

1 AN ACT relating to the Kentucky Employees Retirement System and declaring an  
2 emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

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

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

7 *(1) For purposes of this section:*

8 *(a) "Active member" means a member who is participating in the Kentucky*  
9 *Employees Retirement System and is employed by a postsecondary*  
10 *education institution, except for those members who are participating in the*  
11 *Kentucky Employees Retirement System under hazardous duty coverage;*

12 *(b) "Effective cessation date" means June 30, 2020, provided the institution*  
13 *has met the requirements of this section;*

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

16 *(d) "Postsecondary education institution" or "institution" means Eastern*  
17 *Kentucky University, Kentucky State University, Morehead State University,*  
18 *Murray State University, Northern Kentucky University, Western Kentucky*  
19 *University, the Kentucky Community Technical College System, and the*  
20 *Kentucky Higher Education Student Loan Corporation;*

21 *(2) Any postsecondary education institution participating in the Kentucky Employees*  
22 *Retirement System may:*

23 *(a) Voluntarily cease participation in the system for its nonhazardous*  
24 *employees subject to the requirements and restrictions of this section; and*

25 *(b) On or after the effective date of this Act, but prior to August 1, 2019, request*  
26 *an estimate of the cost of voluntarily ceasing participation in the system*  
27 *prior to officially making a request to cease participation in the system. The*

1           estimate shall be provided to the institution within sixty (60) days of the  
2           request;

3   (3) If a postsecondary education institution desires to voluntarily cease participation  
4   in the Kentucky Employees Retirement System as provided by subsection (2)(a) of  
5   this section:

6   (a) The postsecondary education institution shall adopt a resolution to cease  
7   participation in the system and shall submit the resolution to the board by  
8   December 31, 2019, and the board shall accept the resolution on or before  
9   June 30, 2020. The postsecondary institution shall not be able to rescind a  
10   request to cease participating once it has been submitted to the system;

11   (b) The cessation of participation in the system shall apply to all employees of  
12   the postsecondary education institution, except for any active members who  
13   elect to continue participating in the system as provided by subsection (4)(c)  
14   of this section;

15   (c) The postsecondary education institution shall pay for all administrative  
16   costs of an actuarial study to be completed by the Kentucky Retirement  
17   Systems' consulting actuary and for any other administrative costs for  
18   discontinuing participation in the system as determined by the board and as  
19   provided by this section;

20   (d) The postsecondary education institution shall provide an alternative  
21   retirement program for employees who will no longer be covered by the  
22   system, which shall include a mandatory defined contribution plan that  
23   provides a fixed percentage of compensation per pay period for each  
24   employee participating in the system prior to the institution's effective  
25   cessation date that is equal to the percent of compensation contributed by  
26   the employee prior to the effective cessation date, but shall not include a  
27   defined benefit plan which by nature can have an unfunded liability;

1 (e) The postsecondary education institution shall pay the full actuarial cost of  
2 the benefits accrued by its current and former employees in the system  
3 through the effective cessation date. For any benefits accrued after the  
4 effective cessation date for its active employees electing to retain coverage in  
5 the system as provided by subsection (4)(c) of this section, the institution  
6 shall only be required to pay the normal cost as provided by KRS 61.565  
7 and 61.702. Any payments for the normal cost as provided by this  
8 paragraph for those institutions who elect to make installment payments as  
9 provided by paragraph (g) of this subsection shall be included in the  
10 principal balance for the installment payments, but shall not increase the  
11 level of installment payments paid by a ceasing institution beyond the  
12 amount prescribed by paragraph (g) of this subsection;

13 (f) The full actuarial cost:

14 1. Shall be determined separately for the pension fund and the insurance  
15 fund by the actuarial study required by paragraph (c) of this  
16 subsection;

17 2. May be paid by lump-sum payment or in installment payments to the  
18 system as provided by this subsection;

19 3. To the extent the data is available, costs for individual active members,  
20 inactive members, and retired members shall be based solely upon the  
21 service earned while employed by the institution; and

22 4. Shall be fixed, and the postsecondary education institution shall not  
23 be subject to any increases or subsequent adjustments, once the lump  
24 sum is paid or the first installment payment is made; and

25 (g) If the institution elects to pay the costs in installment payments, the cost of  
26 ceasing participation as provided by this subsection shall be financed by the  
27 systems using the following method:

- 1           1. Annual payments occurring on or after July 1, 2020, which may be  
2           paid monthly or annually at the discretion of the institution, shall be a  
3           set dollar value using the fiscal year 2019-2020 dollar contributions  
4           paid by the ceasing institution as a base value and increasing the  
5           dollar value paid annually in each fiscal year occurring on or after  
6           July 1, 2020, by one and one-half percent (1.5%) annually until the  
7           cost as provided by subsection (5) of this section and as adjusted  
8           annually by subparagraph 2. of this paragraph is paid off in full. If  
9           the employer ceasing participation is receiving a general fund  
10           appropriation to help pay retirement contributions and that  
11           appropriation is reduced in future years occurring on or after July 1,  
12           2020, from the amount appropriated in fiscal year 2019-2020, the  
13           payment under this paragraph shall be reduced on a dollar-for-dollar  
14           basis as the appropriation reduction; and
- 15           2. Interest shall be assigned to the principal amount annually beginning  
16           on July 1, 2020, and for each July 1 thereafter, that is equal to a rate  
17           of five and one quarter percent (5.25%) per annum for pension costs  
18           and at a rate of six and one-quarter percent (6.25%) per annum for  
19           retiree health costs;
- 20           An employer ceasing participation who is making installment payments as  
21           provided by this paragraph may at any time pay off the remaining balance  
22           and shall not be charged any interest for periods beyond the pay-off date;
- 23           (4) For a postsecondary education institution voluntarily ceasing participation as  
24           provided by this section:
- 25           (a) Any nonhazardous employee hired on or after the date the institution  
26           submits a resolution to cease participating as provided by subsection (3)(a)  
27           of this section shall not, regardless of his or her membership date in the

1 systems administered by the Kentucky Retirement Systems, be eligible to  
2 participate in the Kentucky Employees Retirement System through the  
3 institution ceasing participation for the duration of his or her employment  
4 with that institution;

5 (b) Any nonhazardous employee who began participating in the system on or  
6 after January 1, 2014, who is participating in the hybrid cash balance plan  
7 as provided by KRS 61.597, and who was hired by the institution prior to the  
8 date the institution submits a resolution to cease participating as provided  
9 by subsection (3)(a) of this section shall accrue benefits through the  
10 institution's effective cessation date but shall not accrue any additional  
11 benefits in the Kentucky Employees Retirement System, including earning  
12 years of service credit through the ceased institution, after the institution's  
13 effective cessation date for as long as they remain employed by that  
14 institution;

15 (c) 1. Any nonhazardous employee who began participating in the system  
16 prior to January 1, 2014, and who was hired by the institution prior to  
17 the date the institution submits a resolution to cease participating as  
18 provided by subsection (3)(a) of this section may, on or before the  
19 institution's effective cessation date, make a one (1) time irrevocable  
20 election to continue making employee contributions and accruing  
21 benefits in the system after the institution's effective cessation date,  
22 subject to the limitations of subparagraph 2. of this paragraph. The  
23 election shall be applicable for the duration of his or her employment  
24 with that postsecondary education institution;

25 2. If a nonhazardous member as provided by subparagraph 1. of this  
26 paragraph makes an election to continue participating in the system,  
27 he or she shall continue to make employee contributions and accrue

1 benefits in the system until the month following the:

2 a. Date the member has accrued twenty-seven (27) or more years of  
3 service credit if he or she began participating in the system prior  
4 to September 1, 2008. For purposes of this subdivision, service  
5 credit shall only include years of service credited to the systems  
6 administered by the Kentucky Retirement Systems or another  
7 state-administered retirement system;

8 b. Date the member is at least fifty-seven (57) years of age or older  
9 and has an age and years of service total of at least eighty-seven  
10 (87) years if he or she began participating on or after September  
11 1, 2008, but prior to January 1, 2014. For purposes of this  
12 subdivision, service credit shall only include years of service  
13 credited under KRS 16.543(1), 61.543(1), or 78.615(1), or  
14 another state-administered retirement system; or

15 c. The institution's effective cessation date if, as of the institution's  
16 effective cessation date, the member has met or exceeded the  
17 requirements of subdivision a. or b. of this subparagraph.

18 A nonhazardous member who has met the benefit accrual limitations  
19 of this subparagraph, as applicable, shall not accrue any additional  
20 benefits in the Kentucky Employees Retirement System, including  
21 earning years of service credit through the ceased institution, after the  
22 date specified by this subparagraph, as applicable, for as long as he or  
23 she remains employed by that institution;

24 (d) Any nonhazardous employee who began participating in the system prior to  
25 January 1, 2014, who was hired by the institution prior to the date the  
26 institution submits a resolution to cease participating as provided by  
27 subsection (3)(a) of this section, and who does not make an election as

1 provided by paragraph (c) of this subsection shall accrue benefits through  
2 the institution's effective cessation date but shall not accrue any additional  
3 benefits in the Kentucky Employees Retirement System, including earning  
4 years of service credit through the ceased institution, after the institution's  
5 effective cessation date for as long as he or she remains employed by that  
6 institution;

7 (e) The first day of the month following the date a nonhazardous employee can  
8 no longer accrue service in the system as provided by paragraphs (b) to (d)  
9 of this subsection, the employee shall be considered an inactive member  
10 with respect to his or her employment with the institution that ceased  
11 participation and, subject to the provisions and limitations of KRS 61.510 to  
12 61.705, shall:

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

16 2. Contribute to the alternative retirement program established pursuant  
17 to subsection (3)(d) of this section;

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

20 4. If the alternative retirement plan established pursuant to subsection  
21 (3)(d) meets the qualification requirements under 26 U.S.C. sec.  
22 401(a) and is capable of accepting trustee to trustee transfers of both  
23 pre-tax and post-tax contributions, be eligible to seek to transfer his or  
24 her accumulated account balance to the employer's qualified  
25 alternative retirement program within sixty (60) days of the  
26 institution's effective cessation date, unless the employee is prohibited  
27 due to an election to continue participating in the system as provided

- 1 by paragraph (c) of this subsection. An employee's decision to transfer  
2 his or her accumulated account balance within sixty (60) days of the  
3 institution's effective cessation date is an irrevocable waiver of the  
4 right to obtain service credits in the system for the time worked for the  
5 institution ceasing participation. The employer's cost for ceasing  
6 participation shall be reduced accordingly for any employee  
7 transferring to the alternative retirement program; and
- 8 5. Be eligible to take a refund of his or her accumulated account balance  
9 in accordance with KRS 61.625 or any other available distribution if  
10 eligible; and
- 11 (f) The rights of recipients and the vested rights of active members or inactive  
12 members accrued as of the postsecondary education institution's effective  
13 cessation date shall not be impaired or reduced in any manner as a result of  
14 the postsecondary education institution ceasing participation in the system;
- 15 (5) For purposes of this section, the full actuarial cost shall be determined by the  
16 Kentucky Retirement Systems' consulting actuary separately for the pension fund  
17 and the insurance fund using the assumptions and methodology established in  
18 the 2018 actuarial valuation. For purposes of determining the full actuarial cost,  
19 the assumed rate of return and discount rate used to calculate the cost shall be  
20 the lesser of the assumed rate of return utilized in the system's 2018 actuarial  
21 valuation or the yield on a thirty (30) year United States Treasury bond as of the  
22 employer's effective cessation date, but shall in no case be lower than three  
23 percent (3%) for those institutions paying their full actuarial costs by installment  
24 payments and four and one-half percent (4.5%) for those institutions paying their  
25 full actuarial costs by lump-sum payment;
- 26 (6) The Kentucky Retirement Systems shall promulgate administrative regulations  
27 pursuant to KRS Chapter 13A to administer this section; and



1 (7) Any postsecondary education institution who voluntarily ceases participation as  
2 provided in this section shall hold the Commonwealth harmless from damages,  
3 attorney's fees, and costs from legal claims for any cause of action brought by  
4 any inactive member after the departing institution's effective cessation date.

5 ➔SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO  
6 READ AS FOLLOWS:

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

8 (1) For purposes of this section:

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

13 (b) "Effective cessation date" means June 30, 2020, unless the quasi-  
14 governmental entity makes an election to continue participating in the  
15 system as provided by subsection (2)(a) of this section;

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

18 (d) "Quasi-governmental employer" or "employer" means postsecondary  
19 institutions who do not voluntarily cease participating in the system as  
20 provided by Section 1 of this Act, local and district health departments,  
21 mental health/mental retardation boards, state-administered retirement  
22 systems, domestic violence shelters, rape crisis centers, child advocacy  
23 centers, and any other agency eligible to voluntarily cease participating in  
24 the Kentucky Employees Retirement System pursuant to KRS 61.522, who  
25 participate in the Kentucky Employees Retirement System, except that it  
26 shall not include any employer who has ceased participation in the systems  
27 under KRS 61.522;

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

3 (a) Shall be required to involuntarily cease participation in the system for its  
4 nonhazardous employees subject to the requirements and restrictions of this  
5 section, unless the quasi-governmental employer adopts a resolution to not  
6 cease participation in the system and submits the resolution to the board by  
7 December 31, 2019. The board shall accept the resolution on or before June  
8 30, 2020, and the employer shall not be able to rescind a request to continue  
9 participating once it has been submitted to the system. If a quasi-  
10 governmental employer adopts a resolution to not cease participation in the  
11 system and submits the resolution to the board by December 31, 2019, as  
12 provided by this paragraph, the quasi-governmental employer shall be  
13 required to pay the full actuarially required contribution in all future fiscal  
14 years occurring on or after July 1, 2020, as prescribed by KRS 61.565 and  
15 61.702; and

16 (b) On or after the effective date of this Act, but prior to August 1, 2019, may  
17 request an estimate of the cost of involuntarily ceasing participation in the  
18 system. The estimate shall be provided to the institution within sixty (60)  
19 days of the request;

20 (3) If a quasi-governmental employer is required to involuntarily cease participation  
21 in the Kentucky Employees Retirement System as provided by subsection (2)(a) of  
22 this section and has not submitted a resolution to continue participating in the  
23 system by December 31, 2019:

24 (a) The cessation of participation in the system shall apply to all employees of  
25 the quasi-governmental employer;

26 (b) The quasi-governmental employer shall pay for all administrative costs of  
27 an actuarial study to be completed by the Kentucky Retirement Systems'

1 consulting actuary and for any other administrative costs for discontinuing  
2 participation in the system as determined by the board and as provided by  
3 this section;

4 (c) The quasi-governmental employer shall provide an alternative retirement  
5 program for employees who will no longer be covered by the system, which  
6 shall not include a defined benefit plan which by nature can have an  
7 unfunded liability;

8 (d) The quasi-governmental employer shall pay the full actuarial cost of the  
9 benefits accrued by its current and former employees in the system through  
10 the effective cessation date;

11 (e) The full actuarial cost:

12 1. Shall be determined separately for the pension fund and the insurance  
13 fund by the actuarial study required by paragraph (b) of this  
14 subsection;

15 2. May be paid by lump-sum payment or in installment payments to the  
16 system as provided by this subsection;

17 3. To the extent the data is available, costs for individual active members,  
18 inactive members, and retired members shall be based solely upon the  
19 service earned while employed by the quasi-governmental employer;  
20 and

21 4. Shall be fixed, and the quasi-governmental employer shall not be  
22 subject to any increases or subsequent adjustments, once the lump  
23 sum is paid or the first installment payment is made; and

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

27 1. Annual payments occurring on or after July 1, 2020, which may be

1 paid monthly or annually at the discretion of the employer, shall be a  
2 set dollar value using the fiscal year 2019-2020 dollar contributions  
3 paid by the ceasing employer as a base value and increasing the dollar  
4 value paid annually in each fiscal year occurring on or after July 1,  
5 2020, by one and one-half percent (1.5%) annually until the cost as  
6 provided by subsection (6) of this section and as adjusted annually by  
7 subparagraph 2. of this paragraph is paid off in full. If the employer  
8 ceasing participation is receiving a general fund appropriation to help  
9 pay retirement contributions and that appropriation is reduced in  
10 future years occurring on or after July 1, 2020, from the amount  
11 appropriated in fiscal year 2019-2020, the payment under this  
12 subsection shall be reduced on a dollar-for-dollar basis as the  
13 appropriation reduction; and

14 2. Interest shall be assigned to the principal amount annually beginning  
15 on July 1, 2020, and for each July 1 thereafter, that is equal to a rate  
16 of three percent (3%) per annum for pension and retiree health costs;  
17 An employer ceasing participation who is making installment payments as  
18 provided by this paragraph may at any time payoff the remaining balance  
19 and shall not be charged any interest for periods beyond the payoff date. If  
20 an employer does not contribute to the system in fiscal year 2019-2020, the  
21 systems shall have full authority to estimate the employer contributions that  
22 would have otherwise been payable by the employer if all eligible employees  
23 would have participated and to use that number as a base value for  
24 purposes of determining installments under this paragraph;

25 (4) For a quasi-governmental employer involuntarily ceasing participation as  
26 provided by this section, any nonhazardous employee hired on or after the quasi-  
27 governmental employer's effective cessation date shall not, regardless of his or

1 her membership date in the systems administered by the Kentucky Retirement  
2 Systems, be eligible to participate in the Kentucky Employees Retirement System  
3 through the quasi-governmental employer that ceased participation for the  
4 duration of his or her employment with that quasi-governmental employer;

5 (5) If a quasi-governmental employer has ceased participation in the system as  
6 provided by this section:

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

11 (b) Employees of the employer ceasing participation shall accrue benefits  
12 through the employer's effective cessation date but shall not accrue any  
13 additional benefits in the Kentucky Employees Retirement System,  
14 including earning years of service credit through the ceased employer, after  
15 the employer's effective cessation date for as long as they remain employed  
16 by the employer. The day after the employer's effective cessation date, each  
17 employee described by this paragraph shall be considered an inactive  
18 member with respect to his or her employment with the employer that  
19 ceased participation and, subject to the provisions and limitations of KRS  
20 61.510 to 61.705, shall:

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

24 2. Retain his or her vested rights in accordance with paragraph (a) of  
25 this subsection;

26 3. If the alternative retirement plan established pursuant to subsection  
27 (3)(c) of this section meets the qualification requirements under 26

1           U.S.C. sec. 401(a) and is capable of accepting trustee to trustee  
2           transfers of both pre-tax and post-tax contributions, be eligible to seek  
3           to transfer his or her accumulated account balance to the quasi-  
4           governmental employer's qualified alternative retirement program  
5           within sixty (60) days of the employer's effective cessation date. An  
6           employee's decision to transfer his or her accumulated account  
7           balance within sixty (60) days of the quasi-governmental employer's  
8           effective cessation date is an irrevocable waiver of the right to obtain  
9           service credits in the system for the time worked for the quasi-  
10           governmental employer ceasing participation. The employer's cost for  
11           ceasing participation shall be reduced accordingly for any employee  
12           transferring to the alternative retirement program; and

13           4. Be eligible to take a refund of his or her accumulated account balance  
14           in accordance with KRS 61.625 or any other available distribution if  
15           eligible;

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

27           (7) The Kentucky Retirement Systems shall promulgate administrative regulations

1        pursuant to KRS Chapter 13A to administer this section; and  
2        (8) Any quasi-governmental employer who involuntarily ceases participation as  
3        provided in this section shall hold the Commonwealth harmless from damages,  
4        attorney's fees, and costs from legal claims for any cause of action brought by  
5        any inactive member after the departing quasi-governmental employer's effective  
6        cessation date.

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

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

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

- 1 allowance from the Kentucky Retirement Systems, Kentucky Teachers'  
2 Retirement System, the Legislators' Retirement Plan, the Judicial  
3 Retirement Plan, or the Kentucky Community and Technical College  
4 System's optional retirement plan authorized by KRS 161.567, except  
5 that a person who is receiving a retirement allowance and who is age  
6 sixty-five (65) or older shall not be included, with the exception of  
7 persons covered under KRS 61.702(4)(c), unless he or she is actively  
8 employed pursuant to subparagraph 1. of this paragraph; and
- 9 5. Any eligible dependents and beneficiaries of participating employees  
10 and retirees who are entitled to participate in the state-sponsored health  
11 insurance program;
- 12 (b) The term "health benefit plan" for the purposes of this section means a health  
13 benefit plan as defined in KRS 304.17A-005;
- 14 (c) The term "insurer" for the purposes of this section means an insurer as defined  
15 in KRS 304.17A-005; and
- 16 (d) The term "managed care plan" for the purposes of this section means a  
17 managed care plan as defined in KRS 304.17A-500.
- 18 (2) (a) The secretary of the Finance and Administration Cabinet, upon the  
19 recommendation of the secretary of the Personnel Cabinet, shall procure, in  
20 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,  
21 from one (1) or more insurers authorized to do business in this state, a group  
22 health benefit plan that may include but not be limited to health maintenance  
23 organization (HMO), preferred provider organization (PPO), point of service  
24 (POS), and exclusive provider organization (EPO) benefit plans encompassing  
25 all or any class or classes of employees. With the exception of employers  
26 governed by the provisions of KRS Chapters 16, 18A, and 151B, all  
27 employers of any class of employees or former employees shall enter into a



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

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

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

1 employees outside the state-sponsored health insurance program.

2 (d) Any carrier bidding to offer health care coverage to employees shall agree to  
3 provide enrollment, claims, and utilization data to the Commonwealth in a  
4 format specified by the Personnel Cabinet with the understanding that the data  
5 shall be owned by the Commonwealth; to provide data in an electronic form  
6 and within a time frame specified by the Personnel Cabinet; and to be subject  
7 to penalties for noncompliance with data reporting requirements as specified  
8 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions  
9 to protect the confidentiality of each individual employee; however,  
10 confidentiality assertions shall not relieve a carrier from the requirement of  
11 providing stipulated data to the Commonwealth.

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

27 (f) If any agency participating in the state-sponsored employee health insurance

1 program for its active employees terminates participation and there is a state  
2 appropriation for the employer's contribution for active employees' health  
3 insurance coverage, then neither the agency nor the employees shall receive  
4 the state-funded contribution after termination from the state-sponsored  
5 employee health insurance program.

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

9 (h) Each entity participating in the state-sponsored health insurance program shall  
10 provide an amount at least equal to the state contribution rate for the employer  
11 portion of the health insurance premium. For any participating entity that used  
12 the state payroll system, the employer contribution amount shall be equal to  
13 but not greater than the state contribution rate.

14 (3) The premiums may be paid by the policyholder:

15 (a) Wholly from funds contributed by the employee, by payroll deduction or  
16 otherwise;

17 (b) Wholly from funds contributed by any department, board, agency, public  
18 postsecondary education institution, or branch of state, city, urban-county,  
19 charter county, county, or consolidated local government; or

20 (c) Partly from each, except that any premium due for health care coverage or  
21 dental coverage, if any, in excess of the premium amount contributed by any  
22 department, board, agency, postsecondary education institution, or branch of  
23 state, city, urban-county, charter county, county, or consolidated local  
24 government for any other health care coverage shall be paid by the employee.

25 (4) If an employee moves his place of residence or employment out of the service area  
26 of an insurer offering a managed health care plan, under which he has elected  
27 coverage, into either the service area of another managed health care plan or into an

1 area of the Commonwealth not within a managed health care plan service area, the  
2 employee shall be given an option, at the time of the move or transfer, to change his  
3 or her coverage to another health benefit plan.

4 (5) No payment of premium by any department, board, agency, public postsecondary  
5 educational institution, or branch of state, city, urban-county, charter county,  
6 county, or consolidated local government shall constitute compensation to an  
7 insured employee for the purposes of any statute fixing or limiting the  
8 compensation of such an employee. Any premium or other expense incurred by any  
9 department, board, agency, public postsecondary educational institution, or branch  
10 of state, city, urban-county, charter county, county, or consolidated local  
11 government shall be considered a proper cost of administration.

12 (6) The policy or policies may contain the provisions with respect to the class or classes  
13 of employees covered, amounts of insurance or coverage for designated classes or  
14 groups of employees, policy options, terms of eligibility, and continuation of  
15 insurance or coverage after retirement.

16 (7) Group rates under this section shall be made available to the disabled child of an  
17 employee regardless of the child's age if the entire premium for the disabled child's  
18 coverage is paid by the state employee. A child shall be considered disabled if he  
19 has been determined to be eligible for federal Social Security disability benefits.

20 (8) The health care contract or contracts for employees shall be entered into for a period  
21 of not less than one (1) year.

22 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
23 State Health Insurance Subscribers to advise the secretary or his designee regarding  
24 the state-sponsored health insurance program for employees. The secretary shall  
25 appoint, from a list of names submitted by appointing authorities, members  
26 representing school districts from each of the seven (7) Supreme Court districts,  
27 members representing state government from each of the seven (7) Supreme Court

1 districts, two (2) members representing retirees under age sixty-five (65), one (1)  
2 member representing local health departments, two (2) members representing the  
3 Kentucky Teachers' Retirement System, and three (3) members at large. The  
4 secretary shall also appoint two (2) members from a list of five (5) names submitted  
5 by the Kentucky Education Association, two (2) members from a list of five (5)  
6 names submitted by the largest state employee organization of nonschool state  
7 employees, two (2) members from a list of five (5) names submitted by the  
8 Kentucky Association of Counties, two (2) members from a list of five (5) names  
9 submitted by the Kentucky League of Cities, and two (2) members from a list of  
10 names consisting of five (5) names submitted by each state employee organization  
11 that has two thousand (2,000) or more members on state payroll deduction. The  
12 advisory committee shall be appointed in January of each year and shall meet  
13 quarterly.

14 (10) Notwithstanding any other provision of law to the contrary, the policy or policies  
15 provided to employees pursuant to this section shall not provide coverage for  
16 obtaining or performing an abortion, nor shall any state funds be used for the  
17 purpose of obtaining or performing an abortion on behalf of employees or their  
18 dependents.

19 (11) Interruption of an established treatment regime with maintenance drugs shall be  
20 grounds for an insured to appeal a formulary change through the established appeal  
21 procedures approved by the Department of Insurance, if the physician supervising  
22 the treatment certifies that the change is not in the best interests of the patient.

23 (12) Any employee who is eligible for and elects to participate in the state health  
24 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
25 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
26 state health insurance contribution toward health care coverage as a result of any  
27 other employment for which there is a public employer contribution. This does not

1 preclude a retiree and an active employee spouse from using both contributions to  
2 the extent needed for purchase of one (1) state sponsored health insurance policy for  
3 that plan year.

4 (13) (a) The policies of health insurance coverage procured under subsection (2) of  
5 this section shall include a mail-order drug option for maintenance drugs for  
6 state employees. Maintenance drugs may be dispensed by mail order in  
7 accordance with Kentucky law.

8 (b) A health insurer shall not discriminate against any retail pharmacy located  
9 within the geographic coverage area of the health benefit plan and that meets  
10 the terms and conditions for participation established by the insurer, including  
11 price, dispensing fee, and copay requirements of a mail-order option. The  
12 retail pharmacy shall not be required to dispense by mail.

13 (c) The mail-order option shall not permit the dispensing of a controlled  
14 substance classified in Schedule II.

15 (14) The policy or policies provided to state employees or their dependents pursuant to  
16 this section shall provide coverage for obtaining a hearing aid and acquiring hearing  
17 aid-related services for insured individuals under eighteen (18) years of age, subject  
18 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months  
19 pursuant to KRS 304.17A-132.

20 (15) Any policy provided to state employees or their dependents pursuant to this section  
21 shall provide coverage for the diagnosis and treatment of autism spectrum disorders  
22 consistent with KRS 304.17A-142.

23 (16) Any policy provided to state employees or their dependents pursuant to this section  
24 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
25 to KRS 304.17A-258.

26 (17) If a state employee's residence and place of employment are in the same county, and  
27 if the hospital located within that county does not offer surgical services, intensive

1 care services, obstetrical services, level II neonatal services, diagnostic cardiac  
2 catheterization services, and magnetic resonance imaging services, the employee  
3 may select a plan available in a contiguous county that does provide those services,  
4 and the state contribution for the plan shall be the amount available in the county  
5 where the plan selected is located.

6 (18) If a state employee's residence and place of employment are each located in counties  
7 in which the hospitals do not offer surgical services, intensive care services,  
8 obstetrical services, level II neonatal services, diagnostic cardiac catheterization  
9 services, and magnetic resonance imaging services, the employee may select a plan  
10 available in a county contiguous to the county of residence that does provide those  
11 services, and the state contribution for the plan shall be the amount available in the  
12 county where the plan selected is located.

13 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and  
14 in the best interests of the state group to allow any carrier bidding to offer health  
15 care coverage under this section to submit bids that may vary county by county or  
16 by larger geographic areas.

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

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

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

- 1 (c) The request for proposal shall require a carrier's bid to include every county  
2 within the region or regions for which the bid is submitted and include but not  
3 be restricted to a preferred provider organization (PPO) option;
- 4 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
5 carrier all of the counties included in its bid within the region. If the Personnel  
6 Cabinet deems the bids submitted in accordance with this subsection to be in  
7 the best interests of state employees in a region, the cabinet may award the  
8 contract for that region to no more than two (2) carriers; and
- 9 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including  
10 other requirements or criteria in the request for proposal.
- 11 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
12 after July 12, 2006, to public employees pursuant to this section which provides  
13 coverage for services rendered by a physician or osteopath duly licensed under KRS  
14 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
15 under the provisions of KRS Chapter 320 shall provide the same payment of  
16 coverage to optometrists as allowed for those services rendered by physicians or  
17 osteopaths.
- 18 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
19 after July 12, 2006, to public employees pursuant to this section shall comply with  
20 the provisions of KRS 304.17A-270 and 304.17A-525.
- 21 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or  
22 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to  
23 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to  
24 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to  
25 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641  
26 pertaining to emergency medical care, KRS 304.99-123, and any administrative  
27 regulations promulgated thereunder.



1 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on  
2 or after July 1, 2019, to public employees pursuant to this section shall comply with KRS  
3 304.17A-138.

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

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

- 6 (1) "System" means the Kentucky Employees Retirement System created by KRS  
7 61.510 to 61.705;
- 8 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 9 (3) "Department" means any state department or board or agency participating in the  
10 system in accordance with appropriate executive order, as provided in KRS 61.520.  
11 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
12 General Assembly and any other body, entity, or instrumentality designated by  
13 executive order by the Governor, shall be deemed to be a department,  
14 notwithstanding whether said body, entity, or instrumentality is an integral part of  
15 state government;
- 16 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 17 (5) "Employee" means the members, officers, and employees of the General Assembly  
18 and every regular full-time, appointed or elective officer or employee of a  
19 participating department, including the Department of Military Affairs. The term  
20 does not include persons engaged as independent contractors, seasonal, emergency,  
21 temporary, interim, and part-time workers. In case of any doubt, the board shall  
22 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 23 (6) "Employer" means a department or any authority of a department having the power  
24 to appoint or select an employee in the department, including the Senate and the  
25 House of Representatives, or any other entity, the employees of which are eligible  
26 for membership in the system pursuant to KRS 61.525;
- 27 (7) "State" means the Commonwealth of Kentucky;

- 1 (8) "Member" means any employee who is included in the membership of the system or  
2 any former employee whose membership has not been terminated under KRS  
3 61.535;
- 4 (9) "Service" means the total of current service and prior service as defined in this  
5 section;
- 6 (10) "Current service" means the number of years and months of employment as an  
7 employee, on and after July 1, 1956, except that for members, officers, and  
8 employees of the General Assembly this date shall be January 1, 1960, for which  
9 creditable compensation is paid and employee contributions deducted, except as  
10 otherwise provided, and each member, officer, and employee of the General  
11 Assembly shall be credited with a month of current service for each month he  
12 serves in the position;
- 13 (11) "Prior service" means the number of years and completed months, expressed as a  
14 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
15 creditable compensation was paid; except that for members, officers, and employees  
16 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
17 credited with one (1) month of prior service only in those months he received  
18 compensation for at least one hundred (100) hours of work; provided, however, that  
19 each member, officer, and employee of the General Assembly shall be credited with  
20 a month of prior service for each month he served in the position prior to January 1,  
21 1960. Twelve (12) months of current service in the system are required to validate  
22 prior service;
- 23 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
24 from the compensation of a member and credited to his individual account in the  
25 members' account, including employee contributions picked up after August 1,  
26 1982, pursuant to KRS 61.560(4), together with interest credited, or investment  
27 returns earned as provided by KRS 61.5956, on such amounts and any other

1 amounts the member shall have contributed thereto, including interest credited  
2 thereon or investment returns earned as provided by KRS 61.5956. "Accumulated  
3 contributions" shall not include employee contributions that are deposited into  
4 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established  
5 in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

6 (13) "Creditable compensation":

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

19 (b) Includes:

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

1 order of a court of competent jurisdiction, the Personnel Board, or the  
2 Commission on Human Rights, or for any creditable compensation paid  
3 in anticipation of settlement of an action before a court of competent  
4 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
5 including notices of violations of state or federal wage and hour statutes  
6 or violations of state or federal discrimination statutes, which shall be  
7 credited to the fiscal year during which the wages were earned or should  
8 have been paid by the employer. This subparagraph shall also include  
9 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
10 which shall be credited to the period during which the wages were  
11 earned or should have been paid by the employer;

- 12 4. Amounts which are not includable in the member's gross income by  
13 virtue of the member having taken a voluntary salary reduction provided  
14 for under applicable provisions of the Internal Revenue Code; and  
15 5. Elective amounts for qualified transportation fringes paid or made  
16 available on or after January 1, 2001, for calendar years on or after  
17 January 1, 2001, that are not includable in the gross income of the  
18 employee by reason of 26 U.S.C. sec. 132(f)(4); and

19 (c) Excludes:

- 20 1. Uniform, equipment, or any other expense allowances paid on or after  
21 January 1, 2019, living allowances, expense reimbursements, lump-sum  
22 payments for accrued vacation leave, and other items determined by the  
23 board;  
24 2. For employees who begin participating on or after September 1, 2008,  
25 lump-sum payments for compensatory time;  
26 3. For employees participating in a nonhazardous position who began  
27 participating prior to September 1, 2008, and who retire after July 1,

1                   2023, lump-sum payments for compensatory time upon termination of  
2                   employment; and

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

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

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

21                  (b) For a member who is employed in a nonhazardous position, whose effective  
22                  retirement date is between August 1, 2001, and January 1, 2009, and whose  
23                  total service credit is at least twenty-seven (27) years and whose age and years  
24                  of service total at least seventy-five (75), final compensation means the  
25                  creditable compensation of the member during the three (3) fiscal years the  
26                  member was paid at the highest average monthly rate divided by the number  
27                  of months of service credit during that three (3) years period multiplied by

1 twelve (12). The three (3) years may be fractional and need not be  
2 consecutive. If the number of months of service credit during the three (3)  
3 year period is less than twenty-four (24), one (1) or more additional fiscal  
4 years shall be used. Notwithstanding the provision of KRS 61.565, the  
5 funding for this paragraph shall be provided from existing funds of the  
6 retirement allowance;

7 (c) For a member who begins participating before September 1, 2008, who is  
8 employed in a hazardous position, as provided in KRS 61.592, and who  
9 retired prior to January 1, 2019, the creditable compensation of the member  
10 during the three (3) fiscal years he was paid at the highest average monthly  
11 rate divided by the number of months of service credit during that three (3)  
12 year period multiplied by twelve (12). The three (3) years may be fractional  
13 and need not be consecutive. If the number of months of service credit during  
14 the three (3) year period is less than twenty-four (24), one (1) or more  
15 additional fiscal years shall be used;

16 (d) For a member who begins participating on or after September 1, 2008, but  
17 prior to January 1, 2014, who is employed in a nonhazardous position, the  
18 creditable compensation of the member during the five (5) complete fiscal  
19 years immediately preceding retirement divided by five (5). Each fiscal year  
20 used to determine final compensation must contain twelve (12) months of  
21 service credit. If the member does not have five (5) complete fiscal years that  
22 each contain twelve (12) months of service credit, then one (1) or more  
23 additional fiscal years, which may contain less than twelve (12) months of  
24 service credit, shall be added until the number of months in the final  
25 compensation calculation is at least sixty (60) months; or

26 (e) For a member who begins participating on or after September 1, 2008, but  
27 prior to January 1, 2014, who is employed in a hazardous position as provided

1 in KRS 61.592, or for a member who begins participating prior to September  
2 1, 2008, who is employed in a hazardous position as provided in KRS 61.592,  
3 who retires on or after January 1, 2019, the creditable compensation of the  
4 member during the three (3) complete fiscal years he was paid at the highest  
5 average monthly rate divided by three (3). Each fiscal year used to determine  
6 final compensation must contain twelve (12) months of service credit. If the  
7 member does not have three (3) complete fiscal years that each contain twelve  
8 (12) months of service credit, then one (1) or more additional fiscal years,  
9 which may contain less than twelve (12) months of service credit, shall be  
10 added until the number of months in the final compensation calculation is at  
11 least thirty-six (36) months;

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

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

23 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
24 basis of the actuarial tables that are adopted by the board. In cases of disability  
25 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
26 (10) years to the age of the member, unless the member has chosen the Social  
27 Security adjustment option as provided for in KRS 61.635(8), in which case the

1 member's actual age shall be used. For members who began participating in the  
2 system prior to January 1, 2014, no disability retirement option shall be less than the  
3 same option computed under early retirement;

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

6 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
7 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
8 limitation year used to determine contribution and benefit limits as established by  
9 26 U.S.C. sec. 415;

10 (20) "Officers and employees of the General Assembly" means the occupants of those  
11 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
12 were employed by the General Assembly for at least one (1) regular legislative  
13 session prior to July 13, 2004, who elect to participate in the retirement system, and  
14 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
15 13, 2004, shall be designated as interim employees;

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

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

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

26 (c) Temporary positions which are positions of employment with a participating  
27 department for a period of time not to exceed nine (9) months and are



1 nonrenewable;

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

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

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

16 (23) "Parted employer" means a department, portion of a department, board, or agency,  
17 such as Outwood Hospital and School, which previously participated in the system,  
18 but due to lease or other contractual arrangement is now operated by a publicly held  
19 corporation or other similar organization, and therefore is no longer participating in  
20 the system. The term "parted employer" shall not include a department, board, or  
21 agency that ceased participation in the system pursuant to KRS 61.522 or Section 1  
22 or 2 of this Act;

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

26 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
27 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of

- 1 pay. The rate shall be certified by the employer;
- 2 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
3 the member in accordance with KRS 61.542 or 61.705 to receive any available  
4 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
5 does not mean an estate, trust, or trustee;
- 6 (27) "Recipient" means the retired member or the person or persons designated as  
7 beneficiary by the member and drawing a retirement allowance as a result of the  
8 member's death or a dependent child drawing a retirement allowance. An alternate  
9 payee of a qualified domestic relations order shall not be considered a recipient,  
10 except for purposes of KRS 61.623;
- 11 (28) "Level dollar amortization method" means a method of determining the annual  
12 amortization payment on the unfunded actuarial accrued liability that is set as an  
13 equal dollar amount over the remaining amortization period as of the actuarial  
14 valuation date. Under this method, the unfunded actuarially accrued liability shall  
15 be projected to be fully amortized at the conclusion of the amortization period;
- 16 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
17 twelve (12) months need not be consecutive. The final increment may be less than  
18 twelve (12) months;
- 19 (30) "Person" means a natural person;
- 20 (31) "Retirement office" means the Kentucky Retirement Systems office building in  
21 Frankfort;
- 22 (32) "Last day of paid employment" means the last date employer and employee  
23 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
24 78.615 to the retirement office in order for the employee to receive current service  
25 credit for the month. Last day of paid employment does not mean a date the  
26 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
27 that date occurs twenty-four (24) or more months after previous contributions;

- 1 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
2 signs which are anatomical, physiological, or psychological abnormalities that can  
3 be observed; psychiatric signs which are medically demonstrable phenomena  
4 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
5 or contact with reality; or laboratory findings which are anatomical, physiological,  
6 or psychological phenomena that can be shown by medically acceptable laboratory  
7 diagnostic techniques, including but not limited to chemical tests,  
8 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 9 (34) "Participating" means an employee is currently earning service credit in the system  
10 as provided in KRS 61.543;
- 11 (35) "Month" means a calendar month;
- 12 (36) "Membership date" means:
- 13 (a) The date upon which the member began participating in the system as  
14 provided in KRS 61.543; or
- 15 (b) For a member electing to participate in the system pursuant to KRS  
16 196.167(4) who has not previously participated in the system or the Kentucky  
17 Teachers' Retirement System, the date the member began participating in a  
18 defined contribution plan that meets the requirements of 26 U.S.C. sec.  
19 403(b);
- 20 (37) "Participant" means a member, as defined by subsection (8) of this section, or a  
21 retired member, as defined by subsection (24) of this section;
- 22 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
23 including approval of a property settlement agreement, that:
- 24 (a) Is issued by a court or administrative agency; and
- 25 (b) Relates to the provision of child support, alimony payments, or marital  
26 property rights to an alternate payee;
- 27 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a

1 participant, who is designated to be paid retirement benefits in a qualified domestic  
2 relations order;

3 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
4 member's account and interest credited on such amounts as provided by KRS  
5 16.583 and 61.597;

6 (41) "Accumulated account balance" means:

7 (a) For members who began participating in the system prior to January 1, 2014,  
8 the member's accumulated contributions;

9 (b) For members who began participating in the system on or after January 1,  
10 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
11 the combined sum of the member's accumulated contributions and the  
12 member's accumulated employer credit; or

13 (c) For nonhazardous members who are participating in the 401(a) money  
14 purchase plan as provided by KRS 61.5956, the combined sum of the  
15 member's accumulated contribution and the member's accumulated employer  
16 contribution in the 401(a) money purchase plan;

17 (42) "Volunteer" means an individual who:

18 (a) Freely and without pressure or coercion performs hours of service for an  
19 employer participating in one (1) of the systems administered by Kentucky  
20 Retirement Systems without receipt of compensation for services rendered,  
21 except for reimbursement of actual expenses, payment of a nominal fee to  
22 offset the costs of performing the voluntary services, or both; and

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

27 (43) "Nominal fee" means compensation earned for services as a volunteer that does not

1 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
2 a volunteer from more than one (1) participating employer during a month shall be  
3 aggregated to determine whether the compensation exceeds the five hundred dollars  
4 (\$500) per month maximum provided by this subsection;

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

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

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

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

14 (1) Each department determined by the board to be eligible and qualified for  
15 participation shall participate in the system when the Governor by appropriate  
16 executive order, the authority to issue such executive order being granted, directs  
17 such department to participate in the system. The effective date of such participation  
18 shall be determined by the board and fixed by the Governor in his executive order.

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

25 (b) All employees of an agency participating under authority of subsection (2)(a)  
26 of this section shall be considered noninstructional employees except the  
27 members of the instructional staff of the state college or university who are

1 responsible for teaching and the administrative positions which are included  
2 in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky  
3 Teachers' Retirement System.

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

10 (4) Except as provided by KRS 61.522 or Section 1 or 2 of this Act:

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

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

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

16 Membership in the system shall consist of the following:

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

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

25 (b) All persons who are employees of a department who did not elect to  
26 participate within thirty (30) days of the date the department first participated  
27 in the system or within thirty (30) days of their return to active service and

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

1 Retirement System as a member; employees who were previously contributing  
2 members transferred from the former Cabinet for Workforce Development as  
3 provided in KRS 164.5805(1)(a) and who have not exercised the option to  
4 participate in the new Kentucky Community and Technical College personnel  
5 system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997,  
6 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  
8 the 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  
11 creditable compensation of each employee of an agency participating in the  
12 retirement system while he is classified as regular full-time as defined in KRS  
13 61.510 unless the 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 or 2 of this Act.*

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

27 (2) Employee contributions shall not be deducted from the creditable compensation of



1 an employee or picked up by the employer while he is seasonal, emergency,  
2 temporary, or part-time. No service credit will be earned.

3 (3) Contributions shall not be made or picked up by the employer and no service credit  
4 will be earned by a member while on leave except:

5 (a) A member on military leave shall be entitled to service credit in accordance  
6 with KRS 61.555;

7 (b) A member on educational leave, approved by the Personnel Cabinet, who is  
8 receiving seventy-five percent (75%) or more of full salary, shall receive  
9 service credit and shall pay employee contributions, or the contributions shall  
10 be picked up in accordance with KRS 61.560 and his employer shall pay  
11 employer contributions in accordance with KRS 61.565. If a tuition agreement  
12 is broken by the member, the member and employer contributions paid or  
13 picked up during the period of educational leave shall be refunded; and

14 (c) An employee on educational leave, approved by the appointing authority, not  
15 to exceed one (1) year, or with additional approval of one (1) additional year,  
16 and not to exceed two (2) years within a five (5) year period, who is receiving  
17 a salary of less than seventy-five percent (75%) of full salary, may elect to  
18 retain membership in the system during the period of leave. If the employee  
19 elects to retain membership in the system, he shall receive service credit by  
20 having employee contributions picked up in accordance with KRS 61.560. His  
21 employer shall pay employer contributions in accordance with KRS 61.565. If  
22 a tuition agreement is broken by the member, the employee and employer  
23 contributions paid or picked up during the period of educational leave shall be  
24 refunded to the contributor and no service credit shall be earned for the period  
25 of leave.

26 (4) The retirement office, upon detection, shall refund any erroneous employer and  
27 employee contributions made to the retirement system and any interest credited in

1 accordance with KRS 61.575.

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

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

13 (1) Each employee shall, commencing on August 1, 1986, contribute for each pay  
14 period for which he receives compensation five percent (5%) of his creditable  
15 compensation, except that members of the General Assembly, who elect the  
16 survivorship option provided in KRS 61.635(13), shall each contribute six and six-  
17 tenths percent (6.6%) of creditable compensation commencing with the payroll  
18 period immediately following his election of the option. Any other provisions of  
19 KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in  
20 KRS 61.637, who became reemployed prior to September 1, 2008, and began  
21 participating in another retirement account shall contribute five percent (5%) of his  
22 creditable compensation, or the amount required by KRS 61.592(3) if applicable.

23 (2) Each employer shall cause to be deducted from the creditable compensation of each  
24 employee for each and every payroll period the contribution payable by each such  
25 employee as provided in KRS 61.515 to 61.705.

26 (3) The deductions provided for herein shall be made notwithstanding that the  
27 minimum compensation provided by law for any employee shall be reduced

1       thereby. Every employee shall be deemed to consent and agree to the deductions  
2       made as provided herein; and payment of salary or compensation less such  
3       deductions shall be a full and complete discharge of all claims for services rendered  
4       by such person during the period covered by such payment, except as to any  
5       benefits provided by KRS 61.515 to 61.705.

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

22      (5) The provisions of this section shall not apply to individuals who are not eligible for  
23      membership as provided by KRS 61.522 *Section 1 or 2 of this Act.*

24      ➔Section 9. Notwithstanding any other provision of KRS 61.565, or 61.702, 2018  
25      Ky. Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the employer  
26      contribution rate from July 1, 2019, through June 30, 2020, shall be 49.47 percent,  
27      consisting of 41.06 percent for pension and 8.41 percent for health insurance for

1 nonhazardous duty employees participating in the Kentucky Employees Retirement  
2 System who are employed by Mental Health/Mental Retardation Boards, Local and  
3 District Health Departments, domestic violence shelters, rape crisis centers, child  
4 advocacy centers, state supported universities and community colleges, and any other  
5 agency eligible to voluntarily cease participating in the Kentucky Employees Retirement  
6 System pursuant to KRS 61.522.

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

9       ➔Section 11. Whereas ensuring the financial health of postsecondary education  
10 institutions is vital to the future of Kentucky, an emergency is declared to exist, and this  
11 Act takes effect upon its passage and approval by the Governor or upon its otherwise  
12 becoming a law.