

# FREE CONFERENCE COMMITTEE REPORT

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The Free Conference Committee on **HB 358** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

  X   GA        SCS        HCS

For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number):       ;

Floor (list by chamber and number):       ; and

The following Free Conference Committee action:

Beginning on page 1, after line 3, and continuing to page 25, line 26, by deleting Sections 1. to 8. in their entirety and inserting the following in lieu thereof:

"➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any other provision of KRS 61.510 to 61.705 to the contrary:*

*(1) For purposes of this section:*

*(a) "Active member" means a member who is participating in the Kentucky Employees Retirement System and is employed by a quasi-governmental employer, except for those members who are participating in the Kentucky Employees Retirement System under hazardous duty coverage;*

*(b) "Effective cessation date" means June 30, 2020, unless the quasi-governmental entity submits a resolution to continue participating in the system as provided by subsection (2)(a) of this section;*

*(c) "Inactive member" means a member who is not participating in the system; and*

*(d) "Quasi-governmental employer" or "employer" means Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State*

1 University, Northern Kentucky University, Western Kentucky University, the  
2 Kentucky Community Technical College System, the Kentucky Higher Education  
3 Student Loan Corporation, state-administered retirement systems, local and district  
4 health departments, mental health/mental retardation boards, domestic violence  
5 shelters, rape crisis centers, child advocacy centers, and any other agency eligible  
6 to voluntarily cease participating in the Kentucky Employees Retirement System  
7 pursuant to KRS 61.522, who participate in the Kentucky Employees Retirement  
8 System, except that it shall not include any employer who has ceased participation  
9 in the systems under KRS 61.522;

10 (2) Any quasi-governmental employer participating in the Kentucky Employees Retirement  
11 System:

12 (a) Shall be required to cease participation in the system for its nonhazardous  
13 employees subject to the requirements and restrictions of this section, unless the  
14 quasi-governmental employer adopts a resolution to continue participation in the  
15 system and submits the resolution to the board by December 31, 2019. The board  
16 shall accept the resolution on or before June 30, 2020, and the employer shall not  
17 be able to rescind a request to continue participating once it has been submitted to  
18 the system. If a quasi-governmental employer adopts a resolution to continue  
19 participation in the system and submits the resolution to the board by December 31,  
20 2019, as provided by this paragraph, the quasi-governmental employer shall be  
21 required to pay the full actuarially required contribution in all future fiscal years  
22 occurring on or after July 1, 2020, as prescribed by KRS 61.565 and 61.702; and

23 (b) On or after the effective date of this Act, but prior to August 1, 2019, may request  
24 an estimate of the cost of ceasing participation in the system. The estimate shall be  
25 provided to the employer within sixty (60) days of the request;

26 (3) If a quasi-governmental employer ceases participation in the Kentucky Employees  
27 Retirement System as provided by subsection (2)(a) of this section because the employer

1 has not submitted a resolution to continue participating in the system by December 31,  
2 2019:

3 (a) The cessation of participation in the system shall apply to all nonhazardous  
4 employees of the quasi-governmental employer except for those employees making  
5 an election as provided by subsection (4)(c) of this section;

6 (b) The quasi-governmental employer shall pay for all administrative costs of an  
7 actuarial study to be completed by the Kentucky Retirement Systems' consulting  
8 actuary and for any other administrative costs for ceasing participation in the  
9 system as determined by the board and as provided by this section;

10 (c) The quasi-governmental employer shall provide an alternative retirement program  
11 for employees who will no longer be covered by the system, which:

12 1. Shall include a qualified trust or eligible retirement plan as defined by 26  
13 U.S.C. sec. 402(c)(8) that accepts direct trustee-to-trustee transfers from the  
14 system of both before-tax and after-tax contributions in accordance with 26  
15 U.S.C. 401(a)(31) and that provides a fixed employee contribution rate for  
16 each pay period that is equal to the system's employee contribution rate to the  
17 pension fund for those employees participating in the system prior to the  
18 employer's effective cessation date; and

19 2. Shall not include a defined benefit plan which by nature can have an  
20 unfunded liability;

21 (d) The quasi-governmental employer shall pay the full actuarial cost of the benefits  
22 accrued by its current and former employees in the system through the effective  
23 cessation date, the present value of future normal costs of additional service  
24 accrued by employees making an election as provided by subsection (4) of this  
25 section, and for interest and adjustments to the cost in the case of ceasing  
26 employers making installment payments as provided by paragraph (f) of this  
27 subsection;

1 (e) The full actuarial cost:

- 2 1. Shall be determined separately for the pension fund and the insurance fund  
3 by the actuarial study required by paragraph (b) of this subsection;  
4 2. May be paid by lump-sum payment or in installment payments to the system  
5 as provided by this subsection;  
6 3. For the ceasing employer shall include all service for any active member,  
7 inactive member, or retired member whose last participating employer was  
8 the ceasing employer; and  
9 4. Shall be fixed, and the quasi-governmental employer shall not be subject to  
10 any increases or subsequent adjustments, once the lump sum is paid or the  
11 first installment payment is made, except as provided by paragraph (f) of this  
12 subsection for those employers making installment payments and in the event  
13 of an unfavorable private letter ruling regarding employee elections as  
14 provided by subsection (4)(d) of this section; and

15 (f) If the quasi-governmental employer elects to pay the costs in installment payments,  
16 the cost of ceasing participation as provided by this subsection shall be financed by  
17 the systems using the following method:

- 18 1. Annual payments occurring on or after July 1, 2020, shall be a set dollar  
19 value and shall be paid in monthly installments. In fiscal year 2020-2021, the  
20 set dollar value shall be equal to the annualized average of the creditable  
21 compensation reported to the systems by the ceasing employer over the last  
22 sixty (60) months occurring prior to July 1, 2019, for which contributions  
23 were paid by the ceasing employer, and multiplying that value by an employer  
24 rate of forty-nine and forty-seven one-hundredths percent (49.47%). Annual  
25 payments, for fiscal years occurring on or after July 1, 2021, which shall be  
26 paid monthly, shall be increased by one and one-half percent (1.5%) annually  
27 and shall be paid until the cost as provided by subsection (5) of this section

1 and as adjusted annually by subparagraphs 2. and 3. of this paragraph is paid  
2 in full. If the employer ceasing participation is receiving a general fund  
3 appropriation to help pay retirement contributions and that appropriation is  
4 reduced in future years occurring on or after July 1, 2020, from the amount  
5 appropriated in fiscal year 2019-2020, the payment under this subsection  
6 shall be reduced on a dollar-for-dollar basis as the appropriation reduction;

7 2. Interest shall be assigned to the principal amount annually beginning on July  
8 1, 2020, and for each July 1 thereafter, that is equal to a rate of five and one-  
9 quarter percent (5.25%) per annum for pension costs and at a rate of six and  
10 one-quarter percent (6.25%) per annum for retiree health costs; and

11 3. If, on the basis of actuarial valuations occurring on or after June 30, 2021,  
12 the systems determines that additional unfunded liabilities have been created  
13 that are attributable to current employees and retirees of an employer making  
14 installments as provided by this paragraph, then the systems may adjust the  
15 principal balance to account for the additional unfunded liability during the  
16 time installments are being made.

17 An employer ceasing participation who is making installment payments as provided  
18 by this paragraph may at any time payoff the remaining balance and shall not be  
19 charged any interest for periods beyond the payoff date;

20 (4) Notwithstanding any other provision of statute to the contrary, for a quasi-governmental  
21 employer ceasing participation as provided by this section:

22 (a) Any nonhazardous employee hired on or after January 1, 2019, shall not,  
23 regardless of his or her membership date in the systems administered by the  
24 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees  
25 Retirement System through the quasi-governmental employer that ceased  
26 participation for the duration of his or her employment with that quasi-  
27 governmental employer;

1 (b) Any nonhazardous employee who began participating in the system on or after  
2 January 1, 2014, who is participating in the hybrid cash balance plan as provided  
3 by KRS 61.597, and who was hired by the quasi-governmental employer prior to  
4 January 1, 2019, shall accrue benefits through the employer's effective cessation  
5 date but shall not accrue any additional benefits in the Kentucky Employees  
6 Retirement System, including earning years of service credit through the ceased  
7 employer, on or after the employer's effective cessation date, for as long as they  
8 remain employed by that employer;

9 (c) Any nonhazardous employee who began participating in the system prior to  
10 January 1, 2014, and who was hired by the quasi-governmental employer prior to  
11 January 1, 2019, may, on or before the employer's effective cessation date, make a  
12 one (1) time irrevocable election to continue making employee contributions and  
13 accruing benefits in the system after the employer's effective cessation date for the  
14 duration of his or her employment with the ceasing employer subject to the  
15 provisions of KRS 61.510 to 61.705 and subsection (8) of this section;

16 (d) Any nonhazardous employee who began participating in the system prior to  
17 January 1, 2014, who was hired by the quasi-governmental employer prior to  
18 January 1, 2019, and who does not make an election as provided by paragraph (c)  
19 of this subsection shall accrue benefits through the employer's effective cessation  
20 date but shall not accrue any additional benefits in the Kentucky Employees  
21 Retirement System, including earning years of service credit through the ceased  
22 employer, after the employer's effective cessation date for as long as he or she  
23 remains employed by that employer. The systems shall request a private letter  
24 ruling to verify whether or not an employee of a ceasing employer can make an  
25 election to continue participating in the system as provided by paragraph (c) of this  
26 subsection. In the event the systems receives a private letter ruling that does not  
27 allow for the employee election as provided by paragraph (c) of this subsection,

1 then an employee covered by this paragraph who did not make an election as  
2 provided by paragraph (c) of this subsection shall participate in the system and the  
3 ceasing employer shall be billed for the present value of future normal costs of  
4 these employees;

5 (e) On the first day of the month following the effective cessation date, an employee  
6 described by paragraphs (b) and (d) of this subsection who will cease participation  
7 in the system as of the effective cessation date shall be considered an inactive  
8 member with respect to his or her employment with the employer that ceased  
9 participation and, subject to the provisions and limitations of KRS 61.510 to  
10 61.705, shall:

11 1. Retain his or her accounts with the Kentucky Employees Retirement System  
12 and have those accounts credited with interest in accordance with KRS  
13 61.510 to 61.705;

14 2. Contribute to the alternative retirement program established pursuant to  
15 subsection (3)(c) of this section;

16 3. Retain his or her vested rights in accordance with paragraph (f) of this  
17 subsection;

18 4. If the alternative retirement plan established pursuant to subsection (3)(c) is a  
19 qualified trust or eligible retirement plan as defined in 26 U.S.C. sec.  
20 402(c)(8) and is capable of accepting trustee-to-trustee transfers of both  
21 before-tax and after-tax contributions, be eligible to seek to transfer his or her  
22 accumulated account balance to the employer's qualified alternative  
23 retirement program within sixty (60) days of the employer's effective cessation  
24 date, unless the employee is prohibited due to an election to continue  
25 participating in the system as provided by paragraph (c) of this subsection. An  
26 employee's decision to transfer his or her accumulated account balance  
27 within sixty (60) days of the employer's effective cessation date is an

1 irrevocable waiver of the right to obtain service credits in the system for the  
2 time worked for the employer ceasing participation. The employer's cost for  
3 ceasing participation shall be reduced accordingly for any employee  
4 transferring to the alternative retirement program; and

5 5. Be eligible to take a refund of his or her accumulated account balance in  
6 accordance with KRS 61.625 or any other available distribution if eligible;  
7 and

8 (f) The rights of recipients and the vested rights of active members or inactive  
9 members accrued as of the quasi-governmental employer's effective cessation date  
10 shall not be impaired or reduced in any manner as a result of the employer ceasing  
11 participation in the system;

12 (5) For purposes of this section, the full actuarial cost shall be determined by the Kentucky  
13 Retirement Systems' consulting actuary separately for the pension fund and the  
14 insurance fund using the assumptions and methodology established in the 2018  
15 actuarial valuation. For purposes of determining the full actuarial cost, the assumed  
16 rate of return and discount rate used to calculate the cost shall be the lesser of the  
17 assumed rate of return utilized in the system's 2018 actuarial valuation or the yield on a  
18 thirty (30) year United States Treasury bond as of the employer's effective cessation date,  
19 but shall in no case be lower than three percent (3%) for those employers paying their  
20 full actuarial costs by installment payments and four and one-half percent (4.5%) for  
21 those employers paying their full actuarial costs by lump-sum payment within twelve  
22 (12) months of the employer's effective cessation date;

23 (6) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant  
24 to KRS Chapter 13A to administer this section;

25 (7) Any quasi-governmental employer who ceases participation as provided in this section  
26 shall:

27 (a) Hold the Commonwealth harmless from damages, attorney's fees, and costs from



- 1 legal claims for any cause of action brought by any inactive member after the  
2 departing quasi-governmental employer's effective cessation date;
- 3 (b) If the employer has federally funded employees, attempt to maximize the use of  
4 federal dollars to pay for their costs of ceasing participation; and
- 5 (c) Be required to pledge any security in any relevant real estate, chattel paper, deposit  
6 accounts, documents, goods covered by documents, instruments, investment  
7 property, letters of credit rights, and money to the costs of ceasing participation  
8 until all costs of ceasing participation are paid in full; and
- 9 (8) If a quasi-governmental employer ceases participation as provided by this section and is  
10 delinquent in making the required installment payments required by subsection (3)(f) of  
11 this section for a period of thirty (30) days or more, the following actions shall be taken:
- 12 (a) Notwithstanding any other statute to the contrary, the Finance and Administration  
13 Cabinet shall have the authority to and shall direct the administration of the  
14 ceasing employer's operations and finances, including but not limited to its  
15 financial record keeping, personnel management operations, and financial and  
16 program reporting until the ceasing employer is making the required installment  
17 payments as provided by this section;
- 18 (b) The systems shall suspend benefit payments and refunds of current and former  
19 employees and retirees of the delinquent ceasing employer until the ceasing  
20 employer is making the required installment payments as provided by this section;  
21 and
- 22 (c) The employees of the delinquent ceasing employer who elected to retain coverage  
23 in the system as provided by subsection (4)(c) of this section, shall contribute to the  
24 alternative retirement plan established by the employer pursuant to subsection  
25 (3)(c) of this section instead of the Kentucky Employees Retirement System for the  
26 duration of employment with the ceasing employer.

27 ➔Section 2. KRS 61.675 is amended to read as follows:

- 1 (1) The employer shall prepare the records and, from time to time, shall furnish the information  
2 the system may require in the discharge of its duties. Upon employment of an employee,  
3 the employer shall inform him of his duties and obligations in connection with the system  
4 as a condition of employment.
- 5 (2) The system may at any time conduct an audit of the employer in order to determine if the  
6 employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or  
7 78.510 to 78.852. The system shall have access to and may examine all books, accounts,  
8 reports, correspondence files, and records of any employer. Every employer, employee, or  
9 agency reporting official of a department or county, as defined in KRS 78.510(3), having  
10 records in his possession or under his control, shall permit access to and examination of the  
11 records upon the request of the system.
- 12 (3) (a) Any agency participating in the Kentucky Employees Retirement System which is not  
13 an integral part of the executive branch of state government shall file the following at  
14 the retirement office on or before the tenth day of the month following the period  
15 being reported:
- 16 1. The employer and employee contributions required under KRS 61.560, 61.565,  
17 and 61.702;
  - 18 2. The employer contributions and reimbursements for retiree health insurance  
19 premiums required under KRS 61.637; and
  - 20 3. A record of all contributions to the system on the forms prescribed by the board.
- 21 (b) If the agency fails to file all contributions and reports on or before the tenth day of the  
22 month following the period being reported, interest on the delinquent contributions at  
23 the actuarial rate adopted by the board compounded annually, but not less than one  
24 thousand dollars (\$1,000), shall be added to the amount due the system.
- 25 **(4) If a quasi-governmental employer ceases participation in the Kentucky Employees**  
26 **Retirement System as provided by Section 1 of this Act and is delinquent in making the**  
27 **required installment payments required by Section 1 of this Act for a period of thirty (30)**

1 days or more:

2 (a) Refunds and retirement allowance payments to members of the ceasing employer  
 3 shall be suspended until the delinquent payments have been paid to the system; and

4 (b) The board may file an action in the Franklin Circuit Court to collect any  
 5 delinquent payments owed by the employer and to attach so much of the general  
 6 fund of the delinquent employer as is necessary to achieve full compliance with  
 7 Section 1 of this Act.

8 ➔Section 3. KRS 18A.225 (Effective July 1, 2019) is amended to read as follows:

9 (1) (a) The term "employee" for purposes of this section means:

- 10 1. Any person, including an elected public official, who is regularly employed by  
 11 any department, office, board, agency, or branch of state government; or by a  
 12 public postsecondary educational institution; or by any city, urban-county,  
 13 charter county, county, or consolidated local government, whose legislative  
 14 body has opted to participate in the state-sponsored health insurance program  
 15 pursuant to KRS 79.080; and who is either a contributing member to any one  
 16 (1) of the retirement systems administered by the state, including but not limited  
 17 to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System,  
 18 the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving  
 19 a contractual contribution from the state toward a retirement plan; or, in the case  
 20 of a public postsecondary education institution, is an individual participating in  
 21 an optional retirement plan authorized by KRS 161.567; or is eligible to  
 22 participate in a retirement plan established by an employer who ceases  
 23 participating in the Kentucky Employees Retirement System pursuant to  
 24 Section 1 of this Act;
- 25 2. Any certified or classified employee of a local board of education;
- 26 3. Any elected member of a local board of education;
- 27 4. Any person who is a present or future recipient of a retirement allowance from

1 the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the  
2 Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky  
3 Community and Technical College System's optional retirement plan authorized  
4 by KRS 161.567, except that a person who is receiving a retirement allowance  
5 and who is age sixty-five (65) or older shall not be included, with the exception  
6 of persons covered under KRS 61.702(4)(c), unless he or she is actively  
7 employed pursuant to subparagraph 1. of this paragraph; and

8 5. Any eligible dependents and beneficiaries of participating employees and  
9 retirees who are entitled to participate in the state-sponsored health insurance  
10 program;

11 (b) The term "health benefit plan" for the purposes of this section means a health benefit  
12 plan as defined in KRS 304.17A-005;

13 (c) The term "insurer" for the purposes of this section means an insurer as defined in  
14 KRS 304.17A-005; and

15 (d) The term "managed care plan" for the purposes of this section means a managed care  
16 plan as defined in KRS 304.17A-500.

17 (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation  
18 of the secretary of the Personnel Cabinet, shall procure, in compliance with the  
19 provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers  
20 authorized to do business in this state, a group health benefit plan that may include  
21 but not be limited to health maintenance organization (HMO), preferred provider  
22 organization (PPO), point of service (POS), and exclusive provider organization  
23 (EPO) benefit plans encompassing all or any class or classes of employees. With the  
24 exception of employers governed by the provisions of KRS Chapters 16, 18A, and  
25 151B, all employers of any class of employees or former employees shall enter into a  
26 contract with the Personnel Cabinet prior to including that group in the state health  
27 insurance group. The contracts shall include but not be limited to designating the

1 entity responsible for filing any federal forms, adoption of policies required for proper  
2 plan administration, acceptance of the contractual provisions with health insurance  
3 carriers or third-party administrators, and adoption of the payment and reimbursement  
4 methods necessary for efficient administration of the health insurance program.  
5 Health insurance coverage provided to state employees under this section shall, at a  
6 minimum, contain the same benefits as provided under Kentucky Kare Standard as of  
7 January 1, 1994, and shall include a mail-order drug option as provided in subsection  
8 (13) of this section. All employees and other persons for whom the health care  
9 coverage is provided or made available shall annually be given an option to elect  
10 health care coverage through a self-funded plan offered by the Commonwealth or, if a  
11 self-funded plan is not available, from a list of coverage options determined by the  
12 competitive bid process under the provisions of KRS 45A.080, 45A.085, and  
13 45A.090 and made available during annual open enrollment.

14 (b) The policy or policies shall be approved by the commissioner of insurance and may  
15 contain the provisions the commissioner of insurance approves, whether or not  
16 otherwise permitted by the insurance laws.

17 (c) Any carrier bidding to offer health care coverage to employees shall agree to provide  
18 coverage to all members of the state group, including active employees and retirees  
19 and their eligible covered dependents and beneficiaries, within the county or counties  
20 specified in its bid. Except as provided in subsection (20) of this section, any carrier  
21 bidding to offer health care coverage to employees shall also agree to rate all  
22 employees as a single entity, except for those retirees whose former employers insure  
23 their active employees outside the state-sponsored health insurance program.

24 (d) Any carrier bidding to offer health care coverage to employees shall agree to provide  
25 enrollment, claims, and utilization data to the Commonwealth in a format specified  
26 by the Personnel Cabinet with the understanding that the data shall be owned by the  
27 Commonwealth; to provide data in an electronic form and within a time frame

1 specified by the Personnel Cabinet; and to be subject to penalties for noncompliance  
2 with data reporting requirements as specified by the Personnel Cabinet. The  
3 Personnel Cabinet shall take strict precautions to protect the confidentiality of each  
4 individual employee; however, confidentiality assertions shall not relieve a carrier  
5 from the requirement of providing stipulated data to the Commonwealth.

6 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for  
7 timely analysis of data received from carriers and, to the extent possible, provide in  
8 the request-for-proposal specifics relating to data requirements, electronic reporting,  
9 and penalties for noncompliance. The Commonwealth shall own the enrollment,  
10 claims, and utilization data provided by each carrier and shall develop methods to  
11 protect the confidentiality of the individual. The Personnel Cabinet shall include in  
12 the October annual report submitted pursuant to the provisions of KRS 18A.226 to  
13 the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an  
14 analysis of the financial stability of the program, which shall include but not be  
15 limited to loss ratios, methods of risk adjustment, measurements of carrier quality of  
16 service, prescription coverage and cost management, and statutorily required  
17 mandates. If state self-insurance was available as a carrier option, the report also shall  
18 provide a detailed financial analysis of the self-insurance fund including but not  
19 limited to loss ratios, reserves, and reinsurance agreements.

20 (f) If any agency participating in the state-sponsored employee health insurance program  
21 for its active employees terminates participation and there is a state appropriation for  
22 the employer's contribution for active employees' health insurance coverage, then  
23 neither the agency nor the employees shall receive the state-funded contribution after  
24 termination from the state-sponsored employee health insurance program.

25 (g) Any funds in flexible spending accounts that remain after all reimbursements have  
26 been processed shall be transferred to the credit of the state-sponsored health  
27 insurance plan's appropriation account.

- 1 (h) Each entity participating in the state-sponsored health insurance program shall  
2 provide an amount at least equal to the state contribution rate for the employer portion  
3 of the health insurance premium. For any participating entity that used the state  
4 payroll system, the employer contribution amount shall be equal to but not greater  
5 than the state contribution rate.
- 6 (3) The premiums may be paid by the policyholder:
- 7 (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
- 8 (b) Wholly from funds contributed by any department, board, agency, public  
9 postsecondary education institution, or branch of state, city, urban-county, charter  
10 county, county, or consolidated local government; or
- 11 (c) Partly from each, except that any premium due for health care coverage or dental  
12 coverage, if any, in excess of the premium amount contributed by any department,  
13 board, agency, postsecondary education institution, or branch of state, city, urban-  
14 county, charter county, county, or consolidated local government for any other health  
15 care coverage shall be paid by the employee.
- 16 (4) If an employee moves his place of residence or employment out of the service area of an  
17 insurer offering a managed health care plan, under which he has elected coverage, into  
18 either the service area of another managed health care plan or into an area of the  
19 Commonwealth not within a managed health care plan service area, the employee shall be  
20 given an option, at the time of the move or transfer, to change his or her coverage to  
21 another health benefit plan.
- 22 (5) No payment of premium by any department, board, agency, public postsecondary  
23 educational institution, or branch of state, city, urban-county, charter county, county, or  
24 consolidated local government shall constitute compensation to an insured employee for the  
25 purposes of any statute fixing or limiting the compensation of such an employee. Any  
26 premium or other expense incurred by any department, board, agency, public postsecondary  
27 educational institution, or branch of state, city, urban-county, charter county, county, or

- 1 consolidated local government shall be considered a proper cost of administration.
- 2 (6) The policy or policies may contain the provisions with respect to the class or classes of  
3 employees covered, amounts of insurance or coverage for designated classes or groups of  
4 employees, policy options, terms of eligibility, and continuation of insurance or coverage  
5 after retirement.
- 6 (7) Group rates under this section shall be made available to the disabled child of an employee  
7 regardless of the child's age if the entire premium for the disabled child's coverage is paid  
8 by the state employee. A child shall be considered disabled if he has been determined to be  
9 eligible for federal Social Security disability benefits.
- 10 (8) The health care contract or contracts for employees shall be entered into for a period of not  
11 less than one (1) year.
- 12 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State  
13 Health Insurance Subscribers to advise the secretary or his designee regarding the state-  
14 sponsored health insurance program for employees. The secretary shall appoint, from a list  
15 of names submitted by appointing authorities, members representing school districts from  
16 each of the seven (7) Supreme Court districts, members representing state government from  
17 each of the seven (7) Supreme Court districts, two (2) members representing retirees under  
18 age sixty-five (65), one (1) member representing local health departments, two (2) members  
19 representing the Kentucky Teachers' Retirement System, and three (3) members at large.  
20 The secretary shall also appoint two (2) members from a list of five (5) names submitted by  
21 the Kentucky Education Association, two (2) members from a list of five (5) names  
22 submitted by the largest state employee organization of nonschool state employees, two (2)  
23 members from a list of five (5) names submitted by the Kentucky Association of Counties,  
24 two (2) members from a list of five (5) names submitted by the Kentucky League of Cities,  
25 and two (2) members from a list of names consisting of five (5) names submitted by each  
26 state employee organization that has two thousand (2,000) or more members on state  
27 payroll deduction. The advisory committee shall be appointed in January of each year and



- 1 shall meet quarterly.
- 2 (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided  
3 to employees pursuant to this section shall not provide coverage for obtaining or  
4 performing an abortion, nor shall any state funds be used for the purpose of obtaining or  
5 performing an abortion on behalf of employees or their dependents.
- 6 (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for  
7 an insured to appeal a formulary change through the established appeal procedures  
8 approved by the Department of Insurance, if the physician supervising the treatment  
9 certifies that the change is not in the best interests of the patient.
- 10 (12) Any employee who is eligible for and elects to participate in the state health insurance  
11 program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-  
12 sponsored retirement systems shall not be eligible to receive the state health insurance  
13 contribution toward health care coverage as a result of any other employment for which  
14 there is a public employer contribution. This does not preclude a retiree and an active  
15 employee spouse from using both contributions to the extent needed for purchase of one (1)  
16 state sponsored health insurance policy for that plan year.
- 17 (13) (a) The policies of health insurance coverage procured under subsection (2) of this  
18 section shall include a mail-order drug option for maintenance drugs for state  
19 employees. Maintenance drugs may be dispensed by mail order in accordance with  
20 Kentucky law.
- 21 (b) A health insurer shall not discriminate against any retail pharmacy located within the  
22 geographic coverage area of the health benefit plan and that meets the terms and  
23 conditions for participation established by the insurer, including price, dispensing fee,  
24 and copay requirements of a mail-order option. The retail pharmacy shall not be  
25 required to dispense by mail.
- 26 (c) The mail-order option shall not permit the dispensing of a controlled substance  
27 classified in Schedule II.

- 1 (14) The policy or policies provided to state employees or their dependents pursuant to this  
2 section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related  
3 services for insured individuals under eighteen (18) years of age, subject to a cap of one  
4 thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS  
5 304.17A-132.
- 6 (15) Any policy provided to state employees or their dependents pursuant to this section shall  
7 provide coverage for the diagnosis and treatment of autism spectrum disorders consistent  
8 with KRS 304.17A-142.
- 9 (16) Any policy provided to state employees or their dependents pursuant to this section shall  
10 provide coverage for obtaining amino acid-based elemental formula pursuant to KRS  
11 304.17A-258.
- 12 (17) If a state employee's residence and place of employment are in the same county, and if the  
13 hospital located within that county does not offer surgical services, intensive care services,  
14 obstetrical services, level II neonatal services, diagnostic cardiac catheterization services,  
15 and magnetic resonance imaging services, the employee may select a plan available in a  
16 contiguous county that does provide those services, and the state contribution for the plan  
17 shall be the amount available in the county where the plan selected is located.
- 18 (18) If a state employee's residence and place of employment are each located in counties in  
19 which the hospitals do not offer surgical services, intensive care services, obstetrical  
20 services, level II neonatal services, diagnostic cardiac catheterization services, and  
21 magnetic resonance imaging services, the employee may select a plan available in a county  
22 contiguous to the county of residence that does provide those services, and the state  
23 contribution for the plan shall be the amount available in the county where the plan selected  
24 is located.
- 25 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the  
26 best interests of the state group to allow any carrier bidding to offer health care coverage  
27 under this section to submit bids that may vary county by county or by larger geographic

1 areas.

2 (20) Notwithstanding any other provision of this section, the bid for proposals for health  
3 insurance coverage for calendar year 2004 shall include a bid scenario that reflects the  
4 statewide rating structure provided in calendar year 2003 and a bid scenario that allows for  
5 a regional rating structure that allows carriers to submit bids that may vary by region for a  
6 given product offering as described in this subsection:

7 (a) The regional rating bid scenario shall not include a request for bid on a statewide  
8 option;

9 (b) The Personnel Cabinet shall divide the state into geographical regions which shall be  
10 the same as the partnership regions designated by the Department for Medicaid  
11 Services for purposes of the Kentucky Health Care Partnership Program established  
12 pursuant to 907 KAR 1:705;

13 (c) The request for proposal shall require a carrier's bid to include every county within  
14 the region or regions for which the bid is submitted and include but not be restricted  
15 to a preferred provider organization (PPO) option;

16 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all  
17 of the counties included in its bid within the region. If the Personnel Cabinet deems  
18 the bids submitted in accordance with this subsection to be in the best interests of  
19 state employees in a region, the cabinet may award the contract for that region to no  
20 more than two (2) carriers; and

21 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other  
22 requirements or criteria in the request for proposal.

23 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July  
24 12, 2006, to public employees pursuant to this section which provides coverage for services  
25 rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within  
26 the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter  
27 320 shall provide the same payment of coverage to optometrists as allowed for those

1 services rendered by physicians or osteopaths.

2 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July  
3 12, 2006, to public employees pursuant to this section shall comply with the provisions of  
4 KRS 304.17A-270 and 304.17A-525.

5 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or after July  
6 12, 2006, to public employees shall comply with KRS 304.17A-600 to 304.17A-633  
7 pertaining to utilization review, KRS 205.593 and 304.17A-700 to 304.17A-730 pertaining  
8 to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms,  
9 KRS 304.17A-580 and 304.17A-641 pertaining to emergency medical care, KRS 304.99-  
10 123, and any administrative regulations promulgated thereunder.

11 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July  
12 1, 2019, to public employees pursuant to this section shall comply with KRS 304.17A-138.

13 ➔Section 4. KRS 61.510 is amended to read as follows:

14 As used in KRS 61.510 to 61.705, unless the context otherwise requires:

15 (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to  
16 61.705;

17 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

18 (3) "Department" means any state department or board or agency participating in the system in  
19 accordance with appropriate executive order, as provided in KRS 61.520. For purposes of  
20 KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and  
21 any other body, entity, or instrumentality designated by executive order by the Governor,  
22 shall be deemed to be a department, notwithstanding whether said body, entity, or  
23 instrumentality is an integral part of state government;

24 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

25 (5) "Employee" means the members, officers, and employees of the General Assembly and  
26 every regular full-time, appointed or elective officer or employee of a participating  
27 department, including the Department of Military Affairs. The term does not include

- 1 persons engaged as independent contractors, seasonal, emergency, temporary, interim, and  
2 part-time workers. In case of any doubt, the board shall determine if a person is an  
3 employee within the meaning of KRS 61.510 to 61.705;
- 4 (6) "Employer" means a department or any authority of a department having the power to  
5 appoint or select an employee in the department, including the Senate and the House of  
6 Representatives, or any other entity, the employees of which are eligible for membership in  
7 the system pursuant to KRS 61.525;
- 8 (7) "State" means the Commonwealth of Kentucky;
- 9 (8) "Member" means any employee who is included in the membership of the system or any  
10 former employee whose membership has not been terminated under KRS 61.535;
- 11 (9) "Service" means the total of current service and prior service as defined in this section;
- 12 (10) "Current service" means the number of years and months of employment as an employee,  
13 on and after July 1, 1956, except that for members, officers, and employees of the General  
14 Assembly this date shall be January 1, 1960, for which creditable compensation is paid and  
15 employee contributions deducted, except as otherwise provided, and each member, officer,  
16 and employee of the General Assembly shall be credited with a month of current service for  
17 each month he serves in the position;
- 18 (11) "Prior service" means the number of years and completed months, expressed as a fraction  
19 of a year, of employment as an employee, prior to July 1, 1956, for which creditable  
20 compensation was paid; except that for members, officers, and employees of the General  
21 Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1)  
22 month of prior service only in those months he received compensation for at least one  
23 hundred (100) hours of work; provided, however, that each member, officer, and employee  
24 of the General Assembly shall be credited with a month of prior service for each month he  
25 served in the position prior to January 1, 1960. Twelve (12) months of current service in the  
26 system are required to validate prior service;
- 27 (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the

1 compensation of a member and credited to his individual account in the members' account,  
2 including employee contributions picked up after August 1, 1982, pursuant to KRS  
3 61.560(4), together with interest credited, or investment returns earned as provided by KRS  
4 61.5956, on such amounts and any other amounts the member shall have contributed  
5 thereto, including interest credited thereon or investment returns earned as provided by  
6 KRS 61.5956. "Accumulated contributions" shall not include employee contributions that  
7 are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
8 established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

9 (13) "Creditable compensation":

10 (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary, wages,  
11 tips to the extent the tips are reported for income tax purposes, and fees, including  
12 payments for compensatory time, paid to the employee as a result of services  
13 performed for the employer or for time during which the member is on paid leave,  
14 which are includable on the member's federal form W-2 wage and tax statement  
15 under the heading "wages, tips, other compensation," including employee  
16 contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For  
17 members of the General Assembly, it shall mean all amounts which are includable on  
18 the member's federal form W-2 wage and tax statement under the heading "wages,  
19 tips, other compensation," including employee contributions picked up after August  
20 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

21 (b) Includes:

- 22 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
23 purchase of service credit, which shall be averaged over the employee's total  
24 service with the system in which it is recorded if it is equal to or greater than  
25 one thousand dollars (\$1,000);
- 26 2. Cases where compensation includes maintenance and other perquisites, but the  
27 board shall fix the value of that part of the compensation not paid in money;

- 1           3. Lump-sum payments for creditable compensation paid as a result of an order of  
2           a court of competent jurisdiction, the Personnel Board, or the Commission on  
3           Human Rights, or for any creditable compensation paid in anticipation of  
4           settlement of an action before a court of competent jurisdiction, the Personnel  
5           Board, or the Commission on Human Rights, including notices of violations of  
6           state or federal wage and hour statutes or violations of state or federal  
7           discrimination statutes, which shall be credited to the fiscal year during which  
8           the wages were earned or should have been paid by the employer. This  
9           subparagraph shall also include lump-sum payments for reinstated wages  
10          pursuant to KRS 61.569, which shall be credited to the period during which the  
11          wages were earned or should have been paid by the employer;
  - 12          4. Amounts which are not includable in the member's gross income by virtue of  
13          the member having taken a voluntary salary reduction provided for under  
14          applicable provisions of the Internal Revenue Code; and
  - 15          5. Elective amounts for qualified transportation fringes paid or made available on  
16          or after January 1, 2001, for calendar years on or after January 1, 2001, that are  
17          not includable in the gross income of the employee by reason of 26 U.S.C. sec.  
18          132(f)(4); and
- 19       (c) Excludes:
- 20           1. Uniform, equipment, or any other expense allowances paid on or after January  
21           1, 2019, living allowances, expense reimbursements, lump-sum payments for  
22           accrued vacation leave, and other items determined by the board;
  - 23           2. For employees who begin participating on or after September 1, 2008, lump-  
24           sum payments for compensatory time;
  - 25           3. For employees participating in a nonhazardous position who began participating  
26           prior to September 1, 2008, and who retire after July 1, 2023, lump-sum  
27           payments for compensatory time upon termination of employment; and

1           4. For employees who begin participating on or after August 1, 2016, nominal fees  
2           paid for services as a volunteer;

3 (14) "Final compensation" of a member means:

4           (a) For a member who begins participating before September 1, 2008, who is employed  
5           in a nonhazardous position, the creditable compensation of the member during the  
6           five (5) fiscal years he was paid at the highest average monthly rate divided by the  
7           number of months of service credit during that five (5) year period multiplied by  
8           twelve (12). The five (5) years may be fractional and need not be consecutive, except  
9           that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be  
10          complete fiscal years. If the number of months of service credit during the five (5)  
11          year period is less than forty-eight (48) for members retiring prior to January 1, 2019,  
12          one (1) or more additional fiscal years shall be used. If a member retiring on or after  
13          January 1, 2019, does not have five (5) complete fiscal years that each contain twelve  
14          (12) months of service credit, then one (1) or more additional fiscal years, which may  
15          contain less than twelve (12) months of service credit, shall be added until the number  
16          of months in the final compensation calculation is at least sixty (60) months;

17          (b) For a member who is employed in a nonhazardous position, whose effective  
18          retirement date is between August 1, 2001, and January 1, 2009, and whose total  
19          service credit is at least twenty-seven (27) years and whose age and years of service  
20          total at least seventy-five (75), final compensation means the creditable compensation  
21          of the member during the three (3) fiscal years the member was paid at the highest  
22          average monthly rate divided by the number of months of service credit during that  
23          three (3) years period multiplied by twelve (12). The three (3) years may be fractional  
24          and need not be consecutive. If the number of months of service credit during the  
25          three (3) year period is less than twenty-four (24), one (1) or more additional fiscal  
26          years shall be used. Notwithstanding the provision of KRS 61.565, the funding for  
27          this paragraph shall be provided from existing funds of the retirement allowance;



- 1 (c) For a member who begins participating before September 1, 2008, who is employed  
2 in a hazardous position, as provided in KRS 61.592, and who retired prior to January  
3 1, 2019, the creditable compensation of the member during the three (3) fiscal years  
4 he was paid at the highest average monthly rate divided by the number of months of  
5 service credit during that three (3) year period multiplied by twelve (12). The three (3)  
6 years may be fractional and need not be consecutive. If the number of months of  
7 service credit during the three (3) year period is less than twenty-four (24), one (1) or  
8 more additional fiscal years shall be used;
- 9 (d) For a member who begins participating on or after September 1, 2008, but prior to  
10 January 1, 2014, who is employed in a nonhazardous position, the creditable  
11 compensation of the member during the five (5) complete fiscal years immediately  
12 preceding retirement divided by five (5). Each fiscal year used to determine final  
13 compensation must contain twelve (12) months of service credit. If the member does  
14 not have five (5) complete fiscal years that each contain twelve (12) months of service  
15 credit, then one (1) or more additional fiscal years, which may contain less than  
16 twelve (12) months of service credit, shall be added until the number of months in the  
17 final compensation calculation is at least sixty (60) months; or
- 18 (e) For a member who begins participating on or after September 1, 2008, but prior to  
19 January 1, 2014, who is employed in a hazardous position as provided in KRS  
20 61.592, or for a member who begins participating prior to September 1, 2008, who is  
21 employed in a hazardous position as provided in KRS 61.592, who retires on or after  
22 January 1, 2019, the creditable compensation of the member during the three (3)  
23 complete fiscal years he was paid at the highest average monthly rate divided by three  
24 (3). Each fiscal year used to determine final compensation must contain twelve (12)  
25 months of service credit. If the member does not have three (3) complete fiscal years  
26 that each contain twelve (12) months of service credit, then one (1) or more additional  
27 fiscal years, which may contain less than twelve (12) months of service credit, shall

1           be added until the number of months in the final compensation calculation is at least  
2           thirty-six (36) months;

3 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
4           calculated during the twelve (12) month period immediately preceding the member's  
5           effective retirement date, including employee contributions picked up after August 1, 1982,  
6           pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and  
7           the following equivalents shall be used to convert the rate to an annual rate: two thousand  
8           eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for  
9           seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52)  
10          weeks, twelve (12) months, one (1) year;

11 (16) "Retirement allowance" means the retirement payments to which a member is entitled;

12 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the  
13          actuarial tables that are adopted by the board. In cases of disability retirement, the options  
14          authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the  
15          member, unless the member has chosen the Social Security adjustment option as provided  
16          for in KRS 61.635(8), in which case the member's actual age shall be used. For members  
17          who began participating in the system prior to January 1, 2014, no disability retirement  
18          option shall be less than the same option computed under early retirement;

19 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise  
20          provided in KRS 61.510 to 61.705;

21 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
22          following June 30, which shall also be the plan year. The "fiscal year" shall be the  
23          limitation year used to determine contribution and benefit limits as established by 26  
24          U.S.C. sec. 415;

25 (20) "Officers and employees of the General Assembly" means the occupants of those positions  
26          enumerated in KRS 6.150. The term shall also apply to assistants who were employed by  
27          the General Assembly for at least one (1) regular legislative session prior to July 13, 2004,

1 who elect to participate in the retirement system, and who serve for at least six (6) regular  
2 legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim  
3 employees;

4 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all  
5 positions that average one hundred (100) or more hours per month determined by using the  
6 number of months actually worked within a calendar or fiscal year, including all positions  
7 except:

8 (a) Seasonal positions, which although temporary in duration, are positions which  
9 coincide in duration with a particular season or seasons of the year and which may  
10 recur regularly from year to year, the period of time shall not exceed nine (9) months;

11 (b) Emergency positions which are positions which do not exceed thirty (30) working  
12 days and are nonrenewable;

13 (c) Temporary positions which are positions of employment with a participating  
14 department for a period of time not to exceed nine (9) months and are nonrenewable;

15 (d) Part-time positions which are positions which may be permanent in duration, but  
16 which require less than a calendar or fiscal year average of one hundred (100) hours  
17 of work per month, determined by using the number of months actually worked  
18 within a calendar or fiscal year, in the performance of duty; and

19 (e) Interim positions which are positions established for a one-time or recurring need not  
20 to exceed nine (9) months;

21 (22) "Delayed contribution payment" means an amount paid by an employee for purchase of  
22 current service. The amount shall be determined using the same formula in KRS 61.5525,  
23 and the payment shall not be picked up by the employer. A delayed contribution payment  
24 shall be deposited to the member's account and considered as accumulated contributions of  
25 the individual member. In determining payments under this subsection, the formula found  
26 in this subsection shall prevail over the one found in KRS 212.434;

27 (23) "Parted employer" means a department, portion of a department, board, or agency, such as

1 Outwood Hospital and School, which previously participated in the system, but due to lease  
2 or other contractual arrangement is now operated by a publicly held corporation or other  
3 similar organization, and therefore is no longer participating in the system. The term  
4 "parted employer" shall not include a department, board, or agency that ceased participation  
5 in the system pursuant to KRS 61.522 or Section 1 of this Act;

6 (24) "Retired member" means any former member receiving a retirement allowance or any  
7 former member who has filed the necessary documents for retirement benefits and is no  
8 longer contributing to the retirement system;

9 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly,  
10 or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate  
11 shall be certified by the employer;

12 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the  
13 member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the  
14 event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an  
15 estate, trust, or trustee;

16 (27) "Recipient" means the retired member or the person or persons designated as beneficiary by  
17 the member and drawing a retirement allowance as a result of the member's death or a  
18 dependent child drawing a retirement allowance. An alternate payee of a qualified domestic  
19 relations order shall not be considered a recipient, except for purposes of KRS 61.623;

20 (28) "Level dollar amortization method" means a method of determining the annual  
21 amortization payment on the unfunded actuarial accrued liability that is set as an equal  
22 dollar amount over the remaining amortization period as of the actuarial valuation date.  
23 Under this method, the unfunded actuarially accrued liability shall be projected to be fully  
24 amortized at the conclusion of the amortization period;

25 (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve  
26 (12) months need not be consecutive. The final increment may be less than twelve (12)  
27 months;

- 1 (30) "Person" means a natural person;
- 2 (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- 3 (32) "Last day of paid employment" means the last date employer and employee contributions  
4 are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the  
5 retirement office in order for the employee to receive current service credit for the month.  
6 Last day of paid employment does not mean a date the employee receives payment for  
7 accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or  
8 more months after previous contributions;
- 9 (33) "Objective medical evidence" means reports of examinations or treatments; medical signs  
10 which are anatomical, physiological, or psychological abnormalities that can be observed;  
11 psychiatric signs which are medically demonstrable phenomena indicating specific  
12 abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or  
13 laboratory findings which are anatomical, physiological, or psychological phenomena that  
14 can be shown by medically acceptable laboratory diagnostic techniques, including but not  
15 limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and  
16 psychological tests;
- 17 (34) "Participating" means an employee is currently earning service credit in the system as  
18 provided in KRS 61.543;
- 19 (35) "Month" means a calendar month;
- 20 (36) "Membership date" means:
- 21 (a) The date upon which the member began participating in the system as provided in  
22 KRS 61.543; or
- 23 (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who  
24 has not previously participated in the system or the Kentucky Teachers' Retirement  
25 System, the date the member began participating in a defined contribution plan that  
26 meets the requirements of 26 U.S.C. sec. 403(b);
- 27 (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired

- 1 member, as defined by subsection (24) of this section;
- 2 (38) "Qualified domestic relations order" means any judgment, decree, or order, including  
3 approval of a property settlement agreement, that:
- 4 (a) Is issued by a court or administrative agency; and
- 5 (b) Relates to the provision of child support, alimony payments, or marital property rights  
6 to an alternate payee;
- 7 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant,  
8 who is designated to be paid retirement benefits in a qualified domestic relations order;
- 9 (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's  
10 account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- 11 (41) "Accumulated account balance" means:
- 12 (a) For members who began participating in the system prior to January 1, 2014, the  
13 member's accumulated contributions;
- 14 (b) For members who began participating in the system on or after January 1, 2014, in the  
15 hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum  
16 of the member's accumulated contributions and the member's accumulated employer  
17 credit; or
- 18 (c) For nonhazardous members who are participating in the 401(a) money purchase plan  
19 as provided by KRS 61.5956, the combined sum of the member's accumulated  
20 contribution and the member's accumulated employer contribution in the 401(a)  
21 money purchase plan;
- 22 (42) "Volunteer" means an individual who:
- 23 (a) Freely and without pressure or coercion performs hours of service for an employer  
24 participating in one (1) of the systems administered by Kentucky Retirement Systems  
25 without receipt of compensation for services rendered, except for reimbursement of  
26 actual expenses, payment of a nominal fee to offset the costs of performing the  
27 voluntary services, or both; and

1 (b) If a retired member, does not become an employee, leased employee, or independent  
2 contractor of the employer for which he or she is performing volunteer services for a  
3 period of at least twenty-four (24) months following the retired member's most recent  
4 retirement date;

5 (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed  
6 five hundred dollars (\$500) per month. Compensation earned for services as a volunteer  
7 from more than one (1) participating employer during a month shall be aggregated to  
8 determine whether the compensation exceeds the five hundred dollars (\$500) per month  
9 maximum provided by this subsection;

10 (44) "Nonhazardous position" means a position that does not meet the requirements of KRS  
11 61.592 or has not been approved by the board as a hazardous position;

12 (45) "Accumulated employer contribution" means the employer contribution deposited to the  
13 member's account and any investment returns on such amounts as provided by KRS  
14 61.5956; and

15 (46) "Monthly average pay" means the higher of the member's monthly final rate of pay or the  
16 average monthly creditable compensation earned by the deceased member during his or her  
17 last twelve (12) months of employment.

18 ➔Section 5. KRS 61.520 is amended to read as follows:

19 (1) Each department determined by the board to be eligible and qualified for participation shall  
20 participate in the system when the Governor by appropriate executive order, the authority to  
21 issue such executive order being granted, directs such department to participate in the  
22 system. The effective date of such participation shall be determined by the board and fixed  
23 by the Governor in his executive order.

24 (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is  
25 authorized to permit any state college or university, which he directs by appropriate  
26 executive order to participate in the system after January 1, 1972, to include its  
27 noninstructional employees in the membership of the system while excluding the

1 instructional employees of the state college or university from membership.

2 (b) All employees of an agency participating under authority of subsection (2)(a) of this  
3 section shall be considered noninstructional employees except the members of the  
4 instructional staff of the state college or university who are responsible for teaching  
5 and the administrative positions which are included in the Teachers' Insurance and  
6 Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

7 (3) All executive orders issued under authority of this section since July 1, 1956, are hereby  
8 ratified by the General Assembly and each participating and contributing department,  
9 board, agency, corporation, board for mental health or individuals with an intellectual  
10 disability, or entity participating since that date under such executive order is hereby  
11 declared to be a participating department under the Kentucky Employees Retirement  
12 System.

13 (4) Except as provided by KRS 61.522 or Section 1 of this Act:

14 (a) Once a department participates it shall continue to participate as long as it remains  
15 qualified; and

16 (b) Any position initially required to participate in the Kentucky Employees Retirement  
17 System shall continue to participate as long as the position exists.

18 ➔Section 6. KRS 61.525 is amended to read as follows:

19 Membership in the system shall consist of the following:

20 (1) All persons who become employees of a participating department after the date such  
21 department first participates in the system;

22 (2) (a) All persons who are employees of a department on the date the department first  
23 participates in the system, either in service or on authorized leave from service, and  
24 who elect within thirty (30) days following the department's participation, or in the  
25 case of persons on authorized leave, within thirty (30) days of their return to active  
26 service, to become members and thereby agree to make contributions as provided in  
27 KRS 61.515 to 61.705;



- 1 (b) All persons who are employees of a department who did not elect to participate  
2 within thirty (30) days of the date the department first participated in the system or  
3 within thirty (30) days of their return to active service and who subsequently elect to  
4 participate the first day of a month after the department's date of participation;
- 5 (3) All persons who are employees of any credit union whose membership was initially limited  
6 to employees of state government and their families and which subsequently may have been  
7 extended to local government employees and their families;
- 8 (4) All persons who were professional staff employees of the Council on Postsecondary  
9 Education or the Higher Education Assistance Authority and were contributing to the  
10 system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a  
11 written election of their desire to continue in the system and all administrative and  
12 professional staff employees of the Higher Education Assistance Authority who, on or after  
13 January 1, 1993, are not participating in another retirement plan sponsored by the Higher  
14 Education Assistance Authority;
- 15 (5) All persons who were professional staff employees of the Kentucky Authority for  
16 Educational Television on and after July 1, 1974;
- 17 (6) All persons who are employees of the Teachers' Retirement System except employees who  
18 are required to participate under the Teachers' Retirement System under KRS  
19 161.220(4)(d);
- 20 (7) Membership in the system shall not include persons who are not eligible to participate in  
21 the system as provided by KRS 61.522 or Section 1 of this Act or those employees who are  
22 simultaneously participating in another state-administered defined benefit plan within  
23 Kentucky other than those administered by the Kentucky Retirement Systems, except for  
24 employees who have ceased to contribute to one (1) of the state-administered retirement  
25 plans as provided in KRS 21.360; and
- 26 (8) Except as provided by Section 1 of this Act, effective January 1, 1998, employees of the  
27 Kentucky Community and Technical College System who were previously contributing

1 members and are not required to participate in the Teachers' Retirement System as a  
 2 member; employees who were previously contributing members transferred from the  
 3 former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who  
 4 have not exercised the option to participate in the new Kentucky Community and Technical  
 5 College personnel system as provided in KRS 164.5805(1)(e); and new employees as of  
 6 July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not  
 7 contributing to an optional retirement plan established by the board of regents for the  
 8 Kentucky Community and Technical College System.

9 ➔Section 7. KRS 61.543 is amended to read as follows:

10 (1) (a) Employee contributions shall be deducted each payroll period from the creditable  
 11 compensation of each employee of an agency participating in the retirement system  
 12 while he is classified as regular full-time as defined in KRS 61.510 unless the  
 13 employee:

- 14 1. Did not elect to become a member as provided by subsection (2) of KRS  
 15 61.525;
- 16 2. Did not elect membership pursuant to KRS 61.545(3); or
- 17 3. Is not eligible to participate in the system as provided by KRS 61.522 or  
 18 Section 1 of this Act.

19 (b) After August 1, 1982, employee contributions shall be picked up by the employer  
 20 pursuant to KRS 61.560(4). Service credit will be allowed for each month the  
 21 contributions are deducted or picked up during a fiscal or calendar year, if the  
 22 member receives creditable compensation for an average of one hundred (100) hours  
 23 or more of work per month. If the average number of hours of work is less than one  
 24 hundred (100) per month, the member shall be allowed credit only for those months  
 25 he receives creditable compensation for one hundred (100) hours of work.

26 (2) Employee contributions shall not be deducted from the creditable compensation of an  
 27 employee or picked up by the employer while he is seasonal, emergency, temporary, or

- 1 part-time. No service credit will be earned.
- 2 (3) Contributions shall not be made or picked up by the employer and no service credit will be  
3 earned by a member while on leave except:
- 4 (a) A member on military leave shall be entitled to service credit in accordance with KRS  
5 61.555;
- 6 (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving  
7 seventy-five percent (75%) or more of full salary, shall receive service credit and  
8 shall pay employee contributions, or the contributions shall be picked up in  
9 accordance with KRS 61.560 and his employer shall pay employer contributions in  
10 accordance with KRS 61.565. If a tuition agreement is broken by the member, the  
11 member and employer contributions paid or picked up during the period of  
12 educational leave shall be refunded; and
- 13 (c) An employee on educational leave, approved by the appointing authority, not to  
14 exceed one (1) year, or with additional approval of one (1) additional year, and not to  
15 exceed two (2) years within a five (5) year period, who is receiving a salary of less  
16 than seventy-five percent (75%) of full salary, may elect to retain membership in the  
17 system during the period of leave. If the employee elects to retain membership in the  
18 system, he shall receive service credit by having employee contributions picked up in  
19 accordance with KRS 61.560. His employer shall pay employer contributions in  
20 accordance with KRS 61.565. If a tuition agreement is broken by the member, the  
21 employee and employer contributions paid or picked up during the period of  
22 educational leave shall be refunded to the contributor and no service credit shall be  
23 earned for the period of leave.
- 24 (4) The retirement office, upon detection, shall refund any erroneous employer and employee  
25 contributions made to the retirement system and any interest credited in accordance with  
26 KRS 61.575.
- 27 (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged

1 pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS  
2 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the  
3 employee received creditable compensation for an average of one hundred (100) or more  
4 hours of work, if the employee pays to the retirement system the contributions that would  
5 have been deducted for the period of employment. The contributions shall be credited to the  
6 member's account and shall not be picked up pursuant to KRS 61.560(4). The employer  
7 contributions for the period, plus interest calculated at the actuarial rate, shall be due within  
8 thirty (30) days of notice of receipt of payment from the employee.

9 ➔Section 8. KRS 61.560 is amended to read as follows:

- 10 (1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for  
11 which he receives compensation five percent (5%) of his creditable compensation, except  
12 that members of the General Assembly, who elect the survivorship option provided in KRS  
13 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable  
14 compensation commencing with the payroll period immediately following his election of  
15 the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any  
16 reemployed retiree, as described in KRS 61.637, who became reemployed prior to  
17 September 1, 2008, and began participating in another retirement account shall contribute  
18 five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3)  
19 if applicable.
- 20 (2) Each employer shall cause to be deducted from the creditable compensation of each  
21 employee for each and every payroll period the contribution payable by each such employee  
22 as provided in KRS 61.515 to 61.705.
- 23 (3) The deductions provided for herein shall be made notwithstanding that the minimum  
24 compensation provided by law for any employee shall be reduced thereby. Every employee  
25 shall be deemed to consent and agree to the deductions made as provided herein; and  
26 payment of salary or compensation less such deductions shall be a full and complete  
27 discharge of all claims for services rendered by such person during the period covered by

1 such payment, except as to any benefits provided by KRS 61.515 to 61.705.

2 (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the  
3 United States Internal Revenue Code, pick up the employee contributions required by this  
4 section for all compensation earned after August 1, 1982, and the contributions so picked  
5 up shall be treated as employer contributions in determining tax treatment under the United  
6 States Internal Revenue Code and KRS 141.010. These contributions shall not be included  
7 as gross income of the employee until such time as the contributions are distributed or  
8 made available to the employee. The picked-up employee contribution shall satisfy all  
9 obligations to the retirement system satisfied prior to August 1, 1982, by the employee  
10 contribution, and the picked-up employee contribution shall be in lieu of an employee  
11 contribution. Each employer shall pay these picked-up employee contributions from the  
12 same source of funds which is used to pay earnings to the employee. The employee shall  
13 have no option to receive the contributed amounts directly instead of having them paid by  
14 the employer to the system. Employee contributions picked up after August 1, 1982, shall  
15 be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same  
16 extent as employee contributions made prior to August 1, 1982.

17 (5) The provisions of this section shall not apply to individuals who are not eligible for  
18 membership as provided by KRS 61.522 or Section 1 of this Act.

19 ➔Section 9. Notwithstanding any other provision of KRS 61.565 or 61.702, 2018 Ky.  
20 Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the employer contribution  
21 rate from July 1, 2019, through June 30, 2020, shall be 49.47 percent, consisting of 41.06 percent  
22 for pension and 8.41 percent for health insurance for nonhazardous duty employees participating  
23 in the Kentucky Employees Retirement System who are employed by Mental Health/Mental  
24 Retardation Boards, Local and District Health Departments, domestic violence shelters, rape  
25 crisis centers, child advocacy centers, state-supported universities and community colleges, and  
26 any other agency eligible to voluntarily cease participating in the Kentucky Employees  
27 Retirement System pursuant to KRS 61.522.

1           ➔Section 10. The provisions of KRS 6.350 shall not affect or impair the validity of any  
2 provision of this Act in a court of competent jurisdiction.

3           ➔Section 11. Whereas ensuring the financial health of quasi-governmental employers  
4 providing essential service to the Commonwealth of Kentucky is imperative, an emergency is  
5 declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon  
6 its otherwise becoming a law."  
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**Senate Members**

**House Members**

Jimmy Higdon

Jerry Miller

Wil Schroder

Steven Rudy

Chris McDaniel

Steve Sheldon

Jim DuPlessis

James Tipton

The above-named members, in separate votes by house, all concur in the provisions of this report.

DATE

For Clerk's Use:

Adopted: \_\_\_\_\_

Repassage Vote: \_\_\_\_\_