

1 AN ACT relating to actuarial costs of annual leave payments in the Teachers'
2 Retirement System.

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

4 ➔Section 1. KRS 161.540 is amended to read as follows:

5 (1) (a) Each individual who becomes a contributing nonuniversity member prior to
6 January 1, 2022, shall contribute to the retirement system twelve and eight
7 hundred fifty-five thousandths percent (12.855%) of annual compensation, of
8 which:

- 9 1. Nine and one hundred five thousandths percent (9.105%) of annual
10 compensation shall be used to fund pension benefits; and
- 11 2. Three and three-quarters percent (3.75%) of annual compensation shall
12 be used to fund retiree health benefits.

13 (b) Each individual who becomes a contributing university member prior to
14 January 1, 2022, shall contribute to the retirement system ten and four-tenths
15 percent (10.4%) of annual compensation, of which:

- 16 1. Seven and six hundred twenty-five thousandths percent (7.625%) of
17 annual compensation shall be used to fund pension benefits; and
- 18 2. Two and seven hundred seventy-five thousandths percent (2.775%) of
19 annual compensation shall be used to fund retiree health benefits.

20 (c) Each individual who becomes a contributing nonuniversity member on or
21 after January 1, 2022, shall contribute to the retirement system fourteen and
22 three-quarters percent (14.75%) of annual compensation, of which:

- 23 1. Nine percent (9%) of annual compensation shall be used to fund pension
24 benefits in the foundational benefit component as described by KRS
25 161.633. The contribution provided by this subparagraph shall not be
26 used to fund the supplemental benefit account as provided by KRS
27 161.635;

- 1 2. Two percent (2%) of annual compensation shall fund the required
2 employee contribution in the supplemental benefit component in KRS
3 161.635, except that the board may direct these contributions on a
4 prospective basis into the pension and life insurance funds to contain
5 costs of the foundational benefit component within the provisions of
6 KRS 161.633; and
- 7 3. Three and three-quarters percent (3.75%) of annual compensation shall
8 be used to fund retiree health benefits.

9 (d) Each individual who becomes a contributing university member on or after
10 January 1, 2022, shall contribute to the retirement system nine and seven
11 hundred seventy-five thousandths percent (9.775%) of annual compensation,
12 of which:

- 13 1. Five percent (5%) of annual compensation shall be used to fund pension
14 benefits in the foundational benefit component as described by KRS
15 161.634. The contribution provided by this subparagraph shall not be
16 used to fund the supplemental benefit account as provided by KRS
17 161.636;
- 18 2. Two percent (2%) of annual compensation shall fund the required
19 employee contribution in the supplemental benefit component in KRS
20 161.636, except that the board may direct these contributions on a
21 prospective basis into the pension and life insurance funds to contain
22 costs of the foundational benefit component within the provisions of
23 KRS 161.634; and
- 24 3. Two and seven hundred and seventy-five thousandths percent (2.775%)
25 of annual compensation shall be used to fund retiree health benefits.

26 (e) When the funds established to actuarially fund pension annuities and the
27 medical insurance fund established under KRS 161.420 become fully funded

1 as determined by the annual actuarial valuation, the board of trustees shall
2 recommend to the General Assembly that the contributions required under
3 paragraph (a)2., (b)2., (c)3., or (d)3. of this subsection shall, in an actuarially
4 accountable manner, be either decreased, suspended, or eliminated.

5 (f) **1.** Payments authorized by statute that are made to retiring members[.] who
6 became members of the system before July 1, 2008, for not more than
7 sixty (60) days of unused accrued annual leave shall, subject to KRS
8 161.220(10), be considered as part of the member's annual
9 compensation, and shall be used only for the member's final year of
10 active service. Notwithstanding the provisions of this subsection or any
11 other statute to the contrary, for retirement calculation purposes,
12 members may only be credited for payment of annual leave under the
13 following conditions:

14 **a.**[1.]Payment by an employer for unused accrued annual leave at
15 retirement shall be equally available to all members serving under
16 contracts requiring the same number of worked days and greater;[
17 and]

18 **b.**[2.]At least two (2) members of the employer shall receive payment
19 for unused accrued annual leave;

20 **c.** The member shall have accrued annual leave prior to August 1,
21 2026, with an employer who compensates unused accrued
22 annual leave for retirement calculation purposes pursuant to this
23 paragraph; and

24 **d.** The payment for unused accrued annual leave must be with an
25 employer who began compensating unused accrued annual leave
26 for retirement calculation purposes prior to August 1, 2026[.]

27 **2. a. Actuarial costs to the Teachers' Retirement System for the**

inclusion of payment for unused accrued annual leave days that are eligible for compensation under subparagraph 1. of this paragraph shall be funded in accordance with subdivision b. of this subparagraph.

b. i. In the case of an employer specified in subsection (4)(a) and (c) of Section 2 of this Act, the state shall pay the actuarial costs for the compensation attributable to the actual unused annual leave accrued as of July 31, 2026, plus annual adjustments to the annual leave balance each fiscal year thereafter, based upon the annual leave accrued or used by the teacher or employee, not to exceed five (5) additional days per year.

ii. In the case of an employer except those specified in subsection (4)(a) and (c) of Section 2 of this Act, the state shall pay the actuarial costs for the compensation attributable to the actual unused annual leave accrued as of July 31, 2026.

iii. The last employer who is compensating the unused accrued annual leave as provided in subparagraph 1. of this paragraph shall pay the actuarial costs of compensation for unused accrued annual leave days not paid by the state under subparts i. to ii. of this subdivision. Upon the teacher's or employee's retirement, the Teachers' Retirement System shall bill the last employer for the cost of the unused accrued annual leave days, and the employer shall pay the costs within fifteen (15) days after receiving notification of the cost from the system.

iv. The actuarial costs of the unused accrued annual leave days shall be the amount payable for days after the fixed statutory employee and employer contributions have been paid as provided in this section and KRS 161.550(1) and that is necessary to fund the benefit. The amount contributed by the state or the last employer to fund the benefit provided by this paragraph may be adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands.

3. The provisions of this paragraph shall only apply to unused accrued annual leave that is included for retirement calculation purposes in the Teachers' Retirement System and this paragraph shall not limit an employer's option to compensate employees for unused annual leave that is not included for retirement calculation purposes in the Teachers' Retirement System.

16 (g) The contribution of members shall not exceed the applicable percentages on
17 annual compensation as set forth in this section or as where otherwise limited
18 by statute. When a member retires, if it is determined that he or she has made
19 contributions on a salary in excess of the amount to be included for the
20 purpose of calculating his or her final average salary, any excess contribution
21 shall be refunded in a lump sum to the member's employer for distribution to
22 the member.

23 (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for
24 the purpose of compliance with Section 414(h) of the United States Internal
25 Revenue Code, pick up the member contributions required by this section for all
26 compensation earned after August 1, 1982, and the contributions so picked up shall
27 be treated as employer contributions in determining tax treatment under the United

1 States Internal Revenue Code and KRS 141.010. The picked-up member
2 contribution shall satisfy all obligations to the retirement system satisfied prior to
3 August 1, 1982, by the member contribution, and the picked-up member
4 contribution shall be in lieu of a member contribution. Each employer shall pay
5 these picked-up member contributions from the same source of funds which is used
6 to pay earnings to the member. The member shall have no option to receive the
7 contributed amounts directly instead of having them paid by the employer to the
8 system. Member contributions picked-up after August 1, 1982, shall be treated for
9 all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent
10 as member contributions made prior to August 1, 1982.

11 ➔Section 2. KRS 161.220 is amended to read as follows:

12 As used in KRS 161.220 to 161.716 and 161.990:

13 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
14 161.716 and 161.990 for payment of allowances to members;

15 (2) "Retirement allowance" means the amount annually payable during the course of
16 his or her natural life to a member who has been retired by reason of service;

17 (3) "Disability allowance" means the amount annually payable to a member retired by
18 reason of disability;

19 (4) "Member" means the commissioner of education, deputy commissioners, associate
20 commissioners, and all division directors in the State Department of Education,
21 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
22 full-time teacher or professional occupying a position requiring certification or
23 graduation from a four (4) year college or university, as a condition of employment,
24 and who is employed by public boards, institutions, or agencies as follows:

25 (a) Local boards of education and public charter schools if the public charter
26 school satisfies the criteria set by the Internal Revenue Service to participate
27 in a governmental retirement plan;

- (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
- (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- (d) Other public education agencies as created by the General Assembly and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
- (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
- (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

- (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
- (h) The Office of Career and Technical Education;
- (i) The Office of Vocational Rehabilitation;
- (j) The Kentucky Educational Collaborative for State Agency Children;
- (k) The Governor's Scholars Program;
- (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, except that any person who becomes a member on or after January 1, 2022, and subsequently draws a monthly lifetime retirement allowance, shall upon reemployment after retirement not earn a second retirement account;
- (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;
- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New

1 employees occupying positions in the Kentucky Community and Technical
2 College System as referenced in KRS 164.5807(5) that would not have
3 previously been included in the former Cabinet for Workforce Development,
4 shall participate in federal old age, survivors, disability, and hospital
5 insurance and have a choice at the time of employment of participating in a
6 retirement plan provided by the Kentucky Community and Technical College
7 System, including participation in the Kentucky Teachers' Retirement System,
8 on the same basis as faculty of the state universities as provided in KRS
9 161.540 and 161.620;

10 (o) Employees of the Office of General Counsel, the Office of Budget and
11 Administrative Services, and the Office of Quality and Human Resources
12 within the Office of the Secretary of the former Cabinet for Workforce
13 Development and the commissioners of the former Department for Adult
14 Education and Literacy and the former Department for Technical Education
15 who were contributing to the Kentucky Teachers' Retirement System as of
16 July 15, 2000;

17 (p) Employees of the Kentucky Department of Education only who are graduates
18 of a four (4) year college or university, notwithstanding a substitution clause
19 within a job classification, and who are serving in a professional job
20 classification as defined by the department;

21 (q) The Governor's School for Entrepreneurs Program;

22 (r) Employees of the Office of Adult Education within the Department of
23 Workforce Development in the Education and Labor Cabinet who were
24 employees of the Council on Postsecondary Education, Kentucky Adult
25 Education Program and who were members of the Kentucky Teachers'
26 Retirement System at the time the Program was transferred to the cabinet
27 pursuant to Executive Orders 2019-0026 and 2019-0027;

1 (s) Employees of the Education Professional Standards Board who were
2 members of the Kentucky Teachers' Retirement System at the time the
3 employees were transferred to the Kentucky Department of Education
4 pursuant to Executive Order 2020-590; and

5 (t) WeLeadCS, the virtual computer science career academy established in KRS
6 158.809;

7 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
8 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
9 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
10 after that date, and any teacher who was a member of a local teacher retirement
11 system in the public elementary or secondary schools of the state on or before July
12 1, 1940, and continued to be a member of the system until he or she, with the
13 membership of the local retirement system, became a member of the state Teachers'
14 Retirement System or who becomes a member under the provisions of KRS
15 161.470(4);

16 (6) "New teacher" means any member not a present teacher;

17 (7) "Prior service" means the number of years during which the member was a teacher
18 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
19 service shall be allowed or credited to any teacher;

20 (8) "Subsequent service" means the number of years during which the teacher is a
21 member of the Teachers' Retirement System after July 1, 1941;

22 (9) "Final average salary" means the average of the five (5) highest annual salaries
23 which the member has received for service in a covered position and on which the
24 member has made contributions, or on which the public board, institution, or
25 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
26 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
27 which shall include picked-up member contributions. Additionally, the board of

1 trustees may approve a final average salary based upon the average of the three (3)
2 highest salaries for individuals who become members prior to January 1, 2022, who
3 are at least fifty-five (55) years of age and have a minimum of twenty-seven (27)
4 years of Kentucky service credit. However, if any of the five (5) or three (3) highest
5 annual salaries used to calculate the final average salary was paid within the three
6 (3) years immediately prior to the date of the member's retirement for individuals
7 who become members prior to January 1, 2022, or within the five (5) years
8 immediately prior to the date of the member's retirement for individuals who
9 become members on or after January 1, 2022, the amount of salary to be included
10 for each of those three (3) years or five (5) years, as applicable, for the purpose of
11 calculating the final average salary shall be limited to the lesser of:

- 12 (a) The member's actual salary; or
- 13 (b) The member's annual salary that was used for retirement purposes during each
14 of the prior three (3) years or five (5) years, as applicable, plus a percentage
15 increase equal to the percentage increase received by all other members
16 employed by the public board, institution, or agency, or for members of
17 school districts, the highest percentage increase received by members on any
18 one (1) rank and step of the salary schedule of the school district. The increase
19 shall be computed on the salary that was used for retirement purposes. The
20 board of trustees may promulgate an administrative regulation in accordance
21 with KRS Chapter 13A to establish a methodology for measuring the
22 limitation so that the combined increases in salary for each of the last three (3)
23 full years of salary prior to retirement shall not exceed the total permissible
24 percentage increase received by other members of the employer for the same
25 three (3) year period.

26 For individuals who became members of the retirement system prior to July 1,
27 2021, this limitation shall not apply if the member receives an increase in salary in a

percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to provide definitions for a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for unused accrued annual leave as provided by subsection (1)(f) of Section 1 of this Act if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall, for individuals subject to KRS 161.155(10) who became nonuniversity members of the system prior to January 1, 2022, be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the

1 member while still employed solely by and providing services directly to a public
2 board, institution, or agency listed in subsection (4) of this section. The board of
3 trustees shall determine if any benefit or salary adjustment qualifies as annual
4 compensation. For an individual who becomes a member on or after July 1, 2008,
5 and as limited by subsection (1)(f) of Section 1 of this Act, annual compensation
6 shall not include lump-sum payments upon termination of employment for unused
7 accrued~~accumulated~~ annual or compensatory leave;

8 (11) "Age of member" means the age attained on the first day of the month immediately
9 following the birthdate of the member. This definition is limited to retirement
10 eligibility and does not apply to tenure of members;

11 (12) "Employ," and derivatives thereof, means relationships under which an individual
12 provides services to an employer as an employee, as an independent contractor, as
13 an employee of a third party, or under any other arrangement as long as the services
14 provided to the employer are provided in a position that would otherwise be
15 covered by the Kentucky Teachers' Retirement System and as long as the services
16 are being provided to a public board, institution, or agency listed in subsection (4)
17 of this section;

18 (13) "Regular interest" means:

19 (a) For an individual who becomes a member prior to July 1, 2008, interest at
20 three percent (3%) per annum;

21 (b) For an individual who becomes a member on or after July 1, 2008, but prior to
22 January 1, 2022, interest at two and one-half percent (2.5%) per annum for
23 purposes of crediting interest to the teacher savings account or any other
24 contributions made by the employee that are refundable to the employee upon
25 termination of employment; and

26 (c) For an individual who becomes a member on or after January 1, 2022, the
27 rolling five (5) year yield on a thirty (30) year United States Treasury bond as

1 of the end of May prior to the most recently completed fiscal year, except
2 that:

3 1. Once the member has at least sixty (60) months of service in the system
4 it shall mean interest at two and one-half percent (2.5%) per annum for
5 purposes of crediting interest to employee contributions in the
6 foundational benefit component or any other contributions made by the
7 employee to the foundational benefit component that are refundable to
8 the employee upon termination of employment; and
9 2. The board shall have the authority to adjust the regular interest rate for
10 individuals who become members on or after January 1, 2022, in
11 accordance with KRS 161.633 and 161.634;

12 (14) "Accumulated contributions" means the contributions of a member to the teachers'
13 savings fund, including picked-up member contributions as described in KRS
14 161.540(2), plus accrued regular interest;

15 (15) "Annuitant" means a person who receives a retirement allowance or a disability
16 allowance;

17 (16) "Local retirement system" means any teacher retirement or annuity system created
18 in any public school district in Kentucky in accordance with the laws of Kentucky;

19 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
20 retirement plan year is concurrent with this fiscal year. A contract for a member
21 employed by a local board of education may not exceed two hundred sixty-one
22 (261) days in the fiscal year;

23 (18) "Public schools" means the schools and other institutions mentioned in subsection
24 (4) of this section;

25 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
26 receiving, at the time of death of the member, at least one-half (1/2) of the support
27 from the member for maintenance, including board, lodging, medical care, and

1 related costs;

2 (20) "Active contributing member" means a member currently making contributions to
3 the Teachers' Retirement System, who made contributions in the immediate
4 preceding fiscal year, for whom picked-up member contributions are currently
5 being made, or for whom these contributions were made in the immediate
6 preceding fiscal year;

7 (21) "Full-time" means employment in a position that requires services on a continuing
8 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal
9 year basis;

10 (22) "Full actuarial cost," when used to determine the payment or payments that a
11 member must pay for service credit means the actuarial value of all costs associated
12 with the enhancement of a member's benefits or eligibility for benefit
13 enhancements, including health insurance supplement payments made by the
14 retirement system. The board may promulgate administrative regulations in
15 accordance with KRS Chapter 13A to provide the methodology for the assessment
16 of and procedures for the payment and collection of the full actuarial cost of the
17 purchased service. The actuary for the retirement system shall determine the full
18 actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;

19 (23) "Last annual compensation" means the annual compensation, as defined by
20 subsection (10) of this section and as limited by subsection (9) of this section,
21 earned by the member during the most recent period of contributing service, either
22 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
23 full year of service credit in the Kentucky Teachers' Retirement System, and which
24 compensation is used in calculating the member's initial retirement allowance,
25 excluding bonuses, retirement incentives, payments for accumulated sick leave,
26 annual, personal, and compensatory leave, and any other lump-sum payment. For
27 an individual who becomes a member on or after July 1, 2008, **and as limited by**

1 **subsection (1)(f) of Section 1 of this Act,** payments for **unused accrued** annual or
2 compensatory leave shall not be included in determining the member's last annual
3 compensation;

4 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
5 annuitant, as defined by subsection (15) of this section;

6 (25) "Qualified domestic relations order" means any judgment, decree, or order,
7 including approval of a property settlement agreement, that:
8 (a) Is issued by a court or administrative agency; and
9 (b) Relates to the provision of child support, alimony payments, or marital
10 property rights to an alternate payee;

11 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
12 participant, who is designated to be paid retirement benefits in a qualified domestic
13 relations order;

14 (27) "University member" means an individual who becomes a member through
15 employment with an employer specified in subsection (4)(b) and (n) of this section;

16 (28) "Nonuniversity member" means an individual who becomes a member through
17 employment with an employer specified under subsection (4) of this section, except
18 for those members employed by an employer specified in subsection (4)(b) and (n)
19 of this section;

20 (29) "Accumulated employer contribution" means the employer contribution deposited
21 to a member's account through the supplemental benefit component and regular
22 interest credited on such amounts as provided by KRS 161.635 for nonuniversity
23 members and KRS 161.636 for university members;

24 (30) "Accumulated account balance" means:
25 (a) For members who began participating in the system prior to January 1, 2022,
26 the member's accumulated contributions; or
27 (b) For members who began participating in the system on or after January 1,

1 2022, the combined sum of the member's accumulated contributions and the
2 member's accumulated employer contributions;

3 (31) "Foundational benefit component" means the benefits provided by KRS 161.220 to
4 161.716 to individuals who become members on or after January 1, 2022, except
5 for the supplemental benefit component and retiree health benefits set forth in KRS
6 161.675; and

7 (32) "Supplemental benefit component" means: