contributions picked up by the 5 employer, provided that such deduction shall not reduce the member's 6 compensation for purposes of computing benefits under the system.

7 (c) Member contributions picked up by the employer shall be 8 remitted quarterly, or as the board may otherwise provide, to the 9 executive director for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the 10 member's individual account so that amounts contributed by the member 11 12 commencing with the third quarter of 1984 may be distinguished from the 13 member contributions picked up by the employer. Interest shall be added annually to members' individual accounts. 14

15 Sec. 4. K.S.A. 2010 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial 16 17 valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-18 4908, and amendments thereto, the board shall certify, on or before July 19 15 of each year, to the division of the budget in the case of the state and 20 to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, 21 22 together with all accumulated contributions and other assets of the 23 system, to be paid by each such participating employer to pay all 24 liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. 25 26 The board shall determine the actuarial cost method to be used in annual 27 actuarial valuations, to determine the employer contribution rates that 28 shall be certified by the board. Such certified rate of contribution, 29 amortization methods and periods and actuarial cost method shall be 30 based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908, 31 and amendments thereto and shall not be based on any other purpose 32 outside of the needs of the system.

33 (b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system 34 conducted in the manner provided for in K.S.A. 74-4908, and 35 amendments thereto, the board shall certify, on or before July 15 of each 36 37 year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer 38 to pay all of the liabilities which shall accrue under the system from and 39 after the entry date as determined by the board, upon recommendation of 40 the actuary. Such rate shall be termed the employer's participating service 41 contribution and shall be uniform for all participating employers. Such 42 43 additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall
 determine the actuarial cost method to be used in annual actuarial
 valuations to determine the employer contribution rates that shall be
 certified by the board.

5 (ii) The board shall determine for each such employer separately an 6 amount sufficient to amortize all liabilities for prior service costs which 7 shall have accrued at the time of entry into the system. On the basis of 8 such determination the board shall annually certify to each such employer 9 separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the 10 liabilities for such prior service costs. Such rate shall be termed the 11 12 employer's prior service contribution.

(2) The division of the budget and the governor shall include in the
budget and in the budget request for appropriations for personal services
the sum required to satisfy the state's obligation under this act as certified
by the board and shall present the same to the legislature for allowance
and appropriation.

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

21 (4) Each participating employer is hereby authorized to pay the 22 employer's contribution from the same fund that the compensation for 23 which such contribution is made is paid from or from any other funds 24 available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for 25 other purposes, may levy annually at the time of its levy of taxes, a tax 26 27 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 28 29 cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, 30 31 by cities located in the county, which tax, together with any other fund 32 available, shall be sufficient to enable it to make such contribution. In lieu 33 of levying the tax authorized in this subsection, any taxing subdivision 34 may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102, and amendments thereto. Each 35 participating employer which is not by law authorized to levy taxes as 36 37 described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is 38 authorized by law to levy taxes as described above, may include in its 39 budget an amount sufficient to make its contributions under this act 40 which may be in addition to all other taxes authorized by law. Such 41 governing body to which the budget is submitted for approval, may levy a 42 43 tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund
 available, shall be sufficient to enable the participating employer to make
 the contributions required by this act.

4 (5) (a) The rate of contribution certified to a participating employer 5 as provided in this section shall apply during the fiscal year of the 6 participating employer which begins in the second calendar year 7 following the year of the actuarial valuation.

8 (b) (i) Except as specifically provided in this section, for fiscal years 9 commencing in calendar year 1996 and in each subsequent calendar year, 10 the rate of contribution certified to the state of Kansas shall in no event 11 exceed the state's contribution rate for the immediately preceding fiscal 12 year by more than 0.2% of the amount of compensation upon which 13 members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal 14 years commencing in the following calendar years, the rate of 15 contribution certified to the state of Kansas and to the participating 16 employers under K.S.A. 74-4931, and amendments thereto, shall in no 17 18 event exceed the state's contribution rate for the immediately preceding 19 fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) 20 For the fiscal year commencing in calendar year 2005, an amount not to 21 22 exceed more than 0.4% of the amount of the immediately preceding fiscal 23 year; (B) for the fiscal year commencing in calendar year 2006, anamount not to exceed more than 0.5% of the amount of the immediately 24 preceding fiscal year; and (C) for the fiscal year commencing in calendar 25 year 2007 and in each subsequent calendar year years 2010 and 2011, an 26 27 amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; and (B) for the fiscal year commencing in calendar 28 29 year 2012, and in each subsequent calendar year, an amount not to 30 exceed more than 1% of the amount of the immediately preceding fiscal 31 vear.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997, and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal
years commencing in the following calendar years, the rate of
contribution certified to participating employers other than the state of
Kansas shall in no event exceed the contribution rate for such employers
for the immediately preceding fiscal year by more than the following

1 amounts expressed as a percentage of compensation upon which 2 members contribute during the period: (A) For the fiscal year 3 commencing in calendar vear 2006, an amount not to exceed more than 4 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2007, an amount not to exceed 5 more than 0.5% of the amount of the immediately preceding fiscal year; 6 7 and (C) for the fiscal year commencing in calendar year 2008 and in each 8 subsequent calendar year years 2010 through 2012, an amount not to 9 exceed more than 0.6% of the amount of the immediately preceding fiscal year; and (B) for the fiscal year commencing in calendar year 2013, and 10 in each subsequent calendar year, an amount not to exceed more than 1% 11 of the amount of the immediately preceding fiscal year. 12

(v) As part of the annual actuarial valuation, there shall be a separate 13 employer rate of contribution calculated for the state of Kansas, a 14 separate employer rate of contribution calculated for participating 15 employers under K.S.A. 74-4931, and amendments thereto, a combined 16 17 employer rate of contribution calculated for the state of Kansas and 18 participating employers under K.S.A. 74-4931, and amendments thereto, 19 and a separate employer rate of contribution calculated for all other 20 participating employers.

(vi) There shall be a combined employer rate of contribution
certified to the state of Kansas and participating employers under K.S.A.
74-4931, and amendments thereto. There shall be a separate employer
rate of contribution certified to all other participating employers.

25 (vii) If the combined employer rate of contribution calculated for the 26 state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of 27 28 contribution for the state of Kansas, the difference in the two rates 29 applied to the actual payroll of the state of Kansas for the applicable 30 fiscal year shall be calculated. This amount shall be certified by the board for deposit as additional employer contributions to the retirement benefit 31 32 accumulation reserve for the participating employers under K.S.A. 74-33 4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session
of the Kansas legislature will be included in the June 30, 1994, actuarial
valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be
included in the June 30, 1998, actuarial valuation in determining
contribution rates for participating employers. The actuarial accrued
liability incurred for the provisions of K.S.A. 74-4950i shall be amortized
over 15 years.

42 (8) Except as otherwise provided by law, the actuarial cost of any 43 legislation enacted by the Kansas legislature, except the actuarial cost of 9

K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the
 employer contribution rates certified for the employer contribution rate in
 the fiscal year immediately following such enactment.

4 (9) Notwithstanding the provisions of subsection (8), the actuarial 5 cost of the provisions of K.S.A. 74-49,109 et seq., and amendments 6 thereto, shall be first reflected in employer contribution rates effective 7 with the first day of the first payroll period for the fiscal year 2005. The 8 actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 9 et seq., and amendments thereto, shall be amortized over 10 years.

10 (10) The cost of the postretirement benefit payment provided 11 pursuant to the provisions of K.S.A. 2010 Supp. 74-49,114b, and 12 amendments thereto, for retirants other than local retirants as described in 13 subsection (11) or insured disability benefit recipients shall be paid in the 14 fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of
K.S.A. 2010 Supp. 74-49,114b, and amendments thereto, for the KPERS
local group and retirants who were employees of local employers which
affiliated with the Kansas police and firemen's retirement system shall be
amortized over 10 years.

(12) The cost of the postretirement benefit payment provided
pursuant to the provisions of K.S.A. 2010 Supp. 74-49,114c, and
amendments thereto, for retirants other than local retirants as described in
subsection (13) or insured disability benefit recipients shall be paid in the
fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of
K.S.A. 2010 Supp. 74-49,114c, and amendments thereto, for the KPERS
local group and retirants who were employees of local employers which
affiliated with the Kansas police and firemen's retirement system shall be
amortized over 10 years.

30 (14) The board with the advice of the actuary may fix the 31 contribution rates for participating employers joining the system after one 32 year from the first entry date or for employers who exercise the option 33 contained in K.S.A. 74-4912, and amendments thereto, at rates different 34 from the rate fixed for employers joining within one year of the first entry 35 date.

36 (15) For employers affiliating on and after January 1, 1999, the rates 37 of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such 38 certification, but the rate of contribution during the first year following 39 40 the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount 41 of such first year's contribution which may be in excess of the necessary 42 43 current service contribution shall be credited by the board to the 1 respective employer's prior service liability.

2 (16) Employer contributions shall in no way be limited by any other 3 act which now or in the future establishes or limits the compensation of 4 any member.

5 (17) Notwithstanding any provision of law to the contrary, each 6 participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer 7 8 contributions to the executive director for credit to the Kansas public 9 employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of 10 such deductions and contributions received after such date are delinquent. 11 12 Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of 13 K.S.A. 16-204, and amendments thereto. At the request of the board, 14 delinquent payments which are due or interest owed on such payments, or 15 both, may be deducted from any other moneys payable to such employer 16 17 by any department or agency of the state.

18 Sec. 5. K.S.A. 2010 Supp. 74-49,205 is hereby amended to read as 19 follows: 74-49,205. For any member who is first employed by a participating employer on or after July 1, 2009, and who retires on or 20 after such member's normal retirement date, the amount for participating 21 service shall be equal to the total of 1.75% of the member's final average 22 23 salary multiplied by the number of years of participating service earned 24 prior to January 1, 2013, to be used in determining such member's annual retirement benefit, and 1.85% of the member's final average salary 25 26 multiplied by the number of years of participating service earned on and after January 1, 2013, to be used in determining such member's annual 27 retirement benefit. Notwithstanding any provision of law to the contrary, 28 29 in no event shall service that is purchased under the provisions of K.S.A. 30 74-4919a et seq., and amendments thereto, be credited at a rate that 31 exceeds 1.75% of the purchasing member's final average salary.

Sec. 6. K.S.A. 2010 Supp. 74-49,210 is hereby amended to read as 32 33 follows: 74-49,210. (a) Except as otherwise provided, each participating employer who was a participating employer under the provisions of-34 K.S.A. 74-4901 et seq., and amendments thereto, before July 1, 2009, 35 beginning with the first payroll for services performed by an employee 36 37 first employed on or after July 1, 2009, shall deduct from the compensation of each member 6% of such member's compensation as 38 employee contributions. Each participating employer, for services 39 performed by an employee subject to the Kansas public employees 40 retirement system act of 2009, shall deduct from the compensation of 41 each member, the following amounts expressed as a percentage of 42 43 compensation during the following periods: (a) Commencing January 1,

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1 2013, 6.5% of such member's compensation as employee contributions;

2 (b) commencing January 1, 2014, 7% of such member's compensation as

3 employee contributions; (c) commencing January 1, 2015, 7.5% of such

4 member's compensation as employee contributions; and (d) commencing
5 January 1, 2016, and in each subsequent calendar year, 8% of such
6 member's compensation as employee contributions.

7 (b) Each participating employer who affiliates for any purpose on or 8 after July 1, 2009, beginning with the first payroll for services performed

9 by an employee first employed on or after July 1, 2009, shall deduct from

- the compensation of each member 6% of such member's compensation as
 employee contributions.
- 12 Sec. 7. K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-13 4914d, 74-4920, 74-49,205 and 74-49,210 are hereby repealed.

14 Sec. 8. This act shall take effect and be in force from and after its 15 publication in the statute book.