

STATE OF KANSAS



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GOVERNOR LAURA KELLY

MESSAGE FROM THE GOVERNOR

REGARDING HOUSE BILL 2711

While I support efforts to increase focus on national security, I am concerned about the unintended consequences that could be caused by this well-meaning legislation. Therefore, I will allow this bill to become law without my signature.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

A handwritten signature in black ink, appearing to read "Laura Kelly", written over a horizontal line.

DATED:

April 19, 2024

HOUSE BILL No. 2711

AN ACT concerning state-managed funds; relating to investment procedures, standards and requirements therefor and certain retirement benefits therefrom; enacting the countries of concern divestment act; requiring divestment from investments with countries of concern and providing exceptions therefor; prohibiting investments and deposits with any bank or company domiciled in a country of concern; indemnifying state-managed funds with respect to actions taken in compliance with such act; providing an expiration date for such act; relating to the Kansas public employees retirement system and systems thereunder; Kansas public employees retirement fund; increasing the statutory alternative investment percentage limit to 25%; increasing the membership waiting period for direct support positions of community service providers; increasing the lump-sum death benefit; employment after retirement; increasing the amount of retirant compensation subject to the statutory employer contribution rate; providing an exemption for retirants employed by a community developmental disability organization or a community service provider affiliated with a community developmental disability organization in a licensed professional nurse, licensed practical nurse or direct support position; increasing the earnings limit for members of the Kansas police and firemen's retirement system; amending K.S.A. 74-4937, 74-4957, 74-4957a, 74-4989 and 74-49,315 and K.S.A. 2023 Supp. 74-4911, 74-4914 and 74-4921 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 7, and amendments thereto, shall be known and may be cited as the countries of concern divestment act.

New Sec. 2. As used in this act:

(a) "Act" means the countries of concern divestment act.

(b) "Company" means any:

(1) For-profit corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, association, sole proprietorship or other organization, including any:

(A) Subsidiary of such company, a majority ownership interest of which is held by such company;

(B) parent company that holds a majority ownership of such company; and

(C) other affiliate or business association of such company whose primary purpose is to make a profit; or

(2) nonprofit organization.

(c) (1) "Country of concern" means the following:

(A) People's republic of China, including the Hong Kong special administrative region;

(B) republic of Cuba;

(C) islamic republic of Iran;

(D) democratic people's republic of Korea;

(E) Russian federation; and

(F) Bolivarian republic of Venezuela.

(2) "Country of concern" does not include the republic of China (Taiwan).

(d) "Covered transaction" means the same as defined in 31 C.F.R. § 800.213, as in effect on July 1, 2024.

(e) "Covered control transaction" means the same as defined in 31 C.F.R. § 800.210, as in effect on July 1, 2024.

(f) "Domicile" means the country where:

(1) A company is organized;

(2) a company completes a substantial portion of its business; or

(3) a majority of a company's ownership interest is held.

(g) "Person" means an individual.

(h) "Person owned or controlled by or subject to the jurisdiction or direction of a country of concern" means any:

(1) Person, wherever located, who is a citizen of a nation-state controlled by a country of concern, unless such person is a lawful permanent resident of the United States; or

(2) corporation, partnership, association or other organization organized under the laws of a nation-state controlled by a country of concern.

(i) "State agency" means any department, authority, bureau, division, office or other governmental agency of this state.

(j) "State-managed fund" means:

(1) The Kansas public employees retirement fund managed by the

board of trustees of the Kansas public employees retirement system in accordance with K.S.A. 74-4921, and amendments thereto;

(2) the pooled money investment portfolio managed by the pooled money investment board in accordance with article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; and

(3) any other fund that is sponsored or managed by a state agency.

New Sec. 3. (a) (1) Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, or any other statute to the contrary, and except as provided in paragraph (2), a state-managed fund shall sell, redeem, divest or withdraw all publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern in accordance with the following schedule:

(A) At least 50% of such assets shall be removed from the state-managed fund's assets under management not later than July 1, 2025, or one year from the date section 2, and amendments thereto, is amended to include such country of concern if amended after July 1, 2024, unless the state-managed fund determines that a later date is more prudent based on a good faith exercise of the state-managed fund's fiduciary discretion and subject to subparagraph (B); and

(B) 100% of such assets shall be removed from the state-managed fund's assets under management not later than January 1, 2026, or one year from the date section 2, and amendments thereto, is amended to include such country of concern if amended after July 1, 2024.

(2) If a country of concern takes action to prohibit or restrict the selling, redeeming, divesting or withdrawing of publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern beyond the scheduled removal dates provided in paragraph (1), the state-managed fund shall remove 100% of such assets from the state-managed fund's assets not later than one year from the date that such action is ended by such country of concern.

(b) A state-managed fund shall not knowingly acquire securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern.

(c) A state-managed fund shall not invest or make a deposit in any bank that is domiciled in a country of concern.

New Sec. 4. (a) Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, or any other statute to the contrary, a state-managed fund shall divest from any indirect holdings in actively or passively managed investment funds containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern. Such state-managed fund may submit letters to the managers of each investment fund containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holdings devoid of such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and substantially the same level of investment risk and anticipated return, the state-managed fund may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created. If a manager does not create such similar fund, the state-managed fund shall divest from such indirect holdings in actively or passively managed investment funds.

(b) (1) The provisions of this act shall not apply to any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024, or to a real estate or private equity investment commitment made by a state-managed fund prior to the date that section 2, and amendments thereto, is amended to include a country of concern, if amended after July 1, 2024.

(2) On and after July 1, 2024, a state-managed fund shall not make any new real estate or private equity investment commitment in a person owned or controlled by or subject to the jurisdiction of a country of concern.

New Sec. 5. Not later than the first day of the regular session of the legislature, each year, each state-managed fund shall file a report with the legislature and the Kansas public employees retirement system shall also file such report with the joint committee on pensions, investments and benefits that:

(a) Identifies all securities sold, redeemed, divested or withdrawn in compliance with section 3(a), and amendments thereto;

(b) identifies amendments to section 2, and amendments thereto, that add or remove a country of concern after the later of July 1, 2024, or the last date such information was reported under this section; and

(c) summarizes any changes made under section 4, and amendments thereto.

New Sec. 6. In a cause of action based on an action, inaction, decision, divestment, investment, report or other determination made or taken in compliance with this act, without regard to whether the person performed services for compensation, the state shall indemnify and hold harmless for actual damages, court costs and attorney fees adjudged against members of a state-managed fund or any other officers of such state-managed fund related to the act or omission on which the damages are based and defend the state-managed fund and any of such state-managed fund's current and former employees.

New Sec. 7. (a) The provisions of this act shall expire on July 1, 2029.

(b) On or after July 1, 2028, but before July 15, 2028, the Kansas public employees retirement system shall notify the speaker of the house of representatives, the president of the senate and the chairperson of the joint committee on pensions, investments and benefits that this act is scheduled to expire on July 1, 2029.

Sec. 8. K.S.A. 2023 Supp. 74-4911 is hereby amended to read as follows: 74-4911. (1) Any employee of a participating employer other than an elected official on the entry date of such employer shall be a member of the system on either the entry date or the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later, except that an employee of a participating employer who was first employed by a participating employer on or after July 1, 2008, but before July 1, 2009, shall be a member on July 1, 2009, and except that an employee who is first employed by a participating employer on or after July 1, 2009, shall be a member of the system on the first day of employment of such employee with such participating employer. On and after July 1, 2019, employees employed in direct support positions of an affiliated employer organized under K.S.A. 19-4001, and amendments thereto, ~~and~~ or defined under K.S.A. 39-1803, and amendments thereto, may become a member of the system on the first day of the payroll period coinciding with or following the completion of a two-year period of training, whichever is later. For purposes of this act occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(2) Except as otherwise provided in this subsection, any employee other than an elected official who is employed by a participating employer after the entry date of such employer shall be a member of the system on the first day of the payroll period coinciding with or following completion of one year of continuous service. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in continuous service for purposes of determining the membership date of such employee. For purposes of this subsection, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or

consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the one year of continuous service requirement contained in this subsection.

(3) Any employee who is an elected official and is eligible to join the system shall file, within 90 days after taking the oath of office, an irrevocable election to become or not to become a member of the system. Such election shall become effective immediately upon making such election, if such election is made within 14 days of taking the oath of office or, otherwise, on the first day of the first payroll period of the first quarter following receipt of the election in the office of the retirement system. In the event that such elected official fails to file the election to become a member of the retirement system, it shall be presumed that such person has elected not to become a member.

(4) Except as otherwise required by USERRA, any employee other than an elected official who is in military service or on leave of absence on the entry date of such employee's employer shall become a member of the system upon returning to active employment or on the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(5) Any employee of the state of Kansas other than an elected official, who is receiving or is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, and who becomes ineligible for such assistance because such employee's position is reclassified to a position in the classified service under the Kansas civil service act, or who becomes ineligible for such assistance because such person accepts and transfers to a position in the classified service under the Kansas civil service act shall be a member of the system on the first day of the payroll period coinciding with or following the effective date of such reclassification or transfer. Any such employee who became ineligible for such assistance prior to ~~the effective date of this act~~ *April 15, 1977*, because of such a reclassification or such a transfer occurring prior to ~~the effective date of this act~~ *April 15, 1977*, and who is not a member of the system on ~~the effective date of this act~~ *April 15, 1977*, shall be a member of the system on the first day of the payroll period coinciding with or following ~~the effective date of this act~~ *April 15, 1977*.

(6) Any employee of the state board of regents or of an educational institution under its management, other than an elected official, who is a member of the system and who becomes ineligible to be a member of the system because such employee's position is reclassified to a position under the Kansas civil service act which is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, or who becomes ineligible to be a member of the system because such employee transfers to a position under the Kansas civil service act which is eligible for such assistance, shall become eligible for such assistance in accordance with the provisions of K.S.A. 74-4925, and amendments thereto, unless such employee files a written election in the office of the retirement system, in the form and manner prescribed by the board of trustees thereof, to remain a member of the system prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer. Failure to file such written election shall be presumed to be an election not to remain a member of the system and to become eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto. Such election, whether to remain a member of the system or to become eligible for such assistance, shall be effective as of the effective date of such reclassification or transfer,

and shall be irrevocable.

(7) Any elected official who at the time of becoming an elected official is already a member of the system by being or having been an employee of a participating employer shall continue as a member of the system.

Sec. 9. K.S.A. 2023 Supp. 74-4914 is hereby amended to read as follows: 74-4914.(1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ (9), and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ (9), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) 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 with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ (9), and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ (9), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

~~(5) Except as provided in subsections (7) and (10), on or after July 1, 2006, through December 31, 2017, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of~~

~~such retirant's participation to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$25,000 or more in any one calendar year between July 1, 2016, and January 1, 2018, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed 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 who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity 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 participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection 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. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature. The provisions of this subsection shall not apply to any other elected officials. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment. The provisions of the subsection shall expire on January 1, 2018.~~

(6) For purposes of this section, any employee of a local governmental unit ~~which~~ *that* has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, ~~which~~ *that* occurred on January 1, 1994, may count service with such local

governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

~~(7)(6) (a)(i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending January 1, 2018, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.~~

(ii) Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first ~~\$25,000~~ \$40,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~\$25,000~~ \$40,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), ~~(4) or (5)~~, and amendments thereto;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

(v) employed as substitute teachers without a contract or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county;

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection. Commencing January 1, 2018, the participating employer of a retirant described in this ~~subsection (7)(b)(vii)~~ *subparagraph* who is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, shall pay to the system the statutorily prescribed employer contribution rate on the first ~~\$25,000~~ *\$40,000* of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~\$25,000~~ *\$40,000* in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system;

(viii) state or local elected officials. A retirant shall not be employed in an elected office within 30 days of such retirant's retirement, except that if a retirant is filling a vacant elected office, no waiting period shall be required; ~~or~~

(ix) employed by the Kansas academies of the United States department of defense STARBASE program; *or*

(x) employed as a licensed professional nurse, licensed practical nurse or in a direct support position of an affiliated employer organized under K.S.A. 19-4001, and amendments thereto, or defined under K.S.A. 39-1803, and amendments thereto.

(c) The participating employer shall enroll all retirants, including retirants under ~~subsection (7)(b)(i)~~ *(6)(b)(i)*, (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

~~(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:~~

~~(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;~~

~~(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment; and~~

~~(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.~~

~~The provisions of this paragraph shall expire on January 1, 2018.~~

~~(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each~~

~~one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:~~

- ~~(i) No applications were submitted for the position;~~
- ~~(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or~~
- ~~(iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.~~

~~The provisions of this paragraph shall expire on January 1, 2018.~~

~~(f) Retirants who are independent contractors or employees of third-party entities who contract with a participating employer, shall not be subject to the compensation limitation or employer contribution requirements in this subsection or the requirements of subsection (7)(e) paragraph (c) regarding enrollment and reporting to the system, so long as all of the following apply:~~

~~(A) The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;~~

~~(B) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and~~

~~(C) the retirant meets the classification of independent contractor as provided in K.S.A. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.~~

~~(g)(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.~~

~~(8)(7) (a) Except as provided in subsection (8)(b) paragraph (b), if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, or the 180-day waiting period under subsection (10) (9), the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.~~

~~(b) For members who retired on and after July 1, 2016, and on or before July 1, 2019, if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement date and the subsequent 60-day waiting period, or the 180-day waiting period under subsection (10) (9), and upon being notified of the violation, the retirant terminated such employment, the provisions of subsection paragraph~~

(a) shall not apply. If any retirant had benefits suspended prior to July 1, 2019, such benefits shall be reimbursed by the retirement system, if the retirant terminated such prearranged employment in accordance with the provisions of this act. On and after July 1, 2019, the executive director may waive such penalties under this subsection if it is determined by the retirement system that any of the following conditions were satisfied:

(i) The retirant's total length of reemployment was less than 21 calendar days;

(ii) the retirant's total compensation during the total length of reemployment was less than 10% of the amount of such retirant's retirement benefit that would be suspended pursuant to this subsection; or

(iii) other facts and circumstances indicated that the retirant would not have been reemployed but for an error on the part of the participating employer or the retirement system in verifying the retirement status of such retirant and such retirant immediately terminated employment upon being notified of the violation.

(c) On or before the first day of each regular session of the legislature, beginning with the 2020 regular session, the executive director shall submit an annual report on the number of waivers granted pursuant to ~~subsection (8)(b)~~ *paragraph (b)* in the prior calendar year to the joint committee on pensions, investments and benefits, the house of representatives standing committee on financial institutions and pensions and the senate standing committee on financial institutions and insurance, or the successors of such committees.

~~(9)~~(8) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

~~(10)~~(9) (a) Notwithstanding the provisions of ~~subsection (5) or (7)~~ (6) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, or an independent contractor or a third-party entity who contracts service to fill such covered position shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first ~~\$25,000~~ ~~\$40,000~~ of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~\$25,000~~ ~~\$40,000~~ in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.

(b) Notwithstanding the provisions of ~~subsection (5) or (7)~~ (6) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a non-covered position, or an independent contractor or a third-party entity who contracts service to fill such non-covered position, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a

retirant hired in a non-covered position.

(c) The participating employer shall enroll all retirants, including retirants under subsection ~~(7)(b)(i)~~ (6)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) The provisions of this subsection relating to an earnings limitation and employer contributions shall not apply to any retirant described in subsection ~~(7)(b)~~ (6)(b) or to retirants who are independent contractors or employees of third-party entities who contract with a participating employer as described in subsection ~~(7)(f)~~ (6)(d), except as specifically provided in this subsection.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right that is not subject to amendment or nullification by act of the legislature.

Sec. 10. K.S.A. 2023 Supp. 74-4921 is hereby amended to read as follows: 74-4921. (1) There is hereby created in the state treasury the Kansas public employees retirement fund. All employee and employer contributions shall be deposited in the state treasury to be credited to the Kansas public employees retirement fund. The fund is a trust fund and shall be used solely for the exclusive purpose of providing benefits to members and member beneficiaries and defraying reasonable expenses of administering the fund. Investment income of the fund shall be added or credited to the fund as provided by law. All benefits payable under the system, refund of contributions and overpayments, purchases or investments under the law and expenses in connection with the system unless otherwise provided by law shall be paid from the fund. The director of accounts and reports is authorized to draw warrants on the state treasurer and against such fund upon the filing in the director's office of proper vouchers executed by the chairperson or the executive director of the board. As an alternative, payments from the fund may be made by credits to the accounts of recipients of payments in banks, savings and loan associations and credit unions. A payment shall be so made only upon the written authorization and direction of the recipient of payment and upon receipt of such authorization such payments shall be made in accordance therewith. Orders for payment of such claims may be contained on:

(a) A letter, memorandum, telegram, computer printout or similar writing; or

(b) any form of communication, other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(2) The board shall have the responsibility for the management of the fund and shall discharge the board's duties with respect to the fund solely in the interests of the members and beneficiaries of the system for the exclusive purpose of providing benefits to members and such member's beneficiaries and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this

section.

(3) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to members and member beneficiaries, as provided by law and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if any investment objective is for economic development or social purposes or objectives.

(4) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(5) Notwithstanding subsection (4):

(a) Total investments in common stock may be made in the amount of up to 60% of the total book value of the fund;

(b) the board may invest or reinvest moneys of the fund in alternative investments if the following conditions are satisfied:

(i) The total of the annual net commitment to alternative investments does not exceed 5% of the total market value of investment assets of the fund as measured from the end of the preceding calendar year;

(ii) if in addition to the system, there are at least two other qualified institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities act of 1933;

(iii) the system's share in any individual alternative investment is limited to an investment representing not more than 20% of any such individual alternative investment;

(iv) the system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of alternative investment;

(v) the alternative investment is consistent with the system's investment policies and objectives as provided in subsection (6);

(vi) the individual alternative investment does not exceed more than 2.5% of the total alternative investments made under this subsection. If the alternative investment is made pursuant to participation by the system in a multi-investor pool, the 2.5% limitation contained in this subsection is applied to the underlying individual assets of such pool and not to investment in the pool itself. The total of such alternative investments made pursuant to participation by the system in any one individual multi-investor pool shall not exceed more than 20% of the total of alternative investments made by the system pursuant to this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings in any alternative investments made pursuant to participation by the system in any one individual multi-investor pool held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 20% limitation contained in this subsection shall not have been violated if the total of such investment in any one individual multi-investor pool exceeds 20% of the total alternative investments of the fund as a result of market forces acting to increase the value of such a multi-investor pool relative to the rest of the system's alternative investments; however, the board shall not invest or reinvest any moneys of the fund in any such individual multi-investor pool until the value of such individual multi-investor

pool is less than 20% of the total alternative investments of the fund;

(vii) the board has received and considered the investment manager's due diligence findings submitted to the board as required by subsection (6);

(viii) prior to the time the alternative investment is made, the system has in place procedures and systems to ensure that the investment is properly monitored and investment performance is accurately measured; and

(ix) the total of alternative investments does not exceed ~~15%~~ 25% of the total investment assets of the fund. The ~~15%~~ 25% limitation contained in this subsection shall not have been violated if the total of such alternative investments exceeds ~~15%~~ 25% of the total investment assets of the fund, based on the fund total market value, as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments. However, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total value of such alternative investments is less than ~~15%~~ 25% of the total investment assets of the fund based on the market value. If the total value of the alternative investments exceeds ~~15%~~ 25% of the total investment assets of the fund, the board shall not be required to liquidate or sell the system's holdings in any alternative investment held by the system, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and is prudent under the standards contained in this section;

(c) for purposes of this section, "alternative investment" includes a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash or real estate. Alternative investments are generally made through limited partnership or similar structures, are not regularly traded on nationally recognized exchanges and thus are relatively illiquid, and exhibit lower correlations with more liquid asset types such as stocks and bonds. Alternative investments generally include, but are not limited to, private equity, private credit, hedge funds, infrastructure, commodities and other investments that have the characteristics described in this paragraph; and

(d) except as otherwise provided, the board may invest or reinvest moneys of the fund in real estate investments if the following conditions are satisfied:

(i) The system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of real estate investment;

(ii) the real estate investment is consistent with the system's investment policies and objectives as provided in subsection (6); and

(iii) the system has received and considered the investment manager's due diligence findings.

(6) (a) Subject to the objective set forth in subsection (3) and the standards set forth in subsections (4) and (5) the board shall formulate policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall include:

(i) Specific asset allocation standards and objectives;

(ii) establishment of criteria for evaluating the risk versus the potential return on a particular investment;

(iii) a requirement that all investment managers submit such manager's due diligence findings on each investment to the board or investment advisory committee for approval or rejection prior to making any alternative investment;

(iv) a requirement that all investment managers shall immediately report all instances of default on investments to the board and provide the board with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment; and

(v) establishment of criteria that would be used as a guideline for determining when no additional add-on investments or reinvestments would be made and when the investment would be liquidated.

(b) The board shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(7) The board may enter into contracts with one or more persons whom the board determines to be qualified, whereby the persons undertake to perform the functions specified in subsection (2) to the extent provided in the contract. Performance of functions under contract so entered into shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts and shall be based on specific contractual fee arrangements. The system shall not pay or reimburse any expenses of persons contracted with pursuant to this subsection, except that after approval of the board, the system may pay approved investment related expenses subject to provisions of appropriation acts. The board shall require that a person contracted with to obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board, provided that such coverage shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board shall require a person contracted with to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state. Such persons contracted with the board pursuant to this subsection and any persons contracted with such persons to perform the functions specified in subsection (2) shall be deemed to be agents of the board and the system in the performance of contractual obligations.

(8) (a) In the acquisition or disposition of securities, the board may rely on the written legal opinion of a reputable bond attorney or attorneys, the written opinion of the attorney of the investment counselor or managers, or the written opinion of the attorney general certifying the legality of the securities.

(b) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(9) (a) Except as provided in subsection (7) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by the banks or trust companies shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts.

(b) The state treasurer and the board shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and pay same when so collected into the fund.

(c) The principal and interest or other income or the proceeds of sale of securities as provided in this subsection shall be reported to the state treasurer and the board and credited to the fund.

(10) The board shall with the advice of the director of accounts and reports establish the requirements and procedure for reporting any and all activity relating to investment functions provided for in this act in order to prepare a record monthly of the investment income and changes made during the preceding month. The record will reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the fund.

(11) The board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of

the fund in relation to the objective set forth in subsection (3), the standard set forth in subsection (4) and other criteria as may be appropriate, and recommendations relating to the fund investment policies and practices and to specific investments of the fund as are considered necessary or desirable. The board shall include in its annual report to the governor as provided in K.S.A. 74-4907, and amendments thereto, a report or a summary thereof covering the investments of the fund.

(12) Any internal assessment or examination of alternative investments of the system performed by any person or entity employed or retained by the board which evaluates or monitors the performance of alternative investments shall be reported to the legislative post auditor so that such report may be reviewed in accordance with the annual financial-compliance audits conducted pursuant to K.S.A. 74-49,136, and amendments thereto.

Sec. 11. K.S.A. 74-4937 is hereby amended to read as follows: 74-4937. (1) The normal retirement date of a member of the system who is in school employment and who is subject to K.S.A. 74-4940, 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 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with the completion of 35 years of credited service or at any age with the completion of 40 years of credited service, or commencing July 1, 1993, any alternative normal retirement date already prescribed by law or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. Each member upon giving prior notice to the appointing authority and the retirement system may retire on the normal retirement date or the first day of any month thereafter. Such member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~(9), and amendments thereto, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(2) Any member who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, may retire before such member's normal retirement date on the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and the attainment of age 55 with the completion of 10 years of credited service, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~(9), and amendments thereto, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(3) The provisions of K.S.A. 74-4914~~(5)~~, ~~(7)~~ and ~~(10)~~(6) and (9), and amendments thereto, ~~which~~ *that* relate to an earnings limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month ~~for~~ *during* which such retirant serves in a position as described herein shall not apply to retirants who either retired under the provisions of K.S.A. 74-4914(1), and amendments thereto, related to normal retirement, or, if they retired under the provisions of K.S.A. 74-4914(4), and amendments thereto, related to early retirement, and are subsequently hired in a position that requires a

license under K.S.A. 72-2157, and amendments thereto, or other provision of law. The provisions of this subsection shall only apply to retirants who retired prior to January 1, 2018. Except as otherwise provided, when a retirant is employed by the same school district or a different school district with which such retirant was employed during the final two years of such retirant's participation or employed as an independent contractor or by a third-party entity who contracts services with a school district to fill a position as described in this subsection, the participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. Commencing January 1, 2018, if a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer shall pay to the system the statutorily prescribed employer contribution rate on the first ~~\$25,000~~ \$40,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~\$25,000~~ \$40,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. ~~The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.~~ Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which *that* is not subject to amendment or nullification by act of the legislature.

~~(4) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a special teacher position as defined in K.S.A. 72-3404, and amendments thereto, if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.~~

~~(b) A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for~~

~~some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as special teachers, except as specifically provided in this subsection.~~

~~(e) Each school district that uses the provisions of this subsection to hire retirants shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the special teacher positions. Upon request of the joint committee on pensions, investments and benefits, an employer shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.~~

~~(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:~~

- ~~(i) No applications were submitted for the position;~~
- ~~(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or~~
- ~~(iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.~~

~~(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.~~

~~(f) The provisions of this subsection shall expire on January 1, 2018.~~

~~(5) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district, and if such school district hires a retirant for a hard-to-fill position in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.~~

~~(b) The state board of education shall annually certify the top five~~

types of licensed positions that are hard to fill. A school district may hire a retirant to fill a hard-to-fill position for some or all of a school year and in subsequent school years if the employer is unable to permanently fill the position with an active member. A retirant first hired under the provisions of this subsection may be retained by an employer even if such retirant's type of position is no longer one of the five types of positions certified by the state board of education. A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.

(c) Each school district that uses the provisions of this subsection to hire retirants for hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the hard-to-fill positions. Upon request of the joint committee on pensions, investments and benefits, a school district shall provide such documentation to the committee. If the committee finds that a school district has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.

(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(f) The provisions of this subsection shall expire on January 1, 2018.

(6)(4) The provisions of K.S.A. 74-4914(8)(7), and amendments thereto, shall apply to retirants under the provisions of this section.

(7)(5) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

Sec. 12. K.S.A. 74-4957 is hereby amended to read as follows: 74-4957. (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 or the completion of 32 years of credited service regardless of the age of the member. 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 through 13-14a14, inclusive, or 14-10a01 to through 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 ~~\$25,000-\$40,000~~ 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.

Sec. 13. K.S.A. 74-4957a is hereby amended to read as follows: 74-4957a. (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 ~~\$25,000~~ \$40,000 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.

Sec. 14. K.S.A. 74-4989 is hereby amended to read as follows: 74-4989. (1) (a) Except as provided in *paragraph* (b), pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death of a retirant, the board of trustees of the Kansas public employees retirement system shall pay a lump-sum death benefit to: (i) The retirant's beneficiary ~~which that~~ shall not exceed ~~\$4,000~~ \$6,000 for such retirant, less any amount payable for funeral benefits under the applicable provisions of any local police or fire pension plan, as defined by ~~subsection (e) of~~ K.S.A. 12-5001(c), and amendments thereto; or ~~to~~ (ii) a funeral establishment as directed by the retirant and filed in the office of the system prior to such retirant's death.

(b) Notwithstanding the provisions of K.S.A. 74-4923, and amendments thereto, any amounts owed the system shall be deducted from such lump-sum death benefit.

(2) As used in this section, "retirant" means any person who is a member or special member of the Kansas public employees retirement system, the Kansas police and firemen's retirement system, the state school retirement system or the retirement system for judges and who has retired.

Sec. 15. K.S.A. 74-49,315 is hereby amended to read as follows: 74-49,315. A member's beneficiary shall be determined as provided in the pre-2015 plan. Upon filing a written application with the board after the death of a member receiving a benefit under ~~subsections (a) or (b) of~~ K.S.A. 74-49,313(a) or (b), and amendments thereto, the member's beneficiary is entitled to ~~a \$4,000~~ the lump-sum death benefit as provided in K.S.A. 74-4989, and amendments thereto.

Sec. 16. K.S.A. 74-4937, 74-4957, 74-4957a, 74-4989 and 74-49,315 and K.S.A. 2023 Supp. 74-4911, 74-4914 and 74-4921 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.