

1       AN ACT relating to designating a special needs trust to receive state-administered  
2       retirement benefits.

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

4           ➔Section 1. KRS 16.505 is amended to read as follows:

5       As used in KRS 16.505 to 16.652, unless the context otherwise requires:

6       (1) "System" means the State Police Retirement System created by KRS 16.505 to  
7       16.652;

8       (2) "Board" means the board of trustees of the Kentucky Retirement Systems;

9       (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its  
10       successor;

11       (4) "Current service" means the number of years and completed months of employment  
12       as an employee subsequent to July 1, 1958, for which creditable compensation was  
13       paid by the employer and employee contributions deducted except as otherwise  
14       provided;

15       (5) "Prior service" means the number of years and completed months of employment as  
16       an employee prior to July 1, 1958, for which creditable compensation was paid to  
17       the employee by the Commonwealth. Twelve (12) months of current service in the  
18       system are required to validate prior service;

19       (6) "Service" means the total of current service and prior service;

20       (7) "Accumulated contributions" at any time means the sum of all amounts deducted  
21       from the compensation of a member and credited to his or her individual account in  
22       the member's account, including employee contributions picked up after August 1,  
23       1982, pursuant to KRS 16.545(4), together with interest credited on such amounts  
24       as provided in KRS 16.505 to 16.652, and any other amounts the member shall  
25       have contributed, including interest credited. For members who begin participating  
26       on or after September 1, 2008, "accumulated contributions" shall not include  
27       employee contributions that are deposited into accounts established pursuant to 26

1       U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as  
2       prescribed by KRS 61.702(3)(b);

3       (8) "Creditable compensation":

4           (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary  
5           and wages, including payments for compensatory time, paid to the employee  
6           as a result of services performed for the employer or for time during which the  
7           member is on paid leave, which are includable on the member's federal form  
8           W-2 wage and tax statement under the heading "wages, tips, other  
9           compensation," including employee contributions picked up after August 1,  
10           1982, pursuant to KRS 16.545(4);

11           (b) Includes:

- 12           1. Lump-sum bonuses, severance pay, or employer-provided payments for  
13           purchase of service credit, which shall be averaged over the employee's  
14           total service with the system in which it is recorded if it is equal to or  
15           greater than one thousand dollars (\$1,000);
- 16           2. Lump-sum payments for creditable compensation paid as a result of an  
17           order of a court of competent jurisdiction, the Personnel Board, or the  
18           Kentucky Commission on Human Rights, or for any creditable  
19           compensation paid in anticipation of settlement of an action before a  
20           court of competent jurisdiction, the Personnel Board, or the Kentucky  
21           Commission on Human Rights, including notices of violations of state  
22           or federal wage and hour statutes or violations of state or federal  
23           discrimination statutes, which shall be credited to the fiscal year during  
24           which the wages were earned or should have been paid by the employer.  
25           This subparagraph shall also include lump-sum payments for reinstated  
26           wages pursuant to KRS 61.569, which shall be credited to the period  
27           during which the wages were earned or should have been paid by the

1 employer;

9 (c) Excludes:

10           1. Living allowances, expense reimbursements, lump-sum payments for  
11           accrued vacation leave, and other items determined by the board;  
12           2. For employees who begin participating on or after September 1, 2008,  
13           lump-sum payments for compensatory time; and  
14           3. Any salary or wages paid to an employee for services as a Kentucky  
15           State Police school resource officer as defined by KRS 158.441;

16 (9) "Final compensation" means:

17 (a) For a member who begins participating before September 1, 2008, the  
18 creditable compensation of a member during the three (3) fiscal years he or  
19 she was paid at the highest average monthly rate divided by the number of  
20 months of service credit during the three (3) year period, multiplied by twelve  
21 (12); the three (3) years may be fractional and need not be consecutive. If the  
22 number of months of service credit during the three (3) year period is less than  
23 twenty-four (24), one (1) or more additional fiscal years shall be used; or  
24 (b) For a member who begins participating on or after September 1, 2008, but  
25 prior to January 1, 2014, the creditable compensation of the member during  
26 the three (3) complete fiscal years he or she was paid at the highest average  
27 monthly rate divided by three (3). Each fiscal year used to determine final

1 compensation must contain twelve (12) months of service credit. If the  
2 member does not have three (3) complete fiscal years that each contain twelve  
3 (12) months of service credit, then one (1) or more additional fiscal years,  
4 which may contain less than twelve (12) months of service credit, shall be  
5 added until the number of months in the final compensation calculation is at  
6 least thirty-six (36) months;

7 (10) "Final rate of pay" means the actual rate upon which earnings of a member were  
8 calculated during the twelve (12) month period immediately preceding the  
9 member's effective retirement date, including employee contributions picked up  
10 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the  
11 system by the employer and the following equivalents shall be used to convert the  
12 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
13 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-  
14 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve  
15 (12) months, or one (1) year;

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

19 (12) "Retirement allowance" means the retirement payments to which a retired member  
20 is entitled;

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

1                   computed under early retirement;

2 (14) "Authorized leave of absence" means any time during which a person is absent  
3 from employment but retained in the status of an employee in accordance with the  
4 personnel policy of the Department of Kentucky State Police;

5 (15) "Normal retirement date" means:

6 (a) For a member who begins participating before September 1, 2008, the first  
7 day of the month following a member's fifty-fifth birthday, except that for  
8 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,  
9 1959; or

10 (b) For a member who begins participating on or after September 1, 2008, the  
11 first day of the month following a member's sixtieth birthday;

12 (16) "Disability retirement date" means the first day of the month following the last day  
13 of paid employment;

14 (17) "Dependent child" means a child in the womb and a natural or legally adopted child  
15 of the member who has neither attained age eighteen (18) nor married or who is an  
16 unmarried full-time student who has not attained age twenty-two (22). Solely in the  
17 cases where a member dies as a direct result of an act in line of duty as defined in  
18 this section, dies as a result of a duty-related injury as defined in KRS 61.621,  
19 becomes totally and permanently disabled as a direct result of an act in line of duty  
20 as defined in this section, or becomes disabled as a result of a duty-related injury as  
21 defined in KRS 61.621 and is eligible for the benefits provided by KRS  
22 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled  
23 child of the member, regardless of the child's age, if the child has been determined  
24 to be eligible for federal Social Security disability benefits or is being claimed as a  
25 qualifying child for tax purposes due to the child's total and permanent disability;

26 (18) "Optional allowance" means an actuarially equivalent benefit elected by the  
27 member in lieu of all other benefits provided by KRS 16.505 to 16.652;

- 1        (19) "Act in line of duty" means:
  - 2            (a) A single act occurring or a single thing done, which, as determined by the
  - 3                board, was required in the performance of the duties specified in KRS 16.060;
  - 4            (b) For employees in hazardous positions under KRS 61.592, a single act
  - 5                occurring which was required in the performance of the principal duties of the
  - 6                position as defined by the job description; or
  - 7            (c) For employees participating in the State Police Retirement System and for
  - 8                employees who are in hazardous positions under KRS 61.592, a single act of
  - 9                violence committed against the employee that is found to be related to his or
  - 10              her job duties, whether or not it occurs at his or her job site;
- 11        (20) "Early retirement date" means:
  - 12            (a) For a member who begins participating before September 1, 2008, the
  - 13                retirement date declared by a member who is not less than fifty (50) years of
  - 14                age and has fifteen (15) years of service; or
  - 15            (b) For a member who begins participating on or after September 1, 2008, but
  - 16                prior to January 1, 2014, the retirement date declared by a member who is not
  - 17                less than fifty (50) years of age and has fifteen (15) years of service credited
  - 18                under KRS 16.543(1) or 61.543(1) or another state-administered retirement
  - 19                system;
- 20        (21) "Member" means any officer included in the membership of the system as provided
- 21                under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- 22        (22) "Regular full-time officers" means the occupants of positions as set forth in KRS
- 23                16.010;
- 24        (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which
- 25                results in an employee's total incapacity to continue as an employee in a hazardous
- 26                position, but the employee is not necessarily deemed to be totally and permanently
- 27                disabled to engage in other occupations for remuneration or profit;

- 1        (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
2                monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
3                pay. The rate shall be certified by the employer;
- 4        (25) "Beneficiary" means the person, persons, estate, trust, **special needs trust**, or trustee  
5                designated by the member in accordance with KRS 61.542 or 61.705 to receive any  
6                available benefits in the event of the member's death. As used in KRS 61.702,  
7                "beneficiary" does not mean an estate, trust, or trustee;
- 8        (26) "Recipient" means the retired member, the person or persons designated as  
9                beneficiary by the member and drawing a retirement allowance as a result of the  
10               member's death, or a dependent child drawing a retirement allowance. An alternate  
11               payee of a qualified domestic relations order shall not be considered a recipient,  
12               except for purposes of KRS 61.623;
- 13        (27) "Person" means a natural person;
- 14        (28) "Retirement office" means the Kentucky Public Pensions Authority office building  
15               in Frankfort, unless otherwise designated by the Kentucky Public Pensions  
16               Authority;
- 17        (29) "Vested" for purposes of determining eligibility for purchasing service credit under  
18               KRS 61.552 means the employee has at least forty-eight (48) months of service if  
19               age sixty-five (65) or older or at least sixty (60) months of service if under the age  
20               of sixty-five (65). For purposes of this subsection, "service" means service in the  
21               systems administered by the Kentucky Retirement Systems and County Employees  
22               Retirement Systems;
- 23        (30) "Last day of paid employment" means the last date employer and employee  
24               contributions are required to be reported in accordance with KRS 16.543 or 61.543  
25               to the retirement office in order for the employee to receive current service credit  
26               for the month. Last day of paid employment does not mean a date the employee  
27               receives payment for accrued leave, whether by lump sum or otherwise, if that date

1       occurs twenty-four (24) or more months after previous contributions;

2   (31) "Objective medical evidence" means reports of examinations or treatments; medical  
3       signs which are anatomical, physiological, or psychological abnormalities that can  
4       be observed; psychiatric signs which are medically demonstrable phenomena  
5       indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
6       or contact with reality; or laboratory findings which are anatomical, physiological,  
7       or psychological phenomena that can be shown by medically acceptable laboratory  
8       diagnostic techniques, including but not limited to chemical tests,  
9       electrocardiograms, electroencephalograms, X-rays, and psychological tests;

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

14   (33) "Participating" means an employee is currently earning service credit in the system  
15       as provided in KRS 16.543;

16   (34) "Month" means a calendar month;

17   (35) "Membership date" means the date upon which the member began participating in  
18       the system as provided by KRS 16.543;

19   (36) "Participant" means a member, as defined by subsection (21) of this section, or a  
20       retired member, as defined by subsection (11) of this section;

21   (37) "Qualified domestic relations order" means any judgment, decree, or order,  
22       including approval of a property settlement agreement, that:

23       (a) Is issued by a court or administrative agency; and

24       (b) Relates to the provision of child support, alimony payments, or marital  
25       property rights to an alternate payee;

26   (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
27       participant, who is designated to be paid retirement benefits in a qualified domestic

1           relations order;

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

5   (40) "Accumulated account balance" means:

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

12   (41) "Monthly average pay" means:

13       (a) In the case of a member who dies as a direct result of an act in line of duty as  
14           defined in this section or who dies as a result of a duty-related injury as  
15           defined in KRS 61.621, the higher of the member's monthly final rate of pay  
16           or the average monthly creditable compensation earned by the deceased  
17           member during his or her last twelve (12) months of employment; or

18       (b) In the case where a member becomes totally and permanently disabled as a  
19           direct result of an act in line of duty as defined in this section or becomes  
20           disabled as a result of a duty-related injury as defined in KRS 61.621 and is  
21           eligible for the benefits provided by KRS 61.621(5)(a), the higher of the  
22           member's monthly final rate of pay or the average monthly creditable  
23           compensation earned by the disabled member during his or her last twelve  
24           (12) months of employment prior to the date the act in line of duty or duty-  
25           related injury occurred; and

26   (42) "Special needs trust" means a trust described in 42 U.S.C. sec 1396p(d)(4)(A) or  
27   (C) for the benefit of one (1) person. Any reference to a trust includes a special

1        *needs trust, unless the context otherwise requires.*

2        ➔Section 2. KRS 16.578 is amended to read as follows:

3        (1) If a member dies prior to the first day of the month in which the member would  
4        have received his or her first retirement allowance, the member's beneficiary shall  
5        be eligible for the benefits provided by this section if the member had on file a  
6        written designation of a beneficiary with the retirement office as provided by KRS  
7        61.542 and the member met the following conditions at the date of his or her death:  
8                (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);  
9                (b) The member was in active employment or on authorized leave of absence  
10                with five (5) or more years of service credit and died prior to his or her normal  
11                retirement date; or  
12                (c) The member was not in active employment or on authorized leave of absence  
13                with twelve (12) or more years of service credit and died prior to his or her  
14                normal retirement date.

15        (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is  
16        a single person *or a special needs trust*, then the beneficiary may elect to receive:  
17                (a) A monthly benefit payable for the life of the beneficiary *or the life of the*  
18                *beneficiary of a special needs trust* that is equal to the benefit that would  
19                have been paid had the member retired immediately prior to his or her date of  
20                death and elected to receive benefits payable under the survivorship one  
21                hundred percent (100%) option as provided in KRS 61.635(2);  
22                (b) A monthly benefit payable for the life of the beneficiary *or the life of the*  
23                *beneficiary of a special needs trust* under the beneficiary Social Security  
24                adjustment option as provided in KRS 61.635(9) that is the actuarial  
25                equivalent to the amount computed under paragraph (a) of this subsection;  
26                (c) A monthly benefit payable for a period of sixty (60) months that is the  
27                actuarial equivalent to the amount computed under paragraph (a) of this

1                   subsection;

2       (d) A monthly benefit payable for a period of one hundred twenty (120) months  
3                   that is the actuarial equivalent to the amount computed under paragraph (a) of  
4                   this subsection;

5       (e) If the member began participating in the system prior to January 1, 2014, a  
6                   monthly benefit payable for:  
7                   1. Sixty (60) months certain;  
8                   2. One hundred twenty (120) months certain;  
9                   3. The actuarial equivalent refund; or  
10                  4. The Social Security adjustment option;  
11                   that is equivalent to the benefit the member would have been entitled to  
12                   receive based on his or her years of service and final compensation at the date  
13                   of his or her death reduced by the survivorship fifty percent (50%) factor as  
14                   provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that  
15                   is the actuarial equivalent to the amount computed under paragraph (a) of this  
16                   subsection; or

17       (f) The higher of a refund of the member's accumulated account balance and  
18                   interest as described in KRS 61.625(1) or a one (1) time lump-sum payment  
19                   which shall be the actuarial equivalent of the amount payable under paragraph  
20                  (a) of this subsection for a period of sixty (60) months.

21       (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section  
22                   are multiple beneficiaries or a trust, other than a special needs trust, then the  
23                   multiple beneficiaries by consensus or the trustee may elect to receive the actuarial  
24                   equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section  
25                   using the assumption that the beneficiary's age is the same as the member's age.

26       (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is  
27                   the member's estate, then the beneficiary shall receive the higher of a refund of the

1 member's accumulated account balance and interest as described in KRS 61.625(1)  
2 or the one (1) time lump-sum payment payable under subsection (2)(f) of this  
3 section, using the assumption that the beneficiary's age is the same as the member's  
4 age.

5 (5) Payments of taxable distributions made pursuant to this section shall be subject to  
6 state and federal tax as appropriate.

7 ➔Section 3. KRS 61.510 is amended to read as follows:

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

9 (1) "System" means the Kentucky Employees Retirement System created by KRS  
10 61.510 to 61.705;

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

12 (3) "Department" means any state department or board or agency participating in the  
13 system in accordance with appropriate executive order, as provided in KRS 61.520.

14 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
15 General Assembly and any other body, entity, or instrumentality designated by  
16 executive order by the Governor, shall be deemed to be a department,  
17 notwithstanding whether said body, entity, or instrumentality is an integral part of  
18 state government;

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

20 (5) "Employee" means the members, officers, and employees of the General Assembly  
21 and every regular full-time, appointed or elective officer or employee of a  
22 participating department, including the Department of Military Affairs. The term  
23 does not include persons engaged as independent contractors, seasonal, emergency,  
24 temporary, interim, and part-time workers. In case of any doubt, the board shall  
25 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

26 (6) "Employer" means a department or any authority of a department having the power  
27 to appoint or select an employee in the department, including the Senate and the

1       House of Representatives, or any other entity, the employees of which are eligible  
2       for membership in the system pursuant to KRS 61.525;

3       (7) "State" means the Commonwealth of Kentucky;

4       (8) "Member" means any employee who is included in the membership of the system  
5       or any former employee whose membership has not been terminated under KRS  
6       61.535;

7       (9) "Service" means the total of current service and prior service as defined in this  
8       section;

9       (10) "Current service" means the number of years and months of employment as an  
10       employee, on and after July 1, 1956, except that for members, officers, and  
11       employees of the General Assembly this date shall be January 1, 1960, for which  
12       creditable compensation is paid and employee contributions deducted, except as  
13       otherwise provided, and each member, officer, and employee of the General  
14       Assembly shall be credited with a month of current service for each month he or  
15       she serves in the position;

16       (11) "Prior service" means the number of years and completed months, expressed as a  
17       fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
18       creditable compensation was paid; except that for members, officers, and  
19       employees of the General Assembly, this date shall be January 1, 1960. An  
20       employee shall be credited with one (1) month of prior service only in those months  
21       he or she received compensation for at least one hundred (100) hours of work;  
22       provided, however, that each member, officer, and employee of the General  
23       Assembly shall be credited with a month of prior service for each month he or she  
24       served in the position prior to January 1, 1960. Twelve (12) months of current  
25       service in the system are required to validate prior service;

26       (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
27       from the compensation of a member and credited to his or her individual account in

1       the members' account, including employee contributions picked up after August 1,  
2       1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts  
3       and any other amounts the member shall have contributed thereto, including interest  
4       credited thereon. For members who begin participating on or after September 1,  
5       2008, "accumulated contributions" shall not include employee contributions that are  
6       deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
7       funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

8       (13) "Creditable compensation":

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

20       (b) Includes:

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

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

14           4. Amounts which are not includable in the member's gross income by  
15           virtue of the member having taken a voluntary salary reduction provided  
16           for under applicable provisions of the Internal Revenue Code; and

17           5. Elective amounts for qualified transportation fringes paid or made  
18           available on or after January 1, 2001, for calendar years on or after  
19           January 1, 2001, that are not includable in the gross income of the  
20           employee by reason of 26 U.S.C. sec. 132(f)(4); and

21           (c) Excludes:

22           1. Living allowances, expense reimbursements, lump-sum payments for  
23           accrued vacation leave, and other items determined by the 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 who begin participating on or after August 1, 2016,  
27           nominal fees paid for services as a volunteer; and

1                   4. Any salary or wages paid to an employee for services as a Kentucky  
2                   State Police school resource officer as defined by KRS 158.441;

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

4                   (a) For a member who begins participating before September 1, 2008, who is  
5                   employed in a nonhazardous position, the creditable compensation of the  
6                   member during the five (5) fiscal years he or she was paid at the highest  
7                   average monthly rate divided by the number of months of service credit  
8                   during that five (5) year period multiplied by twelve (12). The five (5) years  
9                   may be fractional and need not be consecutive. If the number of months of  
10                  service credit during the five (5) year period is less than forty-eight (48), one  
11                  (1) or more additional fiscal years shall be used;

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

25                  (c) For a member who begins participating before September 1, 2008, who is  
26                  employed in a hazardous position, as provided in KRS 61.592, the creditable  
27                  compensation of the member during the three (3) fiscal years he or she was

1                   paid at the highest average monthly rate divided by the number of months of  
2                   service credit during that three (3) year period multiplied by twelve (12). The  
3                   three (3) years may be fractional and need not be consecutive. If the number  
4                   of months of service credit during the three (3) year period is less than twenty-  
5                   four (24), one (1) or more additional fiscal years shall be used;

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

16                  (e) For a member who begins participating on or after September 1, 2008, but  
17                  prior to January 1, 2014, who is employed in a hazardous position as provided  
18                  in KRS 61.592, the creditable compensation of the member during the three  
19                  (3) complete fiscal years he or she was paid at the highest average monthly  
20                  rate divided by three (3). Each fiscal year used to determine final  
21                  compensation must contain twelve (12) months of service credit. If the  
22                  member does not have three (3) complete fiscal years that each contain twelve  
23                  (12) months of service credit, then one (1) or more additional fiscal years,  
24                  which may contain less than twelve (12) months of service credit, shall be  
25                  added until the number of months in the final compensation calculation is at  
26                  least thirty-six (36) months;

27                  (15) "Final rate of pay" means the actual rate upon which earnings of an employee were

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

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

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

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

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

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

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

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

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

12 (b) Emergency positions which are positions utilized by the employer during:

13 1. An emergency as determined by the employer for a period not  
14 exceeding thirty (30) working days and are nonrenewable; or

15 2. A state of emergency declared by the President of the United States or  
16 the Governor of the Commonwealth of Kentucky that are created or  
17 filled specifically for addressing the employer's needs during and as a  
18 result of the declared emergency;

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

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

27 (e) Interim positions which are positions established for a one-time or recurring

1                   need not to exceed nine (9) months;

2 (22) "Vested" for purposes of determining eligibility for purchasing service credit under  
3                   KRS 61.552 means the employee has at least forty-eight (48) months of service if  
4                   age sixty-five (65) or older or at least sixty (60) months of service if under the age  
5                   of sixty-five (65). For purposes of this subsection, "service" means service in the  
6                   systems administered by the Kentucky Retirement Systems and County Employees  
7                   Retirement System;

8 (23) "Parted employer" means a department, portion of a department, board, or agency,  
9                   such as Outwood Hospital and School, which previously participated in the system,  
10                   but due to lease or other contractual arrangement is now operated by a publicly held  
11                   corporation or other similar organization, and therefore is no longer participating in  
12                   the system. The term "parted employer" shall not include a department, board, or  
13                   agency that ceased participation in the system pursuant to KRS 61.522;

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

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

20 (26) "Beneficiary" means the person or persons, ~~or~~ estate, ~~or~~ trust, **special needs**  
21                   **trust**, or trustee designated by the member in accordance with KRS 61.542 or  
22                   61.705 to receive any available benefits in the event of the member's death. As used  
23                   in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

24 (27) "Recipient" means the retired member or the person or persons designated as  
25                   beneficiary by the member and drawing a retirement allowance as a result of the  
26                   member's death or a dependent child drawing a retirement allowance. An alternate  
27                   payee of a qualified domestic relations order shall not be considered a recipient,

1 except for purposes of KRS 61.623;

2 (28) "Level percentage of payroll amortization method" means a method of determining  
3 the annual amortization payment on the unfunded actuarial accrued liability as  
4 expressed as a percentage of payroll over a set period of years but that may be  
5 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,  
6 the percentage of payroll shall be projected to remain constant for all years  
7 remaining in the set period of time and the unfunded actuarially accrued liability  
8 shall be projected to be fully amortized at the conclusion of the set period of years;

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

12 (30) "Person" means a natural person;

13 (31) "Retirement office" means the Kentucky Public Pensions Authority's office  
14 building in Frankfort, unless otherwise designated by the Kentucky Public Pensions  
15 Authority;

16 (32) "Last day of paid employment" means the last date employer and employee  
17 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
18 78.615 to the retirement office in order for the employee to receive current service  
19 credit for the month. Last day of paid employment does not mean a date the  
20 employee receives payment for accrued leave, whether by lump sum or otherwise,  
21 if that date occurs twenty-four (24) or more months after previous contributions;

22 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
23 signs which are anatomical, physiological, or psychological abnormalities that can  
24 be observed; psychiatric signs which are medically demonstrable phenomena  
25 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
26 or contact with reality; or laboratory findings which are anatomical, physiological,  
27 or psychological phenomena that can be shown by medically acceptable laboratory

1 diagnostic techniques, including but not limited to chemical tests,  
2 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

3 (34) "Participating" means an employee is currently earning service credit in the system  
4 as provided in KRS 61.543;

5 (35) "Month" means a calendar month;

6 (36) "Membership date" means:

7 (a) The date upon which the member began participating in the system as  
8 provided in KRS 61.543;

9 (b) For a member electing to participate in the system pursuant to KRS  
10 196.167(4) or 311A.022(2) who has not previously participated in the system  
11 or the Kentucky Teachers' Retirement System, the date the member began  
12 participating in a defined contribution plan that meets the requirements of 26  
13 U.S.C. sec. 403(b);

14 (c) For members bound by an educational contract as a conditional employee to  
15 the state of Kentucky prior to December 31, 2003, the date on which the  
16 educational contract became effective; or

17 (d) For a member participating in the system pursuant to KRS 31.045, the earlier  
18 of the date upon which the member began participating in the system under  
19 paragraph (a) of this subsection or the date the member began employment  
20 with the Louisville and Jefferson County Public Defender Corporation;

21 (37) "Participant" means a member, as defined by subsection (8) of this section, or a  
22 retired member, as defined by subsection (24) of this section;

23 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
24 including approval of a property settlement agreement, that:

25 (a) Is issued by a court or administrative agency; and

26 (b) Relates to the provision of child support, alimony payments, or marital  
27 property rights to an alternate payee;

1 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
2 participant, who is designated to be paid retirement benefits in a qualified domestic  
3 relations order;

4 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
5 member's account and interest credited on such amounts as provided by KRS  
6 16.583 and 61.597;

7 (41) "Accumulated account balance" means:  
8 (a) For members who began participating in the system prior to January 1, 2014,  
9 the member's accumulated contributions; or  
10 (b) For members who began participating in the system on or after January 1,  
11 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
12 the combined sum of the member's accumulated contributions and the  
13 member's accumulated employer credit;

14 (42) "Volunteer" means an individual who:  
15 (a) Freely and without pressure or coercion performs hours of service for an  
16 employer participating in one (1) of the systems administered by Kentucky  
17 Retirement Systems without receipt of compensation for services rendered,  
18 except for reimbursement of actual expenses, payment of a nominal fee to  
19 offset the costs of performing the voluntary services, or both; and  
20 (b) If a retired member, does not become an employee, leased employee, or  
21 independent contractor of the employer for which he or she is performing  
22 volunteer services for a period of at least twelve (12) months following the  
23 retired member's most recent retirement date;

24 (43) "Nominal fee" means compensation earned for services as a volunteer that does not  
25 exceed five hundred dollars (\$500) per month with each participating employer.  
26 Compensation earned for services as a volunteer from more than one (1)  
27 participating employer during a month shall not be aggregated to determine whether

1       the compensation exceeds the five hundred dollars (\$500) per month maximum  
2       provided by this subsection;

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

5       (45) "Monthly average pay" means:

6       (a) In the case of a member who dies as a direct result of an act in line of duty as  
7       defined in KRS 16.505 or who dies as a result of a duty-related injury as  
8       defined in KRS 61.621, the higher of the member's monthly final rate of pay  
9       or the average monthly creditable compensation earned by the deceased  
10      member during his or her last twelve (12) months of employment; or

11      (b) In the case where a member becomes totally and permanently disabled as a  
12      direct result of an act in line of duty as defined in KRS 16.505 or becomes  
13      disabled as a result of a duty-related injury as defined in KRS 61.621 and is  
14      eligible for the benefits provided by KRS 61.621(5)(a), the higher of the  
15      member's monthly final rate of pay or the average monthly creditable  
16      compensation earned by the disabled member during his or her last twelve  
17      (12) months of employment prior to the date the act in line of duty or duty-  
18      related injury occurred;

19      (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
20      61.505;

21      (47) "Executive director" means the executive director of the Kentucky Public Pensions  
22      Authority;

23      (48) "Instructional staff" means the employees of a state college or university  
24      participating under KRS 61.520 who are:

25       (a) Faculty;

26       (b) Staff responsible for teaching; or

27       (c) Other individuals employed in an administrative position that is eligible for

1 participation in the Teachers' Insurance and Annuity Association (TIAA) of  
2 the Teachers' Retirement System;

3 (49) "Agency reporting official" means the person designated by the participating  
4 employer who shall be responsible for forwarding all employer and employee  
5 contributions and a record of the contributions to the System and for performing  
6 other administrative duties pursuant to KRS 61.510 to 61.705;~~and~~

7 (50) "Gainful employment" means work in any capacity that is or may be performed  
8 with regularity and is or may be usually done for pay, whether pay is received or  
9 not received, including seasonal, volunteer, part-time, and on-call work;and

10 **(51) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A) or**  
11 **(C) for the benefit of one (1) person. Any reference to a trust includes a special**  
12 **needs trust, unless the context otherwise requires.**

13 ➔Section 4. KRS 61.635 is amended to read as follows:

14 (1) Each member shall have the right to elect to have his or her retirement allowance  
15 payable under any one (1) of the options set forth in this section in lieu of the  
16 retirement allowance otherwise payable to the member upon retirement under any  
17 of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.  
18 The amount of any optional retirement allowance shall be actuarially equivalent to  
19 the amount of retirement allowance otherwise payable to the member.

20 (2) Survivorship one hundred percent (100%). The member may elect to receive a  
21 decreased retirement allowance during his or her lifetime and have the retirement  
22 allowance continued after the member's death to his or her beneficiary during the  
23 lifetime of the person.

24 (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to  
25 receive a decreased retirement allowance during his or her lifetime and have two-  
26 thirds (2/3) of the retirement allowance continue after the member's death to his or  
27 her beneficiary during the lifetime of the person.

- 1     (4) Survivorship fifty percent (50%). The member may elect to receive a decreased  
2                   retirement allowance during his or her lifetime and have one-half (1/2) of the  
3                   retirement allowance continued after the member's death to his or her beneficiary  
4                   during the lifetime of the person.
- 5     (5) Life with ten (10) years certain. The member less than age seventy-six (76) may  
6                   elect to receive a monthly retirement allowance during his or her lifetime which  
7                   shall guarantee payments for one hundred twenty (120) months. If the member dies  
8                   before receiving payments for one hundred twenty (120) months, the member's  
9                   beneficiary shall receive the remaining payments monthly, for the duration of the  
10                  one hundred twenty (120) months' period. However, if the trust is designated as  
11                  beneficiary, the trustee of the trust may elect to receive a lump-sum payment which  
12                  shall be the actuarial equivalent to the remaining payments, or the trustee may elect  
13                  to continue the remaining monthly payments to the trust of the member. If the estate  
14                  is designated as beneficiary, the estate shall receive a lump-sum payment which  
15                  shall be the actuarial equivalent to the remaining payments.
- 16    (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may  
17                  elect to receive a monthly retirement allowance during his or her lifetime which  
18                  shall guarantee payments for one hundred eighty (180) months. If the member dies  
19                  before receiving payments for one hundred eighty (180) months, the member's  
20                  beneficiary shall receive the remaining payments monthly for the duration of the  
21                  one hundred eighty (180) months' period. However, if the trust is designated as  
22                  beneficiary, the trustee of the trust may elect to receive a lump-sum payment which  
23                  shall be the actuarial equivalent to the remaining payments, or the trustee may elect  
24                  to continue the remaining payments to the trust of the member. If the estate is  
25                  designated as beneficiary, the estate shall receive a lump-sum payment which shall  
26                  be the actuarial equivalent to the remaining payments.
- 27    (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may

1       elect to receive a monthly retirement allowance during his or her lifetime which  
2       shall guarantee payments for two hundred forty (240) months. If the member dies  
3       before receiving payments for two hundred forty (240) months, the member's  
4       beneficiary shall receive the remaining payments for the duration of the two  
5       hundred forty (240) months period. However, if the trust is beneficiary, the trustee  
6       of the trust may elect to receive a lump-sum payment which shall be the actuarial  
7       equivalent to the remaining payments, or the trustee may elect to continue the  
8       remaining payments to the trust of the member. If the estate is designated as  
9       beneficiary, the estate shall receive a lump-sum payment which shall be the  
10      actuarial equivalent to the remaining payments.

11      (8) Social Security adjustment options. These options shall be available to any member  
12      who has not attained age sixty-two (62) as follows:

13       (a) No survivor rights. The member may elect to receive an increased retirement  
14       allowance from his or her effective retirement date through the month he or  
15       she attains age sixty-two (62) at which time his or her retirement allowance  
16       shall be decreased for the remainder of his or her lifetime;

17       (b) Survivor rights. The member may elect to receive an increased retirement  
18       allowance from his or her effective retirement date through the month he or  
19       she attains age sixty-two (62) based on the option payable under subsection  
20       (2) of this section, if the retirement allowance shall be decreased in the month  
21       following the month he or she attains age sixty-two (62), or the month  
22       following the month he or she would have attained age sixty-two (62), in  
23       event of the member's death, and have the retirement allowance continue after  
24       the member's death to his or her beneficiary during the lifetime of the person.

25      (9) Beneficiary Social Security adjustment option. This option is available to the  
26      beneficiary of a deceased member if the beneficiary, who is a person, has not  
27      attained age sixty (60), and is eligible to receive Social Security payments at age

1       sixty (60). The beneficiary may elect to receive during his or her lifetime an  
2       increased retirement allowance based on his or her annual benefit payable for life.  
3       The payment shall begin on his or her effective retirement date and continue  
4       through the month he or she attains age sixty (60) at which time his or her  
5       retirement allowance shall be decreased for the remainder of his or her lifetime.

6       (10) Pop-up option. The member may elect to receive a decreased retirement allowance  
7       during his or her lifetime and have the retirement allowance continued after the  
8       member's death to his or her beneficiary during the lifetime of the person. If the  
9       beneficiary dies prior to the member, or if the beneficiary is the member's spouse  
10      and they divorce, the member's retirement allowance shall increase to the amount  
11      that would have been payable as a single life annuity.

12      (11) Actuarial equivalent refund. A member who began participating in the system prior  
13      to January 1, 2014, may elect to receive a one (1) time lump-sum payment which  
14      shall be the actuarial equivalent of the amount payable for a period of sixty (60)  
15      months under KRS 61.595~~(1)~~(1).

16      (12) Partial lump-sum option.

17       (a) No survivor rights. A member may elect to receive a one-time lump-sum  
18       payment equal to twelve (12), twenty-four (24), thirty-six (36), forty-eight  
19       (48), or sixty (60) monthly retirement allowances payable under the  
20       applicable retirement formula for the system and receive a reduced monthly  
21       retirement allowance payable for his or her lifetime. The lump-sum payment  
22       shall be paid in the month the first monthly retirement allowance is payable.

23       (b) Survivor rights. A member may elect to receive a one-time lump-sum  
24       payment equal to twelve (12), twenty-four (24), thirty-six (36), forty-eight  
25       (48), or sixty (60) monthly retirement allowances payable under subsection  
26       (2) of this section and receive a reduced monthly retirement allowance  
27       payable for his or her lifetime. The lump-sum payment shall be paid in the

1 month the first monthly retirement allowance is payable. The reduced  
2 retirement allowance shall be continued after the member's death to his or her  
3 beneficiary during the lifetime of the person.

12 2. Prepare and make available to all members and participating employers  
13 in the form of a paper or electronic pamphlet or booklet a summary of  
14 the partial lump-sum option, written in a manner that can be understood  
15 by the average member and sufficiently accurate and comprehensive to  
16 reasonably apprise them of the benefits and potential consequences,  
17 including federal tax consequences, of taking a partial lump-sum option.

18 (13) The other provisions of this section notwithstanding, the beneficiary of a retired  
19 member of the General Assembly shall, after the member's death, receive sixty-six  
20 and two-thirds percent (66-2/3%) of the member's retirement allowance during his  
21 or her lifetime if the member of the General Assembly began participating in the  
22 system prior to January 1, 2014, and has elected this option and has made  
23 contributions in accordance with subsection (14) of this section and of KRS 61.560.  
24 The retirement allowance of the retired member of the General Assembly shall not  
25 be actuarially reduced to provide for this survivor benefit.

26 (14) A member of the General Assembly who began participating in the system prior to  
27 January 1, 2014, who wishes to obtain the survivorship option specified in

1 subsection (13) of this section shall so notify the Kentucky Public Pensions  
2 Authority:

3 (a) Within thirty (30) days after first becoming a member of the General  
4 Assembly if he or she is not a member of the General Assembly on July 15,  
5 1980; or

6 (b) Within thirty (30) days after July 15, 1980, if he or she is a member of the  
7 General Assembly on July 15, 1980.

8 (15) The system shall forward to members of the General Assembly a form on which a  
9 member who began participating in the system prior to January 1, 2014, may elect  
10 the option provided for in subsections (13) and (14) of this section.

11 (16) (a) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and  
12 (13) of this section shall be extended to the member only if the designated  
13 beneficiary is a person or a special needs trust.

14 (b) If the beneficiary is a special needs trust, the following shall apply:

15 1. The age of the beneficiary of the special needs trust shall be used to  
16 determine the relevant actuarial factors;

17 2. Upon the death of the retired member or beneficiary, the trustee of  
18 that trust shall notify the authority of the death of the retired member  
19 or beneficiary;

20 3. Any retirement allowance payments made to a special needs trust that  
21 are not properly payable to the special needs trust shall be returned to  
22 the authority and shall not be subject to claims for reimbursement  
23 from any state for Medicaid benefits paid on behalf of the beneficiary  
24 of the special needs trust under any Medicaid payback provision; and

25 4. The authority may promulgate administrative regulations in  
26 accordance with KRS Chapter 13A to administer this subsection.

27 ➔Section 5. KRS 61.640 is amended to read as follows:

- 1       (1) If a member dies prior to the first day of the month in which the member would  
2           have received his or her first retirement allowance, the member's beneficiary shall  
3           be eligible for the benefits provided by this section if the member had on file a  
4           written designation of a beneficiary with the retirement office as provided by KRS  
5           61.542 and the member met the following conditions at the date of his or her death:  
6           (a) The member was eligible to retire under KRS 61.559(2) or (3), 61.5956(5)(a)  
7           or (b), or 61.597(6)(a) or (b);  
8           (b) The member was in active employment or on authorized leave of absence  
9           with five (5) or more years of service credit and died prior to his or her normal  
10           retirement date or was normal retirement age or older and had at least four (4)  
11           years of service credit; or  
12           (c) The member was not in active employment or on authorized leave of absence  
13           with twelve (12) or more years of service credit and died prior to his or her  
14           normal retirement date.
- 15       (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is  
16           a single person or is a special needs trust, then the beneficiary may elect to receive:  
17           (a) A monthly benefit payable for the life of the beneficiary or the life of the  
18           beneficiary of the special needs trust that is equal to the benefit that would  
19           have been paid had the member retired immediately prior to his or her date of  
20           death and elected to receive benefits payable under the survivorship one  
21           hundred percent (100%) option as provided in KRS 61.635(2);  
22           (b) A monthly benefit payable for the life of the beneficiary or the life of the  
23           beneficiary of the special needs trust under the beneficiary Social Security  
24           adjustment option as provided in KRS 61.635(9) that is the actuarial  
25           equivalent to the amount computed under paragraph (a) of this subsection;  
26           (c) A monthly benefit payable for a period of sixty (60) months that is the  
27           actuarial equivalent to the amount computed under paragraph (a) of this

1                   subsection;

2       (d) A monthly benefit payable for a period of one hundred twenty (120) months  
3                   that is the actuarial equivalent to the amount computed under paragraph (a) of  
4                   this subsection;

5       (e) If the member began participating in the system prior to January 1, 2014, a  
6                   monthly benefit payable for:  
7                   1. Sixty (60) months certain;  
8                   2. One hundred twenty (120) months certain;  
9                   3. The actuarial equivalent refund; or  
10                  4. The Social Security adjustment option;  
11                   that is equivalent to the benefit the member would have been entitled to  
12                   receive based on his or her years of service and final compensation at the date  
13                   of his or her death reduced by the survivorship fifty percent (50%) factor as  
14                   provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that  
15                   is the actuarial equivalent to the amount computed under paragraph (a) of this  
16                   subsection; or

17       (f) The higher of a refund of the member's accumulated account balance as  
18                   described in KRS 61.625(1) or one (1) time lump-sum payment which shall  
19                   be the actuarial equivalent of the amount payable under paragraph (a) of this  
20                   subsection for a period of sixty (60) months.

21       (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section  
22                   are multiple beneficiaries or a trust, other than a special needs trust, then the  
23                   multiple beneficiaries by consensus or the trustee may elect to receive the actuarial  
24                   equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section  
25                   using the assumption that the beneficiary's age is the same as the member's age.

26       (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is  
27                   the member's estate, then the beneficiary shall receive the higher of a refund of the

1 member's accumulated account balance as described in KRS 61.625(1) or the one  
2 (1) time lump-sum payment payable under subsection (2)(f) of this section, using  
3 the assumption that the beneficiary's age is the same as the member's age.  
4 (5) Payments of taxable distributions made pursuant to this section shall be subject to  
5 state and federal income tax as appropriate.

6 ➔Section 6. KRS 61.690 is amended to read as follows:

7 (1) **(a)** Except as otherwise provided by this section and KRS 61.705(4), all  
8 retirement allowances and other benefits accrued or accruing to any person  
9 under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510  
10 to 78.852, and the accumulated account balance and cash securities in the  
11 funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to  
12 78.852, are hereby exempt from any state, county, or municipal tax, and shall  
13 not be subject to execution, attachment, garnishment, or any other process,  
14 and shall not be assigned.

15 **(b) A recipient or their legal representative may direct that the recipient's**  
16 **retirement benefits be paid to a trust that permits the recipient unrestricted**  
17 **access to the amounts held in the trust or if the trust is for the sole benefit of**  
18 **the recipient. The recipient's direction is not an assignment or transfer of**  
19 **benefits.**

20 (2) Notwithstanding the provisions of subsection (1) of this section, retirement benefits  
21 accrued or accruing to any person under the provisions of KRS 61.510 to 61.705,  
22 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject  
23 to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and  
24 141.0215.

25 (3) Qualified domestic relations orders issued by a court or administrative agency shall  
26 be honored by the retirement system if:

27 (a) The benefits payable pursuant to the order meet the requirements of a

1 qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The  
2 retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)  
3 in administering qualified domestic relations orders;

- 4 (b) The order meets the requirements established by the retirement system and by  
5 subsections (3) to (11) of this section. The board of trustees of the retirement  
6 system shall establish the requirements, procedures, and forms necessary for  
7 the administration of qualified domestic relations orders by promulgation of  
8 administrative regulations in accordance with KRS Chapter 13A; and  
9 (c) The order is on the form established by the retirement system pursuant to the  
10 retirement system's authority provided under paragraph (3)(b) of this  
11 subsection.
- 12 (4) A qualified domestic relations order shall not:
  - 13 (a) Require the retirement system to take any action not authorized under state or  
14 federal law;
  - 15 (b) Require the retirement system to provide any benefit, allowance, or other  
16 payment not authorized under state or federal law;
  - 17 (c) Grant or be construed to grant the alternate payee any separate right, title, or  
18 interest in or to any retirement benefit other than to receive payments from the  
19 participant's account in accordance with the administrative regulations  
20 promulgated by the retirement system and as provided by subsections (3) to  
21 (11) of this section; or
  - 22 (d) Grant any separate interest to any person other than the participant.
- 23 (5) Any qualified domestic relations order submitted to the retirement system shall  
24 specify the dollar amount or percentage amount of the participant's benefit to be  
25 paid to the alternate payee. In calculating the amount to be paid to the alternate  
26 payee, the court or administrative agency that is responsible for issuing the order  
27 shall follow the requirements set forth in the administrative regulations promulgated

1 by the board of trustees. Notwithstanding any other statute to the contrary, the  
2 board shall not be required to honor a qualified domestic relations order that does  
3 not follow the requirements set forth in the administrative regulations promulgated  
4 by the board of trustees.

5 (6) If the qualified domestic relations order meets the requirements established by the  
6 system and by subsections (3) to (11) of this section, payments to the alternate  
7 payee shall begin under the following conditions:

8 (a) If the participant is retired and is receiving a monthly retirement allowance,  
9 the month following the date the retirement system receives a qualified  
10 domestic relations order that complies with the administrative regulations  
11 promulgated by the retirement system and subsections (3) to (11) of this  
12 section; or

13 (b) If the participant is not retired, the month of the participant's effective  
14 retirement date in which the first retirement allowance is payable to the  
15 participant or the month in which the participant receives a refund of his or  
16 her accumulated account balance as provided by KRS 61.625.

17 (7) An alternate payee's benefits and rights under a qualified domestic relations order  
18 shall terminate upon the earlier of:

19 (a) The death of the participant;

20 (b) The death of the alternate payee; or

21 (c) The termination of the participant's benefits under any of the provisions of  
22 KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

23 (8) An alternate payee shall not receive a monthly payment under a qualified domestic  
24 relations order if the participant is not receiving a monthly retirement allowance.

25 (9) The cost of living adjustment provided to the participant pursuant to KRS 61.691 or  
26 78.5518 shall be divided between the participant and alternate payee in a qualified  
27 domestic relations order as follows:

1 (a) If the order specifies the alternate payee is to receive a percentage of the  
2 participant's benefit, then the cost of living adjustment shall be divided  
3 between the participant and the alternate payee based upon the percentage of  
4 the total benefit each is receiving upon the participant's retirement or upon the  
5 date the order is approved by the retirement system, whichever is later; or  
6 (b) If the order specifies that the alternate payee is to receive a set dollar amount  
7 of the participant's benefit, then the order shall specify that:  
8 1. The cost of living adjustment shall be divided between the participant  
9 and the alternate payee based upon the percentage of the total benefit  
10 each is receiving upon the participant's retirement or upon the date the  
11 order is approved by the retirement system, whichever is later; or  
12 2. The alternate payee shall receive no cost of living adjustment.  
13 If the order does not specify the division of the cost of living adjustment as  
14 required by this paragraph, then no cost of living adjustment shall be payable  
15 to the alternate payee. If no cost of living adjustment is provided to the  
16 alternate payee, then the participant shall receive the full cost of living  
17 adjustment he or she would have received if the order had not been applied to  
18 the participant's account.  
19 (10) Except in cases involving child support payments, the retirement system may  
20 charge reasonable and necessary fees and expenses to the recipient and the alternate  
21 payee of a qualified domestic relations order for the administration of the qualified  
22 domestic relations order by the retirement system. All fees and expenses shall be  
23 established by administrative regulations promulgated by the board of trustees of  
24 the retirement system. The qualified domestic relations order shall specify whether  
25 the fees and expenses provided by this subsection shall be paid:  
26 (a) Solely by the participant;  
27 (b) Solely by the alternate payee; or

➔ Section 7. KRS 78.510 is amended to read as follows:

15 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

16 (1) "System" means the County Employees Retirement System created by KRS 78.510  
17 to 78.852;

18 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;

19 (3) "County" means any county, or nonprofit organization created and governed by a  
20 county, counties, or elected county officers, sheriff and his or her employees,  
21 county clerk and his or her employees, circuit clerk and his or her deputies, former  
22 circuit clerks or former circuit clerk deputies, or political subdivision or  
23 instrumentality, including school boards, cities, charter county governments, urban-  
24 county governments, consolidated local governments, or unified local governments  
25 participating in the system by order appropriate to its governmental structure, as  
26 provided in KRS 78.530, and if the board is willing to accept the agency,  
27 organization, or corporation, the board being hereby granted the authority to

1       determine the eligibility of the agency to participate;

2 (4) "School board" means:

3       (a) Any board of education participating in the system by order appropriate to its  
4       governmental structure, as provided in KRS 78.530, and if the board is willing  
5       to accept the agency or corporation, the board being hereby granted the  
6       authority to determine the eligibility of the agency to participate; or

7       (b) A public charter school as defined in KRS 160.1590 if the public charter  
8       school satisfies the criteria set by the Internal Revenue Service to participate  
9       in a governmental retirement plan;

10 (5) "Examiner" means the medical examiners as provided in KRS 61.665;

11 (6) "Employee" means every regular full-time appointed or elective officer or  
12       employee of a participating county and the coroner of a participating county,  
13       whether or not he or she qualifies as a regular full-time officer. The term shall not  
14       include persons engaged as independent contractors, seasonal, emergency,  
15       temporary, and part-time workers. In case of any doubt, the board shall determine if  
16       a person is an employee within the meaning of KRS 78.510 to 78.852;

17 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected  
18       officials of a county, or any authority of the county having the power to appoint or  
19       elect an employee to office or employment in the county;

20 (8) "Member" means any employee who is included in the membership of the system  
21       or any former employee whose membership has not ceased under KRS 78.535;

22 (9) "Service" means the total of current service and prior service as defined in this  
23       section;

24 (10) "Current service" means the number of years and months of employment as an  
25       employee, on and after July 1, 1958, for which creditable compensation is paid and  
26       employee contributions deducted, except as otherwise provided;

27 (11) "Prior service" means the number of years and completed months, expressed as a

1       fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
2       creditable compensation was paid. An employee shall be credited with one (1)  
3       month of prior service only in those months he or she received compensation for at  
4       least one hundred (100) hours of work. Twelve (12) months of current service in the  
5       system shall be required to validate prior service;

6       (12) "Accumulated contributions" means the sum of all amounts deducted from the  
7       compensation of a member and credited to his or her individual account in the  
8       members' account, including employee contributions picked up after August 1,  
9       1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,  
10      and any other amounts the member shall have contributed thereto, including interest  
11      credited thereon. "Accumulated contributions" shall not include employee  
12      contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.  
13      401(h) within the fund established in KRS 78.520, as prescribed by KRS  
14      78.5536(3)(b);

15      (13) "Creditable compensation":

16       (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,  
17       and fees, including payments for compensatory time, paid to the employee as  
18       a result of services performed for the employer or for time during which the  
19       member is on paid leave, which are includable on the member's federal form  
20       W-2 wage and tax statement under the heading "wages, tips, other  
21       compensation", including employee contributions picked up after August 1,  
22       1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers  
23       who receive salary, fees, maintenance, or other perquisites as a result of their  
24       official duties is the gross amount received decreased by the cost of salary  
25       paid deputies and clerks and the cost of office supplies and other official  
26       expenses;

27       (b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for  
2 purchase of service credit, which shall be averaged over the employee's  
3 service with the system in which it is recorded if it is equal to or greater  
4 than one thousand dollars (\$1,000);  
5. Cases where compensation includes maintenance and other perquisites,  
6 but the board shall fix the value of that part of the compensation not paid  
7 in money;  
8. Lump-sum payments for creditable compensation paid as a result of an  
9 order of a court of competent jurisdiction, the Personnel Board, or the  
10 Kentucky Commission on Human Rights, or for any creditable  
11 compensation paid in anticipation of settlement of an action before a  
12 court of competent jurisdiction, the Personnel Board, or the Kentucky  
13 Commission on Human Rights, including notices of violations of state  
14 or federal wage and hour statutes or violations of state or federal  
15 discrimination statutes, which shall be credited to the fiscal year during  
16 which the wages were earned or should have been paid by the employer.  
17 This subparagraph shall also include lump-sum payments for reinstated  
18 wages pursuant to KRS 61.569, which shall be credited to the period  
19 during which the wages were earned or should have been paid by the  
20 employer;  
21. Amounts which are not includable in the member's gross income by  
22 virtue of the member having taken a voluntary salary reduction provided  
23 for under applicable provisions of the Internal Revenue Code; and  
24. Elective amounts for qualified transportation fringes paid or made  
25 available on or after January 1, 2001, for calendar years on or after  
26 January 1, 2001, that are not includable in the gross income of the  
27 employee by reason of 26 U.S.C. sec. 132(f)(4); and

13 (14) "Final compensation" means:

14 (a) For a member who begins participating before September 1, 2008, who is  
15 employed in a nonhazardous position, the creditable compensation of the  
16 member during the five (5) fiscal years he or she was paid at the highest  
17 average monthly rate divided by the number of months of service credit  
18 during that five (5) year period multiplied by twelve (12). The five (5) years  
19 may be fractional and need not be consecutive. If the number of months of  
20 service credit during the five (5) year period is less than forty-eight (48), one  
21 (1) or more additional fiscal years shall be used;

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

1 of months of service credit during that three (3) year period multiplied by  
2 twelve (12). The three (3) years may be fractional and need not be  
3 consecutive. If the number of months of service credit during the three (3)  
4 year period is less than twenty-four (24), one (1) or more additional fiscal  
5 years shall be used;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 78.5520, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 78.5520, the creditable compensation of the member during the three

1 (3) complete fiscal years he or she was paid at the highest average monthly  
2 rate divided by three (3). Each fiscal year used to determine final  
3 compensation must contain twelve (12) months of service credit. If the  
4 member does not have three (3) complete fiscal years that each contain twelve  
5 (12) months of service credit, then one (1) or more additional fiscal years,  
6 which may contain less than twelve (12) months of service credit, shall be  
7 added until the number of months in the final compensation calculation is at  
8 least thirty-six (36) months;

9 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
10 calculated during the twelve (12) month period immediately preceding the  
11 member's effective retirement date, and shall include employee contributions  
12 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be  
13 certified to the system by the employer and the following equivalents shall be used  
14 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)  
15 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-  
16 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,  
17 twelve (12) months, one (1) year;

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

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

1 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,  
2 means:  
3 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday  
4 of a member;  
5 (b) For a member with service in a hazardous position who begins participating  
6 before September 1, 2008, the first day of the month following a member's  
7 fifty-fifth birthday; or  
8 (c) For a member with service in a hazardous position who begins participating  
9 on or after September 1, 2008, the first day of the month following a  
10 member's sixtieth birthday;

11 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
12 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
13 limitation year used to determine contribution and benefits limits as set out in 26  
14 U.S.C. sec. 415;

15 (20) "Agency reporting official" means the person designated by the participating  
16 employer who shall be responsible for forwarding all employer and employee  
17 contributions and a record of the contributions to the system and for performing  
18 other administrative duties pursuant to KRS 78.510 to 78.852;

19 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean  
20 all positions that average one hundred (100) or more hours per month, determined  
21 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
22 (80) or more hours per month in the case of noncertified employees of school  
23 boards, determined by using the number of hours actually worked in a calendar or  
24 school year, unless otherwise specified, except:  
25 (a) Seasonal positions, which although temporary in duration, are positions which  
26 coincide in duration with a particular season or seasons of the year and that  
27 may recur regularly from year to year, in which case the period of time shall

1                   not exceed nine (9) months, except for employees of school boards, in which  
2                   case the period of time shall not exceed six (6) months;

3 (b) Emergency positions which are positions utilized by the employer during:

4 1. An emergency as determined by the employer for a period not

5 exceeding thirty (30) working days and are nonrenewable; or

6 2. A state of emergency declared by the President of the United States or

7 the Governor of the Commonwealth of Kentucky that are created or

8 filled specifically for addressing the employer's needs during and as a

9 result of the declared emergency;

10 (c) Temporary positions that are positions of employment with a participating

11 agency for a period of time not to exceed twelve (12) months and not

12 renewable;

13 (d) Probationary positions which are positions of employment with a participating

14 employer that do not exceed twelve (12) months and that are used uniformly

15 by the participating agency on new employees who would otherwise be

16 eligible for participation in the system. Probationary positions shall not be

17 renewable by the participating employer for the same employee, unless the

18 employee has not been employed with the participating employer for a period

19 of at least twelve (12) months; or

20 (e) Part-time positions that are positions that may be permanent in duration, but

21 that require less than a calendar or fiscal year average of one hundred (100)

22 hours of work per month, determined by using the number of months actually

23 worked within a calendar or fiscal year, in the performance of duty, except in

24 case of noncertified employees of school boards, the school term average shall

25 be eighty (80) hours of work per month, determined by using the number of

26 months actually worked in a calendar or school year, in the performance of

27 duty;

- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, special needs trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 78.5536, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (30) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the

1       systems administered by the Kentucky Retirement Systems and County Employees  
2       Retirement System;

3       (31) "Participating" means an employee is currently earning service credit in the system  
4       as provided in KRS 78.615;

5       (32) "Month" means a calendar month;

6       (33) "Membership date" means the date upon which the member began participating in  
7       the system as provided in KRS 78.615;

8       (34) "Participant" means a member, as defined by subsection (8) of this section, or a  
9       retired member, as defined by subsection (23) of this section;

10      (35) "Qualified domestic relations order" means any judgment, decree, or order,  
11       including approval of a property settlement agreement, that:

12       (a) Is issued by a court or administrative agency; and

13       (b) Relates to the provision of child support, alimony payments, or marital  
14       property rights to an alternate payee;

15      (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
16       participant, who is designated to be paid retirement benefits in a qualified domestic  
17       relations order;

18      (37) "Accumulated employer credit" means the employer pay credit deposited to the  
19       member's account and interest credited on such amounts as provided by KRS  
20       78.5512 and 78.5516;

21      (38) "Accumulated account balance" means:

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

24       (b) For members who began participating in the system on or after January 1,  
25       2014, in the hybrid cash balance plan as provided by KRS 78.5512 and  
26       78.5516, the combined sum of the member's accumulated contributions and  
27       the member's accumulated employer credit;

- 1        (39) "Volunteer" means an individual who:
  - 2            (a) Freely and without pressure or coercion performs hours of service for an  
3            employer participating in one (1) of the systems administered by Kentucky  
4            Retirement Systems or the County Employees Retirement System without  
5            receipt of compensation for services rendered, except for reimbursement of  
6            actual expenses, payment of a nominal fee to offset the costs of performing  
7            the voluntary services, or both; and
  - 8            (b) If a retired member, does not become an employee, leased employee, or  
9            independent contractor of the employer for which he or she is performing  
10            volunteer services for a period of at least twelve (12) months following the  
11            retired member's most recent retirement date;
- 12        (40) "Nominal fee" means compensation earned for services as a volunteer that does not  
13            exceed five hundred dollars (\$500) per month with each participating employer.  
14            Compensation earned for services as a volunteer from more than one (1)  
15            participating employer during a month shall not be aggregated to determine whether  
16            the compensation exceeds the five hundred dollars (\$500) per month maximum  
17            provided by this subsection;
- 18        (41) "Nonhazardous position" means a position that does not meet the requirements of  
19            KRS 78.5520 or has not been approved by the board as a hazardous position;
- 20        (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520  
21            and has been approved by the board as hazardous;
- 22        (43) "Level-percentage-of-payroll amortization method" means a method of determining  
23            the annual amortization payment on the unfunded actuarial accrued liability as  
24            expressed as a percentage of payroll over a set period of years. Under this method,  
25            the percentage of payroll shall be projected to remain constant for all years  
26            remaining in the set period and the unfunded actuarially accrued liability shall be  
27            projected to be fully amortized at the conclusion of the set period;

- 1        (44) "Increment" means twelve (12) months of service credit which are purchased. The  
2                twelve (12) months need not be consecutive. The final increment may be less than  
3                twelve (12) months;
- 4        (45) "Last day of paid employment" means the last date employer and employee  
5                contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
6                78.615 to the retirement office in order for the employee to receive current service  
7                credit for the month. Last day of paid employment does not mean a date the  
8                employee receives payment for accrued leave, whether by lump sum or otherwise,  
9                if that date occurs twenty-four (24) or more months after previous contributions;
- 10      (46) "Objective medical evidence" means reports of examinations or treatments; medical  
11                signs which are anatomical, physiological, or psychological abnormalities that can  
12                be observed; psychiatric signs which are medically demonstrable phenomena  
13                indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
14                or contact with reality; or laboratory findings which are anatomical, physiological,  
15                or psychological phenomena that can be shown by medically acceptable laboratory  
16                diagnostic techniques, including but not limited to chemical tests,  
17                electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 18      (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which  
19                results in an employee's total incapacity to continue as an employee in a hazardous  
20                position, but the employee is not necessarily deemed to be totally and permanently  
21                disabled to engage in other occupations for remuneration or profit;
- 22      (48) "Act in line of duty" means, for employees in hazardous positions under KRS  
23                78.5520:
  - 24                (a) A single act occurring which was required in the performance of the principal  
25                        duties of the hazardous position as defined by the job description; or
  - 26                (b) A single act of violence committed against the employee that is found to be  
27                        related to his or her job duties, whether or not it occurs at his or her job site;

1       (49) "Dependent child" means a child in the womb and a natural or legally adopted child  
2       of the member who has neither attained age eighteen (18) nor married or who is an  
3       unmarried full-time student who has not attained age twenty-two (22). Solely in the  
4       case of a member who dies as a direct result of an act in line of duty as defined in  
5       this section, dies as a result of a duty-related injury as defined in KRS 61.621,  
6       becomes totally and permanently disabled as a direct result of an act in the line of  
7       duty as defined in this section, or becomes disabled as a result of a duty-related  
8       injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS  
9       61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled  
10      child of the member, regardless of the child's age, if the child has been determined  
11      to be eligible for federal Social Security disability benefits or is being claimed as a  
12      qualifying child for tax purposes due to the child's total and permanent disability;

13      (50) "Normal retirement age" means the age at which the member meets the  
14      requirements for his or her normal retirement date as provided by subsection (18) of  
15      this section;

16      (51) "Disability retirement date" means the first day of the month following the last day  
17      of paid employment;

18      (52) "Monthly average pay" means:

19       (a) In the case of a member who dies as a direct result of an act in line of duty as  
20       defined in KRS 16.505 or who dies as a result of a duty-related injury as  
21       defined in KRS 61.621, the higher of the member's monthly final rate of pay  
22       or the average monthly creditable compensation earned by the deceased  
23       member during his or her last twelve (12) months of employment; or

24       (b) In the case where a member becomes totally and permanently disabled as a  
25       direct result of an act in line of duty as defined in KRS 16.505 or becomes  
26       disabled as a result of a duty-related injury as defined in KRS 61.621 and is  
27       eligible for the benefits provided by KRS 61.621(5)(a), the higher of the

1 member's monthly final rate of pay or the average monthly creditable  
2 compensation earned by the disabled member during his or her last twelve  
3 (12) months of employment prior to the date the act in line of duty or duty-  
4 related injury occurred;

5 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
6 61.505;

7 (54) "Executive director" means the executive director of the Kentucky Public Pensions  
8 Authority; ~~and~~

9 (55) "Gainful employment" means work in any capacity that is or may be performed  
10 with regularity and is or may be usually done for pay, whether pay is received or  
11 not received, including seasonal, volunteer, part-time, and on-call work; and

12 **(56) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A) or**  
13 **(C) for the benefit of one (1) person. Any reference to a trust includes a special**  
14 **needs trust, unless the context otherwise requires.**

15 ➔Section 8. KRS 78.5532 is amended to read as follows:

16 (1) If a member dies prior to the first day of the month in which the member would  
17 have received his or her first retirement allowance, the member's beneficiary shall  
18 be eligible for the benefits provided by this section if the member had on file a  
19 written designation of a beneficiary with the retirement office as provided by KRS  
20 61.542 and the member met the following conditions at the date of his or her death:

21 (a) 1. The member had service in a nonhazardous position and was eligible to  
22 retire under KRS 78.5510(2) or (3) or 78.5512(6); or  
23 2. The member had service in a hazardous position and was eligible to  
24 retire under KRS 78.5514(2) or (3) or 78.5516(6);

25 (b) The member was in active employment or on authorized leave of absence  
26 with five (5) or more years of service credit and died prior to his or her normal  
27 retirement date or in the case of a nonhazardous member, was normal



equivalent to the amount computed under paragraph (a) of this subsection; or

(f) The higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.

(3) If the beneficiary eligible for benefits as provided by subsection (1) of this section is multiple beneficiaries or a trust, **other than a special needs trust**, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.

(4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.

(5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

(6) (a) The beneficiary of a member with service in a nonhazardous position who dies as a result of a duty-related injury may be eligible for benefits based upon the definitions, criteria, and benefits specified by KRS 61.621.

(b) The beneficiary of a member with service in a hazardous position who dies as a direct result of an act in line of duty may be eligible for benefits from the system based upon the definitions, criteria, and benefits specified by KRS 78.5534.

→Section 9. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as the primary

1       beneficiary of the member's retirement account, or in the absence of an eligible  
2       spouse a legal dependent of the member, if named as the primary beneficiary, shall  
3       be entitled to elect, in lieu of a refund of the member's accumulated account balance  
4       or benefits provided in KRS 161.520, an annuity actuarially equivalent at the  
5       attained age of the beneficiary to the annuity that would have been paid to the  
6       deceased member had retirement been effective on the day immediately preceding  
7       the member's death. Under the provisions of KRS 61.680, benefits shall be  
8       processed as if the member retired for service. In exercising this right the spouse or  
9       legal dependent shall be limited to selecting an option providing either a straight  
10      life annuity with refundable balance or a term certain option. A spouse may receive  
11      the annuity provided by this section at the same time as children are qualifying for  
12      survivors' benefits under the provisions of KRS 161.520; however, a legal  
13      dependent, other than a spouse, may not receive these payments if children have  
14      qualified for benefits under that section.

15      (2) A spouse qualifying for an annuity under subsection (1) of this section may defer  
16      the payments in order to reduce the actuarial discounts to be applied due to age.  
17      (3) Upon death of a member in active contributing status at the time of his or her death,  
18      who had a minimum of twenty-seven (27) years of service, the spouse, if named as  
19      the primary beneficiary of the member's account shall be entitled to a monthly  
20      minimum allowance of three hundred dollars (\$300) as the basic straight life  
21      annuity. This provision applies to surviving spouses of members who were  
22      receiving benefit payments under KRS 161.520 as of June 30, 1986, and to  
23      surviving spouses of members who die on or after July 1, 1986.

24      (4) If the surviving spouse or legal dependent eligible for a benefit under subsection  
25      (1) of this section is the sole beneficiary of a special needs trust, the annuity  
26      payments made under subsection (1) of this section shall be made payable to the  
27      special needs trust.

1            ➔Section 10. KRS 161.640 is amended to read as follows:

2        (1) Retirement annuities shall be payable monthly. The first payment to an annuitant  
3            shall be made at the payment date at the end of one (1) full payment period after his  
4            retirement and shall consist of one (1) regular monthly payment. Retirement for a  
5            member receiving one (1) full year of service credit during a fiscal year shall be no  
6            earlier than July 1 next following the end of such fiscal year. Notwithstanding any  
7            other statutory provisions to the contrary, members filling positions that  
8            customarily require twelve (12) months of service during a fiscal year cannot retire  
9            prior to July 1 without a corresponding pro rata reduction in salary and service  
10            credit. The board of trustees may determine which positions customarily require  
11            twelve (12) months of service during a fiscal year.

12        (2) The board of trustees may enter into agreements with retired members for payroll  
13            deductions when it is deemed in the best interest of the retired members and the  
14            retirement system.

15        (3) (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity  
16            checks by electronic fund transfer. All retiree, beneficiary, and survivor  
17            monthly allowance payments, except as otherwise provided in paragraph (b)  
18            or (c) of this subsection, shall be made by electronic fund transfer. Except as  
19            provided in paragraph (b) or (c) of this subsection, all monthly payments shall  
20            be made payable only to an account solely in the name of the retiree,  
21            beneficiary, or survivor as an individual and natural person, or to a joint  
22            account in the name of the retiree, beneficiary, or survivor as an individual  
23            and natural person and another individual and natural person.

24        (b) If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care  
25            home, monthly payments may be made to the order of the nursing or assisted-  
26            care home for the benefit of the retiree, beneficiary, or survivor by including  
27            the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid

1 to a nursing or assisted-care home may be sent by mail rather than electronic  
2 fund transfer.

3 **(c) If the retiree, beneficiary, or survivor is the sole beneficiary of a special**  
4 **needs trust:**

5 **1. Monthly payments shall be made to the order of the special needs**  
6 **trust, and checks may be sent by mail to the special needs trust for the**  
7 **benefit of the retiree, beneficiary, or survivor;**

8 **2. Upon the death of the retiree, beneficiary, or survivor of a special**  
9 **needs trust, the trustee of that trust shall notify the Teachers'**  
10 **Retirement System;**

11 **3. Any payments made to a special needs trust that are not properly**  
12 **payable to the special needs trust shall be returned to the Teachers'**  
13 **Retirement System and shall not be subject to claims for**  
14 **reimbursement from any state for Medicaid benefits paid on behalf of**  
15 **the beneficiary under any Medicaid payback provision, and any**  
16 **overpayments of retirement allowance received by the special needs**  
17 **trust shall be repaid to the Teachers' Retirement System; and**

18 **4. The Teachers' Retirement System may promulgate administrative**  
19 **regulations in accordance with KRS Chapter 13A to administer this**  
20 **paragraph.**

21 ➔Section 11. KRS 161.700 is amended to read as follows:

22 (1) Except as otherwise provided by this section and KRS 161.655(5), the right of a  
23 member to a retirement allowance and to the return of contributions, any benefit or  
24 right accrued or accruing to any person under KRS 161.220 to 161.716, and the  
25 money in the various funds established pursuant to KRS 161.220 to 161.716 are  
26 hereby exempt from any state or municipal tax, and shall not be subject to  
27 execution, garnishment, attachment, or other process, and shall not be assigned.

1        (2) Notwithstanding the provisions of subsection (1) of this section, retirement  
2        allowances and other benefits accrued or accruing under KRS 161.220 to 161.716  
3        to a person who is the beneficiary of a special needs trust may be assigned to the  
4        trustee of that special needs trust. Any retirement allowances or other benefits  
5        assigned to a special needs trust under this subsection, or accrued or accruing  
6        under KRS 161.220 to 161.716 to a person who is the beneficiary of a special  
7        needs trust, shall cease upon the death of the beneficiary of the special needs  
8        trust and shall not be subject to state reimbursement for Medicaid benefits paid  
9        on behalf of the beneficiary under a Medicaid payback provision.

10        (3) Notwithstanding subsection (1) of this section, retirement benefits accrued or  
11        accruing to any person under this retirement system on or after January 1, 1998,  
12        shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS  
13        141.010 and 141.0215.

14        (4) Retirement allowance, disability allowance, accumulated account balance, or  
15        any other benefit under the retirement system shall not be classified as marital  
16        property pursuant to KRS 403.190(1), except to the extent permitted under KRS  
17        403.190(4). Retirement allowance, disability allowance, accumulated contributions,  
18        or any other benefit under the retirement system shall not be considered as an  
19        economic circumstance during the division of marital property in an action for  
20        dissolution of marriage pursuant to KRS 403.190(1)(d), except to the extent  
21        permitted under KRS 403.190(4).

22        (5) Qualified domestic relations orders issued by a court or administrative agency  
23        shall be honored by the retirement system if:

24        (a) The benefits payable pursuant to the order meet the requirements of a  
25        qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The  
26        retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)  
27        in administering qualified domestic relations orders;

(b) The order meets the requirements established by the retirement system and by subsections (5)(4) to (13)(12) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations order by promulgation of administrative regulations in accordance with KRS Chapter 13A; and

(c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (b) of this subsection.

(6)(5) A qualified domestic relations order shall not:

(a) Require the retirement system to take any action not authorized under state or federal law;

(b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;

(c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the system and as provided by subsections (5)(4) to (13)(12) of this section; or

(d) Grant any separate interest to any person other than the participant.

(7)(6) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated

1 by the board of trustees.

2 (8)(7) If the qualified domestic relations order meets the requirements established by  
3 the system and by subsections (5)(4) to (13)(12) of this section, payments to the  
4 alternate payee shall be distributed under the following conditions:

5 (a) If the participant is retired and is receiving a monthly retirement allowance,  
6 the month following the date the retirement system receives a qualified  
7 domestic relations order that complies with the administrative regulations  
8 promulgated by the retirement system and subsections (5)(4) to (13)(12) of  
9 this section; or

10 (b) If the participant is not retired, the month of the participant's effective  
11 retirement date in which the first retirement allowance is payable to the  
12 participant or the month in which the participant receives a refund of his or  
13 her accumulated account balance as provided by KRS 161.470(6).

14 (9)(8) An alternate payee's benefits and rights under a qualified domestic relations  
15 order shall terminate upon the earlier of:

16 (a) The death of the participant;  
17 (b) The death of the alternate payee; or  
18 (c) The termination of benefits to the participant under any provision of KRS  
19 161.220 to 161.716.

20 (10)(9) An alternate payee shall not receive a monthly payment under a qualified  
21 domestic relations order if the participant is not receiving a monthly retirement  
22 allowance.

23 (11)(10) The cost of living adjustment provided to the participant pursuant to KRS  
24 161.620 shall be divided between the participant and alternate payee in a qualified  
25 domestic relations order as follows:

26 (a) If the order specifies the alternate payee is to receive a percentage of the  
27 participant's benefit, then the cost of living adjustment shall be divided

between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

(b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:

1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.

**(12)¶(11)** Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

- (a) Solely by the participant;
- (b) Solely by the alternate payee; or
- (c) Equally shared by the participant and alternate payee.

(13)-(14) The retirement system shall honor a qualified domestic relations order issued

1 prior to July 15, 2010, for prospective benefit payments if the order or an amended  
2 version of the order meets the requirements established by this section and the  
3 administrative regulations promulgated by the retirement system. The order shall  
4 not apply to benefit payments issued by the retirement system prior to the date the  
5 order was approved by the retirement system.

6 ➔Section 12. KRS 21.420 is amended to read as follows:

7 (1) After the death of a member who began participating in the Judicial Retirement  
8 Plan prior to January 1, 2014, who at the time of his or her death was receiving a  
9 service retirement allowance (other than an actuarially reduced allowance under  
10 subsection (3) of KRS 21.400), or was receiving a disability retirement allowance,  
11 his or her surviving spouse is entitled to receive during his or her lifetime a  
12 monthly allowance equal to one-half (1/2) of that he or she was receiving.

13 (2) (a) If a member who began participating in the Judicial Retirement Plan prior to  
14 January 1, 2014, dies before retirement and before reaching normal retirement  
15 age, without regard to length of service, his or her surviving spouse is entitled  
16 to receive during his or her lifetime a monthly allowance equal to one-half  
17 (1/2) of the monthly allowance the member would have received commencing  
18 at his or her normal retirement date if he or she had continued in service until  
19 that date and had then retired, computed however on the basis of his or her  
20 final compensation at time of death.

21 (b) If a member who began participating in the Judicial Retirement Plan prior to  
22 January 1, 2014, dies before retirement and after reaching normal retirement  
23 age, his or her surviving spouse is entitled to receive during his or her  
24 lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance  
25 the member would have been entitled to, on the basis of his or her years of  
26 service, had he or she retired on the date of his death.

27 (3) If a member who began participating in the Judicial Retirement Plan prior to

1       January 1, 2014, dies after retirement and was at the time of his or her death  
2       receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or  
3       was not at the time of his or her death receiving a retirement allowance but had  
4       acquired the vested right under subsection (2) of KRS 21.400 to have received an  
5       allowance upon reaching normal retirement age, his or her surviving spouse is  
6       entitled to receive during his or her lifetime a monthly allowance equal to one-half  
7       (1/2) of the monthly allowance the member would have received when he or she  
8       reached normal retirement age.

9       (4) A member, or a retiree who began participating in the plan prior to January 1, 2014,  
10      who has not commenced drawing retirement benefits pursuant to KRS 21.400, and  
11      who dies without a spouse or eligible children entitled to survivor's benefits, may  
12      designate a beneficiary who shall receive the accumulated contributions of the  
13      member. A member, or a retiree who began participating in the plan on or after  
14      January 1, 2014, who has not commenced drawing retirement benefits pursuant to  
15      KRS 21.402, who dies without a spouse or eligible children entitled to survivor's  
16      benefits, may designate a beneficiary who shall receive the accumulated account  
17      balance of the member. A trust, including a special needs trust, may be designated  
18      as a beneficiary. Absent a designation by the member or retiree, the accumulated  
19      contributions or accumulated account balance, as applicable based upon the  
20      member's participation date, shall be paid to the member's estate.

21       (5) A member who began participating in the plan prior to January 1, 2014, who  
22      commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, and  
23      who dies without a spouse or eligible children entitled to survivor's benefits and  
24      before the benefits received by the member equal the accumulated contributions of  
25      the member, may designate a beneficiary who shall receive the balance of the  
26      accumulated contributions of the member. A member who began participating in  
27      the plan on or after January 1, 2014, who commences drawing retirement benefits

1 pursuant to KRS 21.402 or 21.410, and who dies without a spouse or eligible  
2 children entitled to survivor's benefits and before the benefits received by the  
3 member equal the accumulated account balance of the member, may designate a  
4 beneficiary who shall receive the balance of the accumulated account balance of the  
5 member. A trust, including a special needs trust, may be designated as a  
6 beneficiary. Any benefits received shall be deducted from the accumulated  
7 contributions or accumulated account balance. Absent a designation by the member,  
8 the balance of the accumulated contributions or accumulated account balance, as  
9 applicable based upon the member's participation date, shall be paid to the  
10 member's estate.

11 (6) A member who begins participating in the Judicial Retirement Plan prior to January  
12 1, 2014, may designate a beneficiary who shall receive the balance of the  
13 accumulated contributions of the member, in the event survivor's benefits are being  
14 paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior  
15 to receiving benefits equal to the member's contributions. In this event, the  
16 provisions of subsection (5) of this section shall apply as to offset and payment.

17 (7) A member who begins participating in the Judicial Retirement Plan prior to January  
18 1, 2014, may, prior to the drawing of benefits, elect in writing to the executive  
19 secretary of the Judicial Form Retirement System, to take an optional retirement  
20 allowance which shall be actuarially equivalent to the amount of retirement  
21 allowance otherwise payable to the member and the member's spouse. If the  
22 member dies after retirement, the option chosen shall prevail over the provisions of  
23 subsections (1) and (3) of this section. If the member dies prior to retirement, the  
24 option chosen shall prevail over the provisions of subsection (2) of this section. The  
25 options shall include:

26 (a) Survivorship one hundred percent (100%). The member may elect to receive a  
27 decreased retirement allowance during the member's lifetime and have the

1                   retirement allowance continued after death to the spouse during the lifetime of  
2                   the spouse.

3 (b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may  
4 elect to receive a decreased retirement allowance during the member's lifetime  
5 and have two-thirds (2/3) of the retirement allowance continue after death to  
6 the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

15 (8) For a member who begins participating in the Judicial Retirement Plan on or after  
16 January 1, 2014:

17 (a) If the member dies prior to drawing a retirement allowance, then the surviving  
18 spouse may elect to:

19 1. Take a refund of the member's accumulated account balance or  
20 accumulated contributions as provided by KRS 21.402; or

21 2. If the member had at least five (5) years of service in the plan at the time  
22 of his or her death, have the member's accumulated account balance  
23 annuitized into a monthly benefit payable for life that is equal to the  
24 benefit that would have been paid had the member retired immediately  
25 prior to his or her date of death and elected to receive benefits payable  
26 under the survivorship one hundred percent (100%) option as provided  
27 by paragraph (b)1. of this subsection.

1           In lieu of the benefits provided by this paragraph to the surviving spouse, the  
2           member may elect to have the benefits payable under this paragraph paid to  
3           an individual dependent child by completing the forms provided prescribed by  
4           the Judicial Form Retirement System. If no surviving spouse or dependent  
5           children are eligible to receive benefits, then the provisions of subsection (4)  
6           of this section shall apply to the member.

7           (b) If a member dies on or after the date the member begins drawing a retirement  
8           allowance, the benefits payable to the surviving spouse shall be based upon  
9           whether or not the member elects prior to retirement to receive an optional  
10           retirement allowance. The election shall be in writing on the forms prescribed  
11           by the Judicial Form Retirement System and shall be actuarially equivalent to  
12           the amount of retirement allowance otherwise payable to the member. The  
13           optional retirement allowances shall include:

14           1. Survivorship one hundred percent (100%). The member may elect to  
15           receive a decreased retirement allowance during the member's lifetime  
16           and have the retirement allowance continued after death to the spouse  
17           during the lifetime of the spouse;

18           2. Survivorship sixty-six and two-thirds percent (66-2/3%). The member  
19           may elect to receive a decreased retirement allowance during the  
20           member's lifetime and have two-thirds (2/3) of the retirement allowance  
21           continue after death to the spouse during the lifetime of the spouse; or

22           3. Survivorship fifty percent (50%). The member may elect to receive a  
23           decreased retirement allowance during the member's lifetime and have  
24           one-half (1/2) of the retirement allowance continue after death to the  
25           spouse during the lifetime of the spouse.

26           In lieu of the benefits provided by this paragraph to the surviving spouse, the  
27           member may elect prior to retirement to have the benefits payable under this

1           paragraph paid to an individual dependent child **or to a special needs trust** by  
2           completing the forms provided by the Judicial Form Retirement System. If no  
3           surviving spouse or dependent children are eligible to receive benefits, then  
4           the provisions of subsection (5) of this section shall apply to the member.

5           (c) For purposes of this section a "dependent child" shall mean a child who is less  
6           than twenty-one (21) years of age or a disabled child who is eligible for Social  
7           Security disability benefits.

8           (9) (a) **As used in this section, "special needs trust" means a trust described in 42**  
9           **U.S.C. sec. 1396p(d)(4)(A) or (C).**

10           (b) **In any circumstances in which a surviving spouse would be entitled to any**  
11           **allowance under this section, the monthly allowance that the surviving**  
12           **spouse was receiving or is entitled to receive may be paid to a special needs**  
13           **trust for the benefit of the surviving spouse.**

14           ➔ Section 13. KRS 21.425 is amended to read as follows:

15           (1) In any circumstances in which a surviving spouse would be entitled to any  
16           allowance under KRS 21.420, but there is no surviving spouse or the surviving  
17           spouse subsequently dies, and there is a surviving child or children of the member  
18           under the age of twenty-one (21), or there is a disabled child or children, the  
19           monthly allowance that the surviving spouse would have received or was receiving  
20           shall be continued, as follows:

21           (a) If the member does not have a disabled child or children, the benefit shall  
22           continue until there are no children remaining under the age of twenty-one  
23           (21); or  
24           (b) If the member has a disabled child or children, the benefit shall continue until  
25           the death of the last remaining disabled child.

26           (2) A member may designate his **or her** child or children under the age of twenty-one  
27           (21), or his **or her** disabled child or children, **or a special needs trust as defined by**

1        subsection (9) of Section 12 of this Act for the benefit of the disabled child, to  
2        receive the death benefit payable under KRS 21.420 instead of his or her spouse, or  
3        he or she may designate that his or her spouse shall receive a percentage of the  
4        death benefit, and his or her child or children under the age of twenty-one (21), or  
5        his or her disabled child or children, or a special needs trust as defined by  
6        subsection (9) of Section 12 of this Act for the benefit of a disabled child, shall  
7        receive the remainder. The member making such a choice shall designate his or her  
8        beneficiary or beneficiaries in writing to the manager of the Judicial Form  
9        Retirement System on a form provided by the manager.

10      (3) For purposes of this section, "disabled" means an individual determined by the  
11        Social Security Administration to be entitled to total disability benefits.

12      (4) Subsections (1) to (3) of this section shall not apply to a member who begins  
13        participating in the Judicial Retirement Plan on or after January 1, 2014.