

1 AN ACT relating to death-in-line-of-duty benefits and declaring an emergency.

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

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

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

- 5 (1) "System" means the State Police Retirement System created by KRS 16.505 to  
6 16.652;
- 7 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- 8 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its  
9 successor;
- 10 (4) "Current service" means the number of years and completed months of employment  
11 as an employee subsequent to July 1, 1958, for which creditable compensation was  
12 paid by the employer and employee contributions deducted except as otherwise  
13 provided;
- 14 (5) "Prior service" means the number of years and completed months of employment as  
15 an employee prior to July 1, 1958, for which creditable compensation was paid to  
16 the employee by the Commonwealth. Twelve (12) months of current service in the  
17 system are required to validate prior service;
- 18 (6) "Service" means the total of current service and prior service;
- 19 (7) "Accumulated contributions" at any time means the sum of all amounts deducted  
20 from the compensation of a member and credited to his individual account in the  
21 member's account, including employee contributions picked up after August 1,  
22 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts  
23 as provided in KRS 16.505 to 16.652, and any other amounts the member shall have  
24 contributed, including interest credited. For members who begin participating on or  
25 after September 1, 2008, "accumulated contributions" shall not include employee  
26 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.  
27 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as

1 prescribed by KRS 61.702(2)(b);

2 (8) "Creditable compensation":

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

9 (b) Includes:

10 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
11 purchase of service credit, which shall be averaged over the employee's  
12 total service with the system in which it is recorded if it is equal to or  
13 greater than one thousand dollars (\$1,000);

14 2. Lump-sum payments for creditable compensation paid as a result of an  
15 order of a court of competent jurisdiction, the Personnel Board, or the  
16 Commission on Human Rights, or for any creditable compensation paid  
17 in anticipation of settlement of an action before a court of competent  
18 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
19 including notices of violations of state or federal wage and hour statutes  
20 or violations of state or federal discrimination statutes, which shall be  
21 credited to the fiscal year during which the wages were earned or should  
22 have been paid by the employer. This subparagraph shall also include  
23 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
24 which shall be credited to the period during which the wages were  
25 earned or should have been paid by the employer;

26 3. Amounts which are not includable in the member's gross income by  
27 virtue of the member having taken a voluntary salary reduction provided

- 1 for under applicable provisions of the Internal Revenue Code; and
- 2 4. Elective amounts for qualified transportation fringes paid or made
- 3 available on or after January 1, 2001, for calendar years on or after
- 4 January 1, 2001, that are not includable in the gross income of the
- 5 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 6 (c) Excludes:
- 7 1. Living allowances, expense reimbursements, lump-sum payments for
- 8 accrued vacation leave, and other items determined by the board; and
- 9 2. For employees who begin participating on or after September 1, 2008,
- 10 lump-sum payments for compensatory time;
- 11 (9) "Final compensation" means:
- 12 (a) For a member who begins participating before September 1, 2008, the
- 13 creditable compensation of a member during the three (3) fiscal years he was
- 14 paid at the highest average monthly rate divided by the number of months of
- 15 service credit during the three (3) year period, multiplied by twelve (12); the
- 16 three (3) years may be fractional and need not be consecutive. If the number of
- 17 months of service credit during the three (3) year period is less than twenty-
- 18 four (24), one (1) or more additional fiscal years shall be used; or
- 19 (b) For a member who begins participating on or after September 1, 2008, but
- 20 prior to January 1, 2014, the creditable compensation of the member during
- 21 the three (3) complete fiscal years he or she was paid at the highest average
- 22 monthly rate divided by three (3). Each fiscal year used to determine final
- 23 compensation must contain twelve (12) months of service credit. If the
- 24 member does not have three (3) complete fiscal years that each contain twelve
- 25 (12) months of service credit, then one (1) or more additional fiscal years,
- 26 which may contain less than twelve (12) months of service credit, shall be
- 27 added until the number of months in the final compensation calculation is at

- 1           least thirty-six (36) months;
- 2   (10) "Final rate of pay" means the actual rate upon which earnings of a member were  
3       calculated during the twelve (12) month period immediately preceding the  
4       member's effective retirement date, including employee contributions picked up  
5       after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the  
6       system by the employer and the following equivalents shall be used to convert the  
7       rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
8       workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-  
9       1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12)  
10      months, or one (1) year;
- 11   (11) "Retired member" means any former member receiving a retirement allowance or  
12      any former member who has filed the necessary documents for retirement benefits  
13      and is no longer contributing to the retirement system;
- 14   (12) "Retirement allowance" means the retirement payments to which a retired member  
15      is entitled;
- 16   (13) "Actuarial equivalent" means a benefit of equal value when computed upon the  
17      basis of actuarial tables adopted by the board. In cases of disability retirement, the  
18      options authorized by KRS 61.635 shall be computed by adding ten (10) years to  
19      the age of the member, unless the member has chosen the Social Security  
20      adjustment option as provided for in KRS 61.635(8), in which case the member's  
21      actual age shall be used. For members who began participating in the system prior  
22      to January 1, 2014, no disability retirement option shall be less than the same option  
23      computed under early retirement;
- 24   (14) "Authorized leave of absence" means any time during which a person is absent from  
25      employment but retained in the status of an employee in accordance with the  
26      personnel policy of the Department of Kentucky State Police;
- 27   (15) "Normal retirement date" means:

- 1 (a) For a member who begins participating before September 1, 2008, the first  
2 day of the month following a member's fifty-fifth birthday, except that for  
3 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,  
4 1959; or
- 5 (b) For a member who begins participating on or after September 1, 2008, the  
6 first day of the month following a member's sixtieth birthday;
- 7 (16) "Disability retirement date" means the first day of the month following the last day  
8 of paid employment;
- 9 (17) "Dependent child" means a child in the womb and a natural or legally adopted child  
10 of the member who has neither attained age eighteen (18) nor married or who is an  
11 unmarried full-time student who has not attained age twenty-two (22). **Solely in the**  
12 **case of a member who dies as a direct result of an act in line of duty as defined in**  
13 **this section or who dies as a result of a duty-related injury as defined in Section 5**  
14 **of this Act, "dependent child" also means a naturally or legally adopted disabled**  
15 **child of the member if the child has been determined to be eligible for federal**  
16 **Social Security disability benefits or is being claimed as a qualifying child for tax**  
17 **purposes due to the child's total and permanent disability;**
- 18 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member  
19 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 20 (19) "Act in line of duty" means an act occurring or a thing done, which, as determined  
21 by the board, was required in the performance of the duties specified in KRS  
22 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of  
23 duty" shall mean an act occurring which was required in the performance of the  
24 principal duties of the position as defined by the job description;
- 25 (20) "Early retirement date" means:
- 26 (a) For a member who begins participating before September 1, 2008, the  
27 retirement date declared by a member who is not less than fifty (50) years of

1           age and has fifteen (15) years of service; or

2           (b) For a member who begins participating on or after September 1, 2008, but  
3           prior to January 1, 2014, the retirement date declared by a member who is not  
4           less than fifty (50) years of age and has fifteen (15) years of service credited  
5           under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered  
6           retirement system;

7           (21) "Member" means any officer included in the membership of the system as provided  
8           under KRS 16.520 whose membership has not been terminated under KRS 61.535;

9           (22) "Regular full-time officers" means the occupants of positions as set forth in KRS  
10          16.010;

11          (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which  
12          results in an employee's total incapacity to continue as an employee in a hazardous  
13          position, but the employee is not necessarily deemed to be totally and permanently  
14          disabled to engage in other occupations for remuneration or profit;

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

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

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

27          (27) "Person" means a natural person;

- 1 (28) "Retirement office" means the Kentucky Retirement Systems office building in  
2 Frankfort;
- 3 (29) "Delayed contribution payment" means an amount paid by an employee for  
4 purchase of current service. The amount shall be determined using the same formula  
5 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
6 delayed contribution payment shall be deposited to the member's account and  
7 considered as accumulated contributions of the individual member;
- 8 (30) "Last day of paid employment" means the last date employer and employee  
9 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
10 78.615 to the retirement office in order for the employee to receive current service  
11 credit for the month. Last day of paid employment does not mean a date the  
12 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
13 that date occurs twenty-four (24) or more months after previous contributions;
- 14 (31) "Objective medical evidence" means reports of examinations or treatments; medical  
15 signs which are anatomical, physiological, or psychological abnormalities that can  
16 be observed; psychiatric signs which are medically demonstrable phenomena  
17 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
18 or contact with reality; or laboratory findings which are anatomical, physiological,  
19 or psychological phenomena that can be shown by medically acceptable laboratory  
20 diagnostic techniques, including but not limited to chemical tests,  
21 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 22 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
23 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
24 limitation year used to determine contribution and benefit limits established by 26  
25 U.S.C. sec. 415;
- 26 (33) "Participating" means an employee is currently earning service credit in the system  
27 as provided in KRS 16.543;

- 1 (34) "Month" means a calendar month;
- 2 (35) "Membership date" means the date upon which the member began participating in  
3 the system as provided by KRS 16.543;
- 4 (36) "Participant" means a member, as defined by subsection (21) of this section, or a  
5 retired member, as defined by subsection (11) of this section;
- 6 (37) "Qualified domestic relations order" means any judgment, decree, or order,  
7 including approval of a property settlement agreement, that:
- 8 (a) Is issued by a court or administrative agency; and
- 9 (b) Relates to the provision of child support, alimony payments, or marital  
10 property rights to an alternate payee;
- 11 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
12 participant, who is designated to be paid retirement benefits in a qualified domestic  
13 relations order;
- 14 (39) "Accumulated employer credit" means the employer pay credit deposited to the  
15 member's account and interest credited on such amounts as provided by KRS  
16 16.583;~~and~~
- 17 (40) "Accumulated account balance" means:
- 18 (a) For members who began participating in the system prior to January 1, 2014,  
19 the member's accumulated contributions; or
- 20 (b) For members who began participating in the system on or after January 1,  
21 2014, in the hybrid cash balance plan as provided by KRS 16.583, the  
22 combined sum of the member's accumulated contributions and the member's  
23 accumulated employer pay credit; ***and***
- 24 ***(41) "Monthly average pay" means the higher of the member's monthly final rate of***  
25 ***pay or the average monthly creditable compensation earned by the deceased***  
26 ***member during his or her last twelve (12) months of employment.***
- 27 ➔Section 2. KRS 16.601 is amended to read as follows:



1 (1) If ~~[the death of]~~ a member **dies** ~~[in service occurs on or after August 1, 1992,]~~ as a  
 2 direct result of an ~~[ ]~~ act in line of duty~~[ ]~~ **as defined in Section 1 of this Act and is**  
 3 **survived by a spouse:**~~[ and the member has on file in the retirement office at the~~  
 4 ~~time of his or her death a written designation of only one (1) beneficiary, who is his~~  
 5 ~~or her spouse, the beneficiary ]~~

6 **(a) The surviving spouse shall be the beneficiary, and this shall supersede the**  
 7 **designation of all previous beneficiaries of the deceased member's**  
 8 **retirement account except as provided in subsection (2)(e) of Section 4 of**  
 9 **this Act; and**

10 **(b) The surviving spouse, provided he or she supersedes all previously**  
 11 **designated beneficiaries,** may elect to receive a lump-sum payment of ten  
 12 thousand dollars (\$10,000) and a monthly payment equal to **seventy-five**  
 13 **percent (75%)**~~[twenty five percent (25%)]~~ of the member's monthly  
 14 **average**~~[final rate of]~~ pay beginning in the month following the member's  
 15 death and continuing each month until **the** death **of the surviving spouse.** **In**  
 16 **addition, if the member is also survived by dependent children, monthly**  
 17 **payments shall be made for each dependent child equal to ten percent (10%)**  
 18 **of the deceased member's monthly average pay, except that the combined**  
 19 **maximum payment made to the:**

20 **1. Surviving spouse and dependent children under this subsection shall**  
 21 **not exceed one hundred percent (100%) of the deceased member's**  
 22 **monthly average pay; and**

23 **2. Dependent children, while the surviving spouse is living, shall not**  
 24 **exceed twenty-five percent (25%) of the deceased member's monthly**  
 25 **average pay. Payments made to the dependent children under this**  
 26 **subsection shall be divided equally among all the dependent children.**

27 (2) **If a member dies as a result of an act in line of duty as defined in Section 1 of this**

1 Act and is not survived by a spouse but is survived by a dependent child or  
 2 children, the following benefits shall be paid to the dependent child or children:

3 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the  
 4 deceased member has one (1) dependent child;

5 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if  
 6 the deceased member has two (2) dependent children; or

7 (c) Seventy-five percent (75%) of the deceased member's monthly average pay,  
 8 if the deceased member has three (3) or more dependent children.

9 Payments made to the dependent children under this subsection shall be divided  
 10 equally among all the dependent children.

11 (3) If ~~the death of~~ a member dies~~in service occurs on or after July 1, 1968,~~ as a  
 12 direct result of an ~~act in line of duty~~as defined in Section 1 of this Act and the  
 13 member has on file in the retirement office at the time of his or her death a written  
 14 designation of only one (1) beneficiary other than his or her spouse who has not  
 15 been superseded by the surviving spouse as provided by subsection (1)(a) of this  
 16 section, and who is a dependent receiving at least one-half (1/2) of his or her  
 17 support from the deceased member, the beneficiary may elect to receive a lump-sum  
 18 payment of ten thousand dollars (\$10,000).

19 ~~(4)~~(3) ~~[In the period of time following a member's death during which dependent~~  
 20 ~~children survive, monthly payments shall be made for each dependent child who is~~  
 21 ~~alive, equal to ten percent (10%) of the deceased member's monthly final rate of~~  
 22 ~~pay; however, total maximum dependent children's benefits shall not be greater than~~  
 23 ~~forty percent (40%) of the deceased member's monthly final rate of pay at the time~~  
 24 ~~any particular payment is due.]~~ The payments provided by this section shall  
 25 commence in the month following the date of death of the member and shall be  
 26 payable to the spouse, dependent children, beneficiaries, or to a legally appointed  
 27 guardian or as directed by the system. Benefits to a dependent child under this

1 section shall be payable ~~under this subsection~~ notwithstanding an election by a  
2 surviving spouse or beneficiary to withdraw the deceased member's accumulated  
3 account balance as provided in KRS 61.625 or to elect benefits under any other  
4 provisions of KRS 16.510 to 16.652.

5 ~~(5)(4)~~ A surviving spouse or beneficiary eligible for benefits under subsection (1) or  
6 ~~(3)(2)~~ of this section who is also eligible for benefits under any other provisions of  
7 KRS 16.510 to 16.652 may elect benefits under this section or any other section of  
8 KRS 16.510 to 16.652 but cannot elect to receive both.

9 ~~(6)(5)~~ (a) A surviving spouse or beneficiary applying for benefits under  
10 subsection (1) or ~~(3)(2)~~ of this section who is also eligible for benefits under  
11 KRS 16.578 may elect to receive benefits under KRS 16.578(2)(a) or (b)  
12 while the application for benefits under subsection (1) or ~~(3)(2)~~ of this  
13 section is pending.

14 (b) If a final determination results in a finding of eligibility for benefits under  
15 subsection (1) or ~~(3)(2)~~ of this section, the system shall recalculate the  
16 benefits due the surviving spouse or beneficiary in accordance with this  
17 subsection.

18 (c) If the surviving spouse or beneficiary has been paid less than the amount of  
19 benefits to which the surviving spouse or beneficiary was entitled to receive  
20 under this section, the system shall pay the additional funds due to the  
21 surviving spouse or beneficiary.

22 (d) If the surviving spouse or beneficiary has been paid more than the amount of  
23 benefits to which the surviving spouse or beneficiary was entitled to receive  
24 under this section, the system shall deduct the amount overpaid to the  
25 surviving spouse or beneficiary from the ten thousand dollars (\$10,000)  
26 lump-sum payment and from the monthly retirement allowance payments until  
27 the amount owed to the systems has been recovered.

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

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

- 3       (1) "System" means the Kentucky Employees Retirement System created by KRS  
4       61.510 to 61.705;
- 5       (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 6       (3) "Department" means any state department or board or agency participating in the  
7       system in accordance with appropriate executive order, as provided in KRS 61.520.  
8       For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
9       General Assembly and any other body, entity, or instrumentality designated by  
10      executive order by the Governor, shall be deemed to be a department,  
11      notwithstanding whether said body, entity, or instrumentality is an integral part of  
12      state government;
- 13      (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 14      (5) "Employee" means the members, officers, and employees of the General Assembly  
15      and every regular full-time, appointed or elective officer or employee of a  
16      participating department, including the Department of Military Affairs. The term  
17      does not include persons engaged as independent contractors, seasonal, emergency,  
18      temporary, interim, and part-time workers. In case of any doubt, the board shall  
19      determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 20      (6) "Employer" means a department or any authority of a department having the power  
21      to appoint or select an employee in the department, including the Senate and the  
22      House of Representatives, or any other entity, the employees of which are eligible  
23      for membership in the system pursuant to KRS 61.525;
- 24      (7) "State" means the Commonwealth of Kentucky;
- 25      (8) "Member" means any employee who is included in the membership of the system or  
26      any former employee whose membership has not been terminated under KRS  
27      61.535;

- 1 (9) "Service" means the total of current service and prior service as defined in this  
2 section;
- 3 (10) "Current service" means the number of years and months of employment as an  
4 employee, on and after July 1, 1956, except that for members, officers, and  
5 employees of the General Assembly this date shall be January 1, 1960, for which  
6 creditable compensation is paid and employee contributions deducted, except as  
7 otherwise provided, and each member, officer, and employee of the General  
8 Assembly shall be credited with a month of current service for each month he  
9 serves in the position;
- 10 (11) "Prior service" means the number of years and completed months, expressed as a  
11 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
12 creditable compensation was paid; except that for members, officers, and employees  
13 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
14 credited with one (1) month of prior service only in those months he received  
15 compensation for at least one hundred (100) hours of work; provided, however, that  
16 each member, officer, and employee of the General Assembly shall be credited with  
17 a month of prior service for each month he served in the position prior to January 1,  
18 1960. Twelve (12) months of current service in the system are required to validate  
19 prior service;
- 20 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
21 from the compensation of a member and credited to his individual account in the  
22 members' account, including employee contributions picked up after August 1,  
23 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts  
24 and any other amounts the member shall have contributed thereto, including interest  
25 credited thereon. For members who begin participating on or after September 1,  
26 2008, "accumulated contributions" shall not include employee contributions that are  
27 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the

1 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
2 61.702(2)(b);

3 (13) "Creditable compensation":

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

15 (b) Includes:

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

1 including notices of violations of state or federal wage and hour statutes  
2 or violations of state or federal discrimination statutes, which shall be  
3 credited to the fiscal year during which the wages were earned or should  
4 have been paid by the employer. This subparagraph shall also include  
5 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
6 which shall be credited to the period during which the wages were  
7 earned or should have been paid by the employer;

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

15 (c) Excludes:

- 16 1. Living allowances, expense reimbursements, lump-sum payments for  
17 accrued vacation leave, and other items determined by the board;  
18 2. For employees who begin participating on or after September 1, 2008,  
19 lump-sum payments for compensatory time; and  
20 3. For employees who begin participating on or after August 1, 2016,  
21 nominal fees paid for services as a volunteer;

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

- 23 (a) For a member who begins participating before September 1, 2008, who is not  
24 employed in a hazardous position, as provided in KRS 61.592, the creditable  
25 compensation of the member during the five (5) fiscal years he was paid at the  
26 highest average monthly rate divided by the number of months of service  
27 credit during that five (5) year period multiplied by twelve (12). The five (5)

1           years may be fractional and need not be consecutive. If the number of months  
2           of service credit during the five (5) year period is less than forty-eight (48),  
3           one (1) or more additional fiscal years shall be used;

4           (b) For a member who is not employed in a hazardous position, as provided in  
5           KRS 61.592, whose effective retirement date is between August 1, 2001, and  
6           January 1, 2009, and whose total service credit is at least twenty-seven (27)  
7           years and whose age and years of service total at least seventy-five (75), final  
8           compensation means the creditable compensation of the member during the  
9           three (3) fiscal years the member was paid at the highest average monthly rate  
10          divided by the number of months of service credit during that three (3) years  
11          period multiplied by twelve (12). The three (3) years may be fractional and  
12          need not be consecutive. If the number of months of service credit during the  
13          three (3) year period is less than twenty-four (24), one (1) or more additional  
14          fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
15          funding for this paragraph shall be provided from existing funds of the  
16          retirement allowance;

17          (c) For a member who begins participating before September 1, 2008, who is  
18          employed in a hazardous position, as provided in KRS 61.592, the creditable  
19          compensation of the member during the three (3) fiscal years he was paid at  
20          the highest average monthly rate divided by the number of months of service  
21          credit during that three (3) year period multiplied by twelve (12). The three (3)  
22          years may be fractional and need not be consecutive. If the number of months  
23          of service credit during the three (3) year period is less than twenty-four (24),  
24          one (1) or more additional fiscal years shall be used;

25          (d) For a member who begins participating on or after September 1, 2008, but  
26          prior to January 1, 2014, who is not employed in a hazardous position, as  
27          provided in KRS 61.592, the creditable compensation of the member during



- 1 the five (5) complete fiscal years immediately preceding retirement divided by  
2 five (5). Each fiscal year used to determine final compensation must contain  
3 twelve (12) months of service credit. If the member does not have five (5)  
4 complete fiscal years that each contain twelve (12) months of service credit,  
5 then one (1) or more additional fiscal years, which may contain less than  
6 twelve (12) months of service credit, shall be added until the number of  
7 months in the final compensation calculation is at least sixty (60) months; or
- 8 (e) For a member who begins participating on or after September 1, 2008, but  
9 prior to January 1, 2014, who is employed in a hazardous position, as  
10 provided in KRS 61.592, the creditable compensation of the member during  
11 the three (3) complete fiscal years he was paid at the highest average monthly  
12 rate divided by three (3). Each fiscal year used to determine final  
13 compensation must contain twelve (12) months of service credit. If the  
14 member does not have three (3) complete fiscal years that each contain twelve  
15 (12) months of service credit, then one (1) or more additional fiscal years,  
16 which may contain less than twelve (12) months of service credit, shall be  
17 added until the number of months in the final compensation calculation is at  
18 least thirty-six (36) months;
- 19 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
20 calculated during the twelve (12) month period immediately preceding the  
21 member's effective retirement date, including employee contributions picked up  
22 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the  
23 system by the employer and the following equivalents shall be used to convert the  
24 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
25 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour  
26 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,  
27 one (1) year;

- 1 (16) "Retirement allowance" means the retirement payments to which a member is  
2 entitled;
- 3 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
4 basis of the actuarial tables that are adopted by the board. In cases of disability  
5 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
6 (10) years to the age of the member, unless the member has chosen the Social  
7 Security adjustment option as provided for in KRS 61.635(8), in which case the  
8 member's actual age shall be used. For members who began participating in the  
9 system prior to January 1, 2014, no disability retirement option shall be less than the  
10 same option computed under early retirement;
- 11 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
12 otherwise provided in KRS 61.510 to 61.705;
- 13 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
14 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
15 limitation year used to determine contribution and benefit limits as established by  
16 26 U.S.C. sec. 415;
- 17 (20) "Officers and employees of the General Assembly" means the occupants of those  
18 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
19 were employed by the General Assembly for at least one (1) regular legislative  
20 session prior to July 13, 2004, who elect to participate in the retirement system, and  
21 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
22 13, 2004, shall be designated as interim employees;
- 23 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
24 all positions that average one hundred (100) or more hours per month determined by  
25 using the number of months actually worked within a calendar or fiscal year,  
26 including all positions except:
- 27 (a) Seasonal positions, which although temporary in duration, are positions which

- 1 coincide in duration with a particular season or seasons of the year and which  
2 may recur regularly from year to year, the period of time shall not exceed nine  
3 (9) months;
- 4 (b) Emergency positions which are positions which do not exceed thirty (30)  
5 working days and are nonrenewable;
- 6 (c) Temporary positions which are positions of employment with a participating  
7 department for a period of time not to exceed nine (9) months and are  
8 nonrenewable;
- 9 (d) Part-time positions which are positions which may be permanent in duration,  
10 but which require less than a calendar or fiscal year average of one hundred  
11 (100) hours of work per month, determined by using the number of months  
12 actually worked within a calendar or fiscal year, in the performance of duty;  
13 and
- 14 (e) Interim positions which are positions established for a one-time or recurring  
15 need not to exceed nine (9) months;
- 16 (22) "Delayed contribution payment" means an amount paid by an employee for  
17 purchase of current service. The amount shall be determined using the same formula  
18 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
19 delayed contribution payment shall be deposited to the member's account and  
20 considered as accumulated contributions of the individual member. In determining  
21 payments under this subsection, the formula found in this subsection shall prevail  
22 over the one found in KRS 212.434;
- 23 (23) "Parted employer" means a department, portion of a department, board, or agency,  
24 such as Outwood Hospital and School, which previously participated in the system,  
25 but due to lease or other contractual arrangement is now operated by a publicly held  
26 corporation or other similar organization, and therefore is no longer participating in  
27 the system. The term "parted employer" shall not include a department, board, or

- 1 agency that ceased participation in the system pursuant to KRS 61.522;
- 2 (24) "Retired member" means any former member receiving a retirement allowance or  
3 any former member who has filed the necessary documents for retirement benefits  
4 and is no longer contributing to the retirement system;
- 5 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
6 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
7 pay. The rate shall be certified by the employer;
- 8 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
9 the member in accordance with KRS 61.542 or 61.705 to receive any available  
10 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
11 does not mean an estate, trust, or trustee;
- 12 (27) "Recipient" means the retired member or the person or persons designated as  
13 beneficiary by the member and drawing a retirement allowance as a result of the  
14 member's death or a dependent child drawing a retirement allowance. An alternate  
15 payee of a qualified domestic relations order shall not be considered a recipient,  
16 except for purposes of KRS 61.623;
- 17 (28) "Level-percentage-of-payroll amortization method" means a method of determining  
18 the annual amortization payment on the unfunded actuarial accrued liability as  
19 expressed as a percentage of payroll over a set period of years. Under this method,  
20 the percentage of payroll shall be projected to remain constant for all years  
21 remaining in the set period and the unfunded actuarially accrued liability shall be  
22 projected to be fully amortized at the conclusion of the set period;
- 23 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
24 twelve (12) months need not be consecutive. The final increment may be less than  
25 twelve (12) months;
- 26 (30) "Person" means a natural person;
- 27 (31) "Retirement office" means the Kentucky Retirement Systems office building in

1 Frankfort;

2 (32) "Last day of paid employment" means the last date employer and employee  
3 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
4 78.615 to the retirement office in order for the employee to receive current service  
5 credit for the month. Last day of paid employment does not mean a date the  
6 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
7 that date occurs twenty-four (24) or more months after previous contributions;

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

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

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

19 (36) "Membership date" means:

20 (a) The date upon which the member began participating in the system as  
21 provided in KRS 61.543; or

22 (b) For a member electing to participate in the system pursuant to KRS  
23 196.167(4) who has not previously participated in the system or the Kentucky  
24 Teachers' Retirement System, the date the member began participating in a  
25 defined contribution plan that meets the requirements of 26 U.S.C. sec.  
26 403(b);

27 (37) "Participant" means a member, as defined by subsection (8) of this section, or a

- 1 retired member, as defined by subsection (24) of this section;
- 2 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
3 including approval of a property settlement agreement, that:
- 4 (a) Is issued by a court or administrative agency; and
- 5 (b) Relates to the provision of child support, alimony payments, or marital  
6 property rights to an alternate payee;
- 7 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
8 participant, who is designated to be paid retirement benefits in a qualified domestic  
9 relations order;
- 10 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
11 member's account and interest credited on such amounts as provided by KRS  
12 16.583 and 61.597;
- 13 (41) "Accumulated account balance" means:
- 14 (a) For members who began participating in the system prior to January 1, 2014,  
15 the member's accumulated contributions; or
- 16 (b) For members who began participating in the system on or after January 1,  
17 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
18 the combined sum of the member's accumulated contributions and the  
19 member's accumulated employer credit;
- 20 (42) "Volunteer" means an individual who:
- 21 (a) Freely and without pressure or coercion performs hours of service for an  
22 employer participating in one (1) of the systems administered by Kentucky  
23 Retirement Systems without receipt of compensation for services rendered,  
24 except for reimbursement of actual expenses, payment of a nominal fee to  
25 offset the costs of performing the voluntary services, or both; and
- 26 (b) If a retired member, does not become an employee, leased employee, or  
27 independent contractor of the employer for which he or she is performing

1 volunteer services for a period of at least twenty-four (24) months following  
 2 the retired member's most recent retirement date;~~and~~

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

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

11 ➔Section 4. KRS 61.542 is amended to read as follows:

12 (1) Prior to the first day of the month in which the member receives his or her first  
 13 retirement allowance and prior to the member filing a notification of retirement or a  
 14 request for refund:

15 (a) Each member may designate on the form prescribed by the board a principal  
 16 beneficiary and contingent beneficiary for his or her account. The principal  
 17 beneficiary or contingent beneficiary designated by the member shall be:

- 18 1. One (1) or more persons; or
- 19 2. The member's estate; or
- 20 3. A trust;

21 (b) If multiple persons are designated as provided by paragraph (a)1. of this  
 22 subsection, the member shall indicate the percentage of total benefits each  
 23 person is to receive.

- 24 1. If percentages are not indicated, payments will be disbursed equally to  
 25 the named beneficiaries.
- 26 2. If the percentages indicated do not total one hundred percent (100%),  
 27 each beneficiary shall receive an increased or decreased percentage

1           which is proportional to the percentage allotted him or her by the  
2           member.

3           3. If any of the multiple beneficiaries die prior to the member's death, the  
4           remaining beneficiaries shall be entitled to the deceased beneficiary's  
5           percentage of the total benefits, and each shall receive a percentage of  
6           the deceased's share which is equal to the percentage allotted them by  
7           the member;

8           (c) The principal and contingent beneficiary designation established by the  
9           member pursuant to paragraph (a) of this subsection shall remain in full force  
10          and effect until changed by the member, except:

11          1. A final divorce decree terminates an ex-spouse's status as beneficiary,  
12          unless the member has on file in the retirement office a beneficiary  
13          designation that redesignates the ex-spouse as beneficiary subsequent to  
14          the issuance of the divorce decree;

15          2. If a beneficiary or beneficiaries are convicted of any crime which  
16          prohibits that person or persons from receiving the benefits under KRS  
17          381.280, the beneficiary or beneficiaries shall not be eligible for any of  
18          the benefits and the remaining beneficiary or beneficiaries or, if none,  
19          the member's estate, shall become the beneficiary; and

20          3. When a notification of retirement has been filed at the retirement office,  
21          the designation of beneficiary on the notification of retirement, which  
22          shall be one (1) person, his estate, or a trust, shall supersede the  
23          designation of all previous beneficiaries, unless the notification of  
24          retirement is withdrawn, invalid, or voided. If the notification of  
25          retirement is withdrawn, invalid, or voided, the prior beneficiary  
26          designation on file with the system shall remain in full force and effect  
27          until changed by the member; and



1 (d) Except as provided by paragraph (c)3. of this subsection, if the member fails  
2 to designate a beneficiary for his or her account or if the beneficiary  
3 designation is determined to be void by the system, the member's estate shall  
4 become the beneficiary.

5 (2) If the member dies prior to the first day of the month in which the member would  
6 have received his or her first retirement allowance and prior to filing a notification  
7 of retirement or a request for refund, any retirement benefits shall be payable to the  
8 principal beneficiary, except that:

9 (a) If the death of the principal beneficiary or beneficiaries precedes the death of  
10 the member, or if the principal beneficiary is terminated by a divorce decree,  
11 the contingent beneficiary or beneficiaries become the principal beneficiary or  
12 beneficiaries;

13 (b) If the principal beneficiary is one (1) person and is the member's spouse and  
14 they are divorced on the date of the member's death, the contingent beneficiary  
15 or beneficiaries become the principal beneficiary or beneficiaries;

16 (c) If the member is survived by his principal beneficiary or beneficiaries who  
17 subsequently die prior to having on file at the retirement office the necessary  
18 forms prescribed under authority of KRS 61.590, the contingent beneficiary  
19 shall become the principal beneficiary or beneficiaries; ~~and~~

20 (d) If the deaths of all the principal beneficiaries and all of the contingent  
21 beneficiaries precede the death of the member, the estate of the member  
22 becomes the beneficiary; and

23 (e) If the member dies as a direct result of an act in line of duty as defined in  
24 Section 1 of this Act or dies as a result of a duty-related injury as defined in  
25 Section 5 of this Act, the surviving spouse shall supersede all previously  
26 designated principal or contingent beneficiaries, unless the deceased  
27 member files a valid beneficiary designation form with the retirement office

1                   *after the date of marriage to the surviving spouse.*

- 2       (3) Prior to the first day of the month in which the member would have received his or  
3       her first retirement allowance, a monthly benefit payable for life shall not be offered  
4       if the beneficiary designated under subsection (1) of this section is more than one  
5       (1) person, the member's estate, or a trust.
- 6       (4) When a notification of retirement has been filed at the retirement office:
- 7           (a) The designation of beneficiary on the notification of retirement shall  
8           supersede the designation of all previous beneficiaries;
- 9           (b) The beneficiary designated by the member on the member's notification of  
10          retirement shall be one (1) person, the member's estate, or a trust; and
- 11          (c) If the death of the beneficiary named on the notification of retirement precedes  
12          the first day of the month in which the member receives his or her first  
13          retirement allowance, the member may designate another beneficiary on the  
14          member's notification of retirement.
- 15       (5) On or after the first day of the month in which the member receives his or her first  
16       retirement allowance, the member shall not have the right to change his beneficiary,  
17       except that:
- 18           (a) The estate of the retired member becomes the beneficiary if the date of death  
19           of the beneficiary precedes or coincides with the date of death of the retired  
20           member;
- 21           (b) The estate of the retired member becomes the beneficiary if the retired  
22           member had designated a person as beneficiary who was the spouse or who  
23           later married the member and they were divorced on the date of the retired  
24           member's death. An ex-spouse who was the named beneficiary on the  
25           member's notification of retirement shall be reinstated as the member's  
26           beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and  
27           (8)(b) if they are remarried to each other as of the date of the retired member's

1 death; and

2 (c) The estate of the member shall not receive monthly payments if the member  
3 selected one (1) of the payment options provided by KRS 61.635(2), (3), (4),  
4 and (8)(b).

5 (6) Following cessation of membership as provided by KRS 61.535, no beneficiary  
6 designation in one (1) account shall be effective for any new retirement account  
7 established pursuant to KRS 61.637 or 61.680. If the member fails to designate a  
8 beneficiary for his or her new retirement account or if the beneficiary designation is  
9 determined to be void by the system, the member's estate shall become the  
10 beneficiary.

11 ➔Section 5. KRS 61.621 is amended to read as follows:

12 (1) Notwithstanding any provision of any statutes to the contrary, effective June 1,  
13 2000, any employee participating in one (1) of the state-administered retirement  
14 systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be  
15 eligible for minimum benefits equal to the benefits payable under this section or  
16 KRS 61.702 if the employee dies or becomes totally and permanently disabled to  
17 engage in any occupation for remuneration or profit as a result of a duty-related  
18 injury.

19 (2) (a) For purposes of this section, "duty-related injury" means:

20 1. a. A single traumatic event that occurs while the employee is  
21 performing the duties of his position; or

22 b. A single act of violence committed against the employee that is  
23 found to be related to his job duties, whether or not it occurs at his  
24 job site; and

25 2. The event or act of violence produces a harmful change in the human  
26 organism evidenced by objective medical findings.

27 (b) "Duty-related injury" does not include the effects of the natural aging process,

1 a communicable disease unless the risk of contracting the disease is increased  
 2 by nature of the employment, or a psychological, psychiatric, or stress-related  
 3 change in the human organism unless it is the direct result of a physical injury.

4 (3) (a) If the employee dies as a result of a duty-related injury and is survived by a  
 5 spouse, the surviving spouse shall be the beneficiary, and this shall supersede  
 6 the designation of all previous beneficiaries of the deceased employee's  
 7 retirement account, **except as provided in subsection (2)(e) of Section 4 of**  
 8 **this Act.**

9 (b) The surviving spouse, **provided he or she supersedes all previously**  
 10 **designated beneficiaries,** may elect to receive the benefits payable under KRS  
 11 61.640 or other applicable death benefit statutes, or may elect to receive a  
 12 lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment  
 13 equal to **seventy-five percent (75%)**~~twenty five percent (25%)~~ of the  
 14 member's monthly **average**~~final rate of~~ pay beginning in the month  
 15 following the member's death and continuing each month until **the death of**  
 16 **the surviving spouse. In addition, if the member is also survived by**  
 17 **dependent children, monthly payments shall be made for each dependent**  
 18 **child equal to ten percent (10%) of the deceased member's monthly average**  
 19 **pay, except that the combined maximum payment made to the:**

20 **1. Surviving spouse and dependent children under this subsection shall**  
 21 **not exceed one hundred percent (100%) of the deceased member's**  
 22 **monthly average pay; and**

23 **2. Dependent children, while the surviving spouse is living, shall not**  
 24 **exceed twenty-five percent (25%) of the deceased member's monthly**  
 25 **average pay. Payments made to the dependent children under this**  
 26 **subsection shall be divided equally among all the dependent children.**

27 (4) **If the employee dies as a result of a duty-related injury and is not survived by a**

1 spouse but is survived by a dependent child or children, the following benefits  
 2 shall be paid to the dependent child or children:

3 (a) Fifty percent (50%) of the deceased member's monthly average pay, if the  
 4 deceased member has one (1) dependent child;

5 (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if  
 6 the deceased member has two (2) dependent children; or

7 (c) Seventy-five percent (75%) of the deceased member's monthly average pay,  
 8 if the deceased member has three (3) or more dependent children.

9 Payments made to the dependent children under this subsection shall be divided  
 10 equally among all the dependent children.

11 (5) If the employee is determined to be disabled as provided in KRS 61.600, or other  
 12 applicable disability statutes in any other state-administered retirement system, as  
 13 the result of a duty-related injury, the employee may elect to receive benefits  
 14 determined under the provisions of KRS 61.605, or other applicable disability  
 15 statutes in any other state-administered retirement system, except that the monthly  
 16 retirement allowance shall not be less than twenty-five percent (25%) of the  
 17 employee's monthly final rate of pay. For purposes of determining disability, the  
 18 service requirement in KRS 61.600(1)(a), or other applicable statutes in any other  
 19 state-administered retirement system, shall be waived.

20 (6)~~(5)~~ In the period of time following a member's ~~death or~~ disability during which  
 21 dependent children survive, a monthly payment shall be made for each dependent  
 22 child who is alive which shall be equal to ten percent (10%) of the ~~deceased or~~  
 23 ~~disabled~~ member's monthly final rate of pay; however, total maximum dependent  
 24 children's benefits shall not exceed forty percent (40%) of the ~~deceased or~~  
 25 ~~disabled~~ member's monthly final rate of pay at the time any particular payment is  
 26 due. The payment shall commence in the month following the date of ~~death or~~  
 27 ~~disability~~ of the member and shall be payable to the beneficiaries, or to a legally

1 appointed guardian, or as directed by the system.

2 **(7)** Benefits for death as a result of a duty-related injury ***to a dependent child*** shall be  
 3 payable under this **section**~~[subsection]~~ notwithstanding an election by a **surviving**  
 4 **spouse or** beneficiary to withdraw the deceased member's accumulated account  
 5 balance as provided in KRS 61.625 or benefits under any other provisions of KRS  
 6 61.515 to 61.705 or other applicable death benefit statutes in any other state-  
 7 administered retirement system.

8 ~~**(8)**~~~~**(6)**~~ (a) A spouse applying for benefits under this section who is also eligible for  
 9 benefits under KRS 61.640 may elect to receive benefits under KRS  
 10 61.640(2)(a) or (b) while the application for benefits under this section is  
 11 pending.

12 (b) If a final determination results in a finding of eligibility for benefits under this  
 13 section, the system shall recalculate the benefits due the spouse in accordance  
 14 with this subsection.

15 (c) If the spouse has been paid less than the amount of benefits to which the  
 16 spouse was entitled to receive under this section, the system shall pay the  
 17 additional funds due to the spouse.

18 (d) If the spouse has been paid more than the benefit the spouse was eligible to  
 19 receive under this section, then the system shall deduct the amount owed by  
 20 the spouse from the ten thousand dollars (\$10,000) lump-sum payment and  
 21 from the monthly retirement allowance payments until the amount owed to the  
 22 systems has been recovered.

23 **(9)** ***For purposes of this section, "dependent child" has the same meaning as in***  
 24 **Section 1 of this Act.**

25 ~~**(10)**~~~~**(7)**~~ This section shall be known as "The Fred Capps Memorial Act."

26 ➔Section 6. KRS 61.702 is amended to read as follows:

27 (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by

1 appropriate contract or on a self-insured basis to provide a group  
2 hospital and medical insurance plan for present and future recipients of a  
3 retirement allowance from the Kentucky Employees Retirement System,  
4 County Employees Retirement System, and State Police Retirement  
5 System, except as provided in subsection (8) of this section. The board  
6 shall also arrange to provide health care coverage through an insurer  
7 licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a  
8 managed care plan as defined in KRS 304.17A-500, as an alternative to  
9 group hospital and medical insurance for any person eligible for hospital  
10 and medical benefits under this section.

11 2. Any person who chooses coverage under a hospital and medical  
12 insurance plan shall pay, by payroll deduction from the retirement  
13 allowance or by another method, the difference in premium between the  
14 cost of the hospital and medical insurance plan coverage and the benefits  
15 to which he would be entitled under this section.

16 3. For purposes of this section, "hospital and medical insurance plan" may  
17 include, at the board's discretion, any one (1) or more of the following:

18 a. Any hospital and medical expense policy or certificate, provider-  
19 sponsored integrated health delivery network, self-insured medical  
20 plan, health maintenance organization contract, or other health  
21 benefit plan;

22 b. Any health savings account as permitted by 26 U.S.C. sec. 223 or  
23 health reimbursement arrangement or a similar account as may be  
24 permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or  
25 account, in the board's discretion, may reimburse any medical  
26 expense permissible under 26 U.S.C. sec. 213; or

27 c. A medical insurance reimbursement program established by the

1 board through the promulgation of administrative regulation under  
2 which members purchase individual health insurance coverage  
3 through a health insurance exchange established under 42 U.S.C.  
4 sec. 18031 or 18041.

5 (b) The board may authorize present and future recipients of a retirement  
6 allowance from any of the three (3) retirement systems to be included in the  
7 state employees' group for hospital and medical insurance and shall provide  
8 benefits for recipients equal to those provided to state employees having the  
9 same Medicare hospital and medical insurance eligibility status, except as  
10 provided in subsection (8) of this section. Notwithstanding the provisions of  
11 any other statute, recipients shall be included in the same class as current state  
12 employees in determining medical insurance policies and premiums.

13 (c) For recipients of a retirement allowance who are not eligible for the same  
14 level of hospital and medical benefits as recipients living in Kentucky having  
15 the same Medicare hospital and medical insurance eligibility status, the board  
16 shall provide a medical insurance reimbursement plan as described in  
17 subsection (7) of this section.

18 (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of  
19 trustees, in its discretion, may take necessary steps to ensure compliance with  
20 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving  
21 contributions and premiums from, and providing benefits pursuant to this  
22 section to, persons entitled to continuation coverage under 42 U.S.C. secs.  
23 300bb-1 et seq., regardless of whether such persons are recipients of a  
24 retirement allowance.

25 (2) (a) Each employer participating in the State Police Retirement System as  
26 provided for in KRS 16.505 to 16.652, each employer participating in the  
27 County Employees Retirement System as provided in KRS 78.510 to 78.852,



1 and each employer participating in the Kentucky Employees Retirement  
2 System as provided for in KRS 61.510 to 61.705 shall contribute to the  
3 Kentucky Retirement Systems insurance trust fund the amount necessary to  
4 provide hospital and medical insurance as provided for under this section.  
5 Such employer contribution rate shall be developed by appropriate actuarial  
6 method as a part of the determination of each respective employer  
7 contribution rate to each respective retirement system determined under KRS  
8 61.565.

- 9 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct  
10 from the creditable compensation of each member having a membership  
11 date on or after September 1, 2008, an amount equal to one percent (1%)  
12 of the member's creditable compensation. The deducted amounts shall  
13 be credited to accounts established pursuant to 26 U.S.C. sec. 401(h),  
14 within the funds established in KRS 16.510, 61.515, and 78.520.
- 15 2. The employer shall file the contributions as provided by subparagraph 1.  
16 of this paragraph at the retirement office in accordance with KRS 61.675  
17 and 78.625. Any interest or penalties paid on any delinquent  
18 contributions shall be credited to accounts established pursuant to 26  
19 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515,  
20 and 78.520. Notwithstanding any minimum compensation requirements  
21 provided by law, the deductions provided by this paragraph shall be  
22 made, and the compensation of the member shall be reduced  
23 accordingly.
- 24 3. Each employer shall submit payroll reports, contributions lists, and other  
25 data as may be required by administrative regulation promulgated by the  
26 board of trustees pursuant to KRS Chapter 13A.
- 27 4. Every member shall be deemed to consent and agree to the deductions

1 made pursuant to this paragraph, and the payment of salary or  
2 compensation less the deductions shall be a full and complete discharge  
3 of all claims for services rendered by the person during the period  
4 covered by the payment, except as to any benefits provided by KRS  
5 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member  
6 may elect whether to participate in, or choose the contribution amount to  
7 accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
8 established in KRS 16.510, 61.515, and 78.520. The member shall have  
9 no option to receive the contribution required by this paragraph directly  
10 instead of having the contribution paid to accounts established pursuant  
11 to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,  
12 61.515, and 78.520. No member may receive a rebate or refund of  
13 contributions. If a member establishes a membership date prior to  
14 September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this  
15 paragraph shall not apply to the member and all contributions previously  
16 deducted in accordance with this paragraph shall be refunded to the  
17 member without interest. The contribution made pursuant to this  
18 paragraph shall not act as a reduction or offset to any other contribution  
19 required of a member or recipient under KRS 16.505 to 16.652, 61.510  
20 to 61.705, and 78.510 to 78.852.

21 5. The board of trustees, at its discretion, may direct that the contributions  
22 required by this paragraph be accounted for within accounts established  
23 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
24 16.510, 61.515, and 78.520 through the use of separate accounts.

25 (3) (a) The premium required to provide hospital and medical benefits under this  
26 section shall be paid:

27 1. Wholly or partly from funds contributed by the recipient of a retirement

- 1 allowance, by payroll deduction, or otherwise;
- 2 2. Wholly or partly from funds contributed by the Kentucky Retirement  
3 Systems insurance trust fund;
- 4 3. Wholly or partly from funds contributed to accounts established  
5 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
6 16.510, 61.515, and 78.520;
- 7 4. Wholly or partly from funds contributed by another state-administered  
8 retirement system under a reciprocal arrangement, except that any  
9 portion of the premium paid from the Kentucky Retirement Systems  
10 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.  
11 401(h) within the funds established in KRS 16.510, 61.515, and 78.520  
12 under a reciprocal agreement shall not exceed the amount that would be  
13 payable under this section if all the member's service were in one (1) of  
14 the systems administered by the Kentucky Retirement Systems;
- 15 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any  
16 premium for hospital and medical insurance over the amount contributed  
17 by the Kentucky Retirement Systems insurance trust fund; accounts  
18 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
19 established in KRS 16.510, 61.515, and 78.520; or another state-  
20 administered retirement system under a reciprocal agreement shall be  
21 paid by the recipient by an automatic electronic transfer of funds. If the  
22 board provides for cross-referencing of insurance premiums, the  
23 employer's contribution for the working member or spouse shall be  
24 applied toward the premium, and the Kentucky Retirement Systems  
25 insurance trust fund or accounts established pursuant to 26 U.S.C. sec.  
26 401(h) within the funds established in KRS 16.510, 61.515, and 78.520  
27 shall pay the balance, not to exceed the monthly contribution; or

1           6.    In full from the Kentucky Retirement Systems insurance trust fund or  
2           accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
3           established in KRS 16.510, 61.515, and 78.520 for all recipients of a  
4           retirement allowance from any of the three (3) retirement systems where  
5           such recipient is a retired former member of one (1) or more of the three  
6           (3) retirement systems (not a beneficiary or dependent child receiving  
7           benefits) and had two hundred and forty (240) months or more of service  
8           upon retirement. Should such recipient have less than two hundred forty  
9           (240) months of service but have at least one hundred eighty (180)  
10          months of service, seventy-five percent (75%) of such premium shall be  
11          paid from the insurance trust fund or accounts established pursuant to 26  
12          U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,  
13          and 78.520, provided such recipient agrees to pay the remaining twenty-  
14          five percent (25%) by payroll deduction from his retirement allowance  
15          or by another method. Should such recipient have less than one hundred  
16          eighty (180) months of service but have at least one hundred twenty  
17          (120) months of service, fifty percent (50%) of such premium shall be  
18          paid from the insurance trust fund or accounts established pursuant to 26  
19          U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,  
20          and 78.520, provided such recipient agrees to pay the remaining fifty  
21          percent (50%) by payroll deduction from his retirement allowance or by  
22          another method. Should such recipient have less than one hundred  
23          twenty (120) months of service but have at least forty-eight (48) months  
24          of service, twenty-five percent (25%) of such premium shall be paid  
25          from the insurance trust fund or accounts established pursuant to 26  
26          U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,  
27          and 78.520, provided such recipient agrees to pay the remaining seventy-

1 five percent (75%) by payroll deduction from his retirement allowance  
2 or by another method. Notwithstanding the foregoing provisions of this  
3 subsection, an employee participating in one (1) of the retirement  
4 systems administered by the Kentucky Retirement Systems who  
5 becomes disabled **as a direct result of an act** in ~~the~~ line of duty as  
6 defined in **Section 1 of this Act**~~[KRS 16.505(19)]~~ or **as a result of a**  
7 **duty-related injury as defined in Section 5 of this Act**~~[61.621]~~, shall  
8 have his premium paid in full as if he had two hundred forty (240)  
9 months or more of service. Further, an employee participating in one (1)  
10 of the retirement systems administered by the Kentucky Retirement  
11 Systems who is killed **as a direct result of an act** in ~~the~~ line of duty as  
12 defined in **Section 1 of this Act**~~[KRS 16.505(19)]~~ or **as a result of a**  
13 **duty-related injury as defined in Section 5 of this Act**~~[61.621]~~, shall  
14 have the premium for the beneficiary, if the beneficiary is the member's  
15 spouse, and for each dependent child **as defined in Section 1 of this Act,**  
16 paid so long as they individually remain eligible for a monthly  
17 retirement benefit. "Months of service" as used in this section shall mean  
18 the total months of combined service used to determine benefits under  
19 any or all of the three (3) retirement systems, except service added to  
20 determine disability benefits shall not be counted as "months of service."  
21 For current and former employees of the Council on Postsecondary  
22 Education who were employed prior to January 1, 1993, and who earn at  
23 least fifteen (15) years of service credit in the Kentucky Employees  
24 Retirement System, "months of service" shall also include vested service  
25 in another retirement system other than the Kentucky Teachers'  
26 Retirement System sponsored by the Council on Postsecondary  
27 Education.

- 1 (b) 1. For a member electing insurance coverage through the Kentucky  
2 Retirement Systems, "months of service" shall include, in addition to  
3 service as described in paragraph (a) of this subsection, service credit in  
4 one (1) of the other state-administered retirement plans.
- 5 2. Effective August 1, 1998, the Kentucky Retirement Systems shall  
6 compute the member's combined service, including service credit in  
7 another state-administered retirement plan, and calculate the portion of  
8 the member's premium to be paid by the insurance trust fund accounts  
9 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
10 established in KRS 16.510, 61.515, and 78.520, according to the criteria  
11 established in paragraph (a) of this subsection. Each state-administered  
12 retirement plan annually shall pay to the insurance trust fund the  
13 percentage of the system's cost of the retiree's monthly contribution for  
14 single coverage for hospital and medical insurance which shall be equal  
15 to the percentage of the member's number of months of service in the  
16 other state-administered retirement plan divided by his total combined  
17 service. The amounts paid by the other state-administered retirement  
18 plans and the insurance trust fund or accounts established pursuant to 26  
19 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515,  
20 and 78.520 shall not be more than one hundred percent (100%) of the  
21 monthly contribution adopted by the respective boards of trustees.
- 22 3. A member may not elect coverage for hospital and medical benefits  
23 under this subsection through more than one (1) of the state-  
24 administered retirement plans.
- 25 4. A state-administered retirement plan shall not pay any portion of a  
26 member's monthly contribution for medical insurance unless the member  
27 is a recipient or annuitant of the plan.

1           5.    The premium paid by the Kentucky Retirement Systems insurance trust  
2           fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within  
3           the funds established in KRS 16.510, 61.515, and 78.520 shall not  
4           exceed one hundred percent (100%) of the monthly contribution rate  
5           toward hospital and medical insurance coverage approved by the board  
6           of trustees of the Kentucky Retirement Systems.

7   (4)   (a)   Group rates under the hospital and medical insurance plan shall be made  
8           available to the spouse, each dependent child, and each disabled child,  
9           regardless of the disabled child's age, of a recipient who is a former member  
10          or the beneficiary, if the premium for the hospital and medical insurance for  
11          the spouse, each dependent child, and each disabled child, or beneficiary is  
12          paid by payroll deduction from the retirement allowance or by another  
13          method. For purposes of this subsection only, a child shall be considered  
14          disabled if he has been determined to be eligible for federal Social Security  
15          disability benefits or meets the dependent disability standard established by  
16          the Department of Employee Insurance in the Personnel Cabinet.

17       (b)   The other provisions of this section notwithstanding, the insurance trust fund  
18          or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
19          established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the  
20          monthly contribution for the spouse and for each dependent child of a  
21          recipient who was a member of the General Assembly and is receiving a  
22          retirement allowance based on General Assembly service, of the Kentucky  
23          Employees Retirement System and determined to be in a hazardous position,  
24          of the County Employees Retirement System, and determined to be in a  
25          hazardous position or of the State Police Retirement System. The percentage  
26          of the monthly contribution paid for the spouse and each dependent child of a  
27          recipient who was in a hazardous position shall be based solely on the

1 member's service with the State Police Retirement System or service in a  
2 hazardous position using the formula in subsection (3)(a) of this section,  
3 except that for any recipient of a retirement allowance from the County  
4 Employees Retirement System who was contributing to the system on January  
5 1, 1998, for service in a hazardous position, the percentage of the monthly  
6 contribution shall be based on the total of hazardous service and any  
7 nonhazardous service as a police or firefighter with the same agency, if that  
8 agency was participating in the County Employees Retirement System but did  
9 not offer hazardous duty coverage for its police and firefighters at the time of  
10 initial participation.

11 (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec.  
12 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520  
13 shall continue the same level of coverage for a recipient who was a member of  
14 the County Employees Retirement System after the age of sixty-five (65) as  
15 before the age of sixty-five (65), if the recipient is not eligible for Medicare  
16 coverage. If the insurance trust fund or accounts established pursuant to 26  
17 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and  
18 78.520 provides coverage for the spouse or each dependent child of a former  
19 member of the County Employees Retirement System, the insurance trust fund  
20 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds  
21 established in KRS 16.510, 61.515, and 78.520 shall continue the same level  
22 of coverage for the spouse or each dependent child after the age of sixty-five  
23 (65) as before the age of sixty-five (65), if the spouse or dependent child is not  
24 eligible for Medicare coverage.

25 (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member  
26 who holds a judicial office but did not elect to participate in the Judicial Retirement  
27 Plan and is participating instead in the Kentucky Employees Retirement System, the



1 County Employees Retirement System, or the State Police Retirement System, as  
2 provided in KRS 61.680, and who has at least twenty (20) years of total service,  
3 one-half (1/2) of which is in a judicial office, shall receive the same hospital and  
4 medical insurance benefits, including paid benefits for spouse and dependents, as  
5 provided to persons retiring under the provisions of KRS 21.427. The  
6 Administrative Office of the Courts shall pay the cost of the medical insurance  
7 benefits provided by this subsection.

8 (6) Premiums paid for hospital and medical insurance coverage procured under  
9 authority of this section shall be exempt from any premium tax which might  
10 otherwise be required under KRS Chapter 136. The payment of premiums by the  
11 insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h)  
12 within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute  
13 taxable income to an insured recipient. No commission shall be paid for hospital  
14 and medical insurance procured under authority of this section.

15 (7) The board shall promulgate an administrative regulation to establish a medical  
16 insurance reimbursement plan to provide reimbursement for hospital and medical  
17 insurance premiums of recipients of a retirement allowance who are not eligible for  
18 the same level of hospital and medical benefits as recipients living in Kentucky and  
19 having the same Medicare hospital and medical insurance eligibility status. An  
20 eligible recipient shall file proof of payment for hospital and medical insurance at  
21 the retirement office. Reimbursement to eligible recipients shall be made on a  
22 quarterly basis. The recipient shall be eligible for reimbursement of substantiated  
23 medical insurance premiums for an amount not to exceed the total monthly  
24 premium determined under subsection (3) of this section. The plan shall not be  
25 made available if all recipients are eligible for the same coverage as recipients  
26 living in Kentucky.

27 (8) (a) 1. For employees having a membership date on or after July 1, 2003, and

1 before September 1, 2008, participation in the insurance benefits  
2 provided under this section shall not be allowed until the employee has  
3 earned at least one hundred twenty (120) months of service in the state-  
4 administered retirement systems.

5 2. For an employee having a membership date on or after September 1,  
6 2008, participation in the insurance benefits provided under this section  
7 shall not be allowed until the employee has earned at least one hundred  
8 eighty (180) months of service credited under KRS 16.543(1),  
9 61.543(1), or 78.615(1) or another state-administered retirement system.

10 (b) An employee who meets the minimum service requirements as provided by  
11 paragraph (a) of this subsection shall be eligible for benefits as follows:

12 1. For employees who are not in a hazardous position, a monthly insurance  
13 contribution of ten dollars (\$10) for each year of service as a  
14 participating employee.

15 2. For employees who are in a hazardous position or who participate in the  
16 State Police Retirement System, a monthly insurance contribution of  
17 fifteen dollars (\$15) for each year of service as a participating employee  
18 in a hazardous position or as a participating member of the State Police  
19 Retirement System. Upon the death of the retired member, the  
20 beneficiary, if the beneficiary is the member's spouse, shall be entitled to  
21 a monthly insurance contribution of ten dollars (\$10) for each year of  
22 service the member attained as a participating employee in a hazardous  
23 position or as a participating member of the State Police Retirement  
24 System.

25 (c) 1. The minimum service requirement to participate in benefits as provided  
26 by paragraph (a) of this subsection shall be waived for a member who is  
27 disabled **as a direct result of an act**~~for killed~~ in ~~the~~ line of duty as

- 1 defined in *Section 1 of this Act*~~[KRS 16.505(19)]~~, and the member or  
 2 his spouse and eligible dependents shall be entitled to the benefits  
 3 payable under this subsection as though the member had twenty (20)  
 4 years of service in a hazardous position.
- 5 2. The minimum service required to participate in benefits as provided by  
 6 paragraph (a) of this subsection shall be waived for a member who is  
 7 disabled *by a duty-related injury*~~[in the line of duty]~~ as defined in  
 8 *Section 5 of this Act*~~[KRS 61.621]~~, and the member shall be entitled to  
 9 the benefits payable under this subsection as though the member has  
 10 twenty (20) years of service in a nonhazardous position.
- 11 3. The minimum service required to participate in benefits as provided by  
 12 paragraph (a) of this subsection shall be waived for a member who *dies*  
 13 *as a direct result of an act in line of duty as defined in Section 1 of this*  
 14 *Act or who dies as a result of a*~~[is killed in the line of]~~ *duty-related*  
 15 *injury* as *defined* ~~[described]~~ in *Section 5 of this Act*~~[KRS 61.621]~~, and  
 16 the *premium for the* member's spouse and *for each dependent child as*  
 17 *defined in Section 1 of this Act*~~[(eligible dependents)]~~ shall be *paid in*  
 18 *full by the systems so long as they individually remain eligible for a*  
 19 *monthly retirement benefit*~~[entitled to the benefits payable under this~~  
 20 ~~subsection as though the member has twenty (20) years of service in a~~  
 21 ~~hazardous position]~~.
- 22 (d) *Except as provided by paragraph (c)3. of this subsection,* the monthly  
 23 insurance contribution amount shall be increased July 1 of each year by  
 24 one and one-half percent (1.5%). The increase shall be cumulative and  
 25 shall continue to accrue after the member's retirement for as long as a  
 26 monthly insurance contribution is payable to the retired member or  
 27 beneficiary.

1 (e) The benefits of this subsection provided to a member whose participation  
2 begins on or after July 1, 2003, shall not be considered as benefits protected  
3 by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The  
4 General Assembly reserves the right to suspend or reduce the benefits  
5 conferred in this subsection if in its judgment the welfare of the  
6 Commonwealth so demands.

7 (f) An employee whose membership date is on or after September 1, 2008, who  
8 retires and is reemployed in a regular full-time position required to participate  
9 in one (1) of the systems administered by Kentucky Retirement Systems shall  
10 not be eligible for health insurance coverage or benefits provided by this  
11 section and shall take coverage with his or her employing agency during the  
12 period of reemployment in a regular full-time position.

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

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

- 15 (1) "System" means the County Employees Retirement System;
- 16 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- 17 (3) "County" means any county, or nonprofit organization created and governed by a  
18 county, counties, or elected county officers, sheriff and his employees, county clerk  
19 and his employees, circuit clerk and his deputies, former circuit clerks or former  
20 circuit clerk deputies, or political subdivision or instrumentality, including school  
21 boards, charter county government, or urban-county government participating in the  
22 system by order appropriate to its governmental structure, as provided in KRS  
23 78.530, and if the board is willing to accept the agency, organization, or  
24 corporation, the board being hereby granted the authority to determine the eligibility  
25 of the agency to participate;
- 26 (4) "School board" means any board of education participating in the system by order  
27 appropriate to its governmental structure, as provided in KRS 78.530, and if the

1 board is willing to accept the agency or corporation, the board being hereby granted  
2 the authority to determine the eligibility of the agency to participate;

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

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

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

13 (8) "Member" means any employee who is included in the membership of the system or  
14 any former employee whose membership has not been terminated under KRS  
15 61.535;

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

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

21 (11) "Prior service" means the number of years and completed months, expressed as a  
22 fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
23 creditable compensation was paid. An employee shall be credited with one (1)  
24 month of prior service only in those months he received compensation for at least  
25 one hundred (100) hours of work. Twelve (12) months of current service in the  
26 system shall be required to validate prior service;

27 (12) "Accumulated contributions" means the sum of all amounts deducted from the

1 compensation of a member and credited to his individual account in the members'  
2 account, including employee contributions picked up after August 1, 1982, pursuant  
3 to KRS 78.610(4), together with interest credited on the amounts, and any other  
4 amounts the member shall have contributed thereto, including interest credited  
5 thereon. For members who begin participating on or after September 1, 2008,  
6 "accumulated contributions" shall not include employee contributions that are  
7 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
8 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
9 61.702(2)(b);

10 (13) "Creditable compensation":

11 (a) Means all salary, wages, and fees, including payments for compensatory time,  
12 paid to the employee as a result of services performed for the employer or for  
13 time during which the member is on paid leave, which are includable on the  
14 member's federal form W-2 wage and tax statement under the heading "wages,  
15 tips, other compensation", including employee contributions picked up after  
16 August 1, 1982, pursuant to KRS 78.610(4);

17 (b) Includes:

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

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

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

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

17 (c) Excludes:

18 1. Living allowances, expense reimbursements, lump-sum payments for  
19 accrued vacation leave, sick leave except as provided in KRS 78.616(5),  
20 and other items determined by the board;

21 2. For employees who begin participating on or after September 1, 2008,  
22 lump-sum payments for compensatory time; and

23 3. Training incentive payments for city officers paid as set out in KRS  
24 64.5277 to 64.5279. For employees who begin participating on or after  
25 August 1, 2016, creditable compensation shall exclude nominal fees  
26 paid for services as a volunteer;

27 (14) "Final compensation" means:

- 1 (a) For a member who begins participating before September 1, 2008, who is not  
2 employed in a hazardous position, as provided in KRS 61.592, the creditable  
3 compensation of the member during the five (5) fiscal years he was paid at the  
4 highest average monthly rate divided by the number of months of service  
5 credit during that five (5) year period multiplied by twelve (12). The five (5)  
6 years may be fractional and need not be consecutive. If the number of months  
7 of service credit during the five (5) year period is less than forty-eight (48),  
8 one (1) or more additional fiscal years shall be used;
- 9 (b) For a member who is not employed in a hazardous position, as provided in  
10 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
11 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
12 years and whose age and years of service total at least seventy-five (75), final  
13 compensation means the creditable compensation of the member during the  
14 three (3) fiscal years the member was paid at the highest average monthly rate  
15 divided by the number of months of service credit during that three (3) year  
16 period multiplied by twelve (12). The three (3) years may be fractional and  
17 need not be consecutive. If the number of months of service credit during the  
18 three (3) year period is less than twenty-four (24), one (1) or more additional  
19 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
20 funding for this paragraph shall be provided from existing funds of the  
21 retirement allowance;
- 22 (c) For a member who begins participating before September 1, 2008, who is  
23 employed in a hazardous position, as provided in KRS 61.592, the creditable  
24 compensation of the member during the three (3) fiscal years he was paid at  
25 the highest average monthly rate divided by the number of months of service  
26 credit during that three (3) year period multiplied by twelve (12). The three (3)  
27 years may be fractional and need not be consecutive. If the number of months



1 of service credit during the three (3) year period is less than twenty-four (24),  
2 one (1) or more additional fiscal years, which may contain less than twelve  
3 (12) months of service credit, shall be used;

4 (d) For a member who begins participating on or after September 1, 2008, but  
5 prior to January 1, 2014, who is not employed in a hazardous position, as  
6 provided in KRS 61.592, the creditable compensation of the member during  
7 the five (5) complete fiscal years immediately preceding retirement divided by  
8 five (5). Each fiscal year used to determine final compensation must contain  
9 twelve (12) months of service credit. If the member does not have five (5)  
10 complete fiscal years that each contain twelve (12) months of service credit,  
11 then one (1) or more additional fiscal years, which may contain less than  
12 twelve (12) months of service credit, shall be added until the number of  
13 months in the final compensation calculation is at least sixty (60) months; or

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

25 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
26 calculated during the twelve (12) month period immediately preceding the  
27 member's effective retirement date, and shall include employee contributions picked

1 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to  
2 the system by the employer and the following equivalents shall be used to convert  
3 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
4 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half  
5 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve  
6 (12) months, one (1) year;

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

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

17 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless  
18 otherwise provided in KRS 78.510 to 78.852;

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

23 (20) "Agency reporting official" means the person designated by the participating agency  
24 who shall be responsible for forwarding all employer and employee contributions  
25 and a record of the contributions to the system and for performing other  
26 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

27 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean

1 all positions that average one hundred (100) or more hours per month, determined  
2 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
3 (80) or more hours per month in the case of noncertified employees of school  
4 boards, determined by using the number of hours actually worked in a calendar or  
5 school year, unless otherwise specified, except:

- 6 (a) Seasonal positions, which although temporary in duration, are positions which  
7 coincide in duration with a particular season or seasons of the year and that  
8 may recur regularly from year to year, in which case the period of time shall  
9 not exceed nine (9) months, except for employees of school boards, in which  
10 case the period of time shall not exceed six (6) months;
- 11 (b) Emergency positions that are positions that do not exceed thirty (30) working  
12 days and are nonrenewable;
- 13 (c) Temporary positions that are positions of employment with a participating  
14 agency for a period of time not to exceed twelve (12) months and not  
15 renewable;
- 16 (d) Probationary positions which are positions of employment with a participating  
17 employer that do not exceed twelve (12) months and that are used uniformly  
18 by the participating agency on new employees who would otherwise be  
19 eligible for participation in the system. Probationary positions shall not be  
20 renewable by the participating employer for the same employee, unless the  
21 employee has not been employed with the participating employer for a period  
22 of at least twelve (12) months; or
- 23 (e) Part-time positions that are positions that may be permanent in duration, but  
24 that require less than a calendar or fiscal year average of one hundred (100)  
25 hours of work per month, determined by using the number of months actually  
26 worked within a calendar or fiscal year, in the performance of duty, except in  
27 case of noncertified employees of school boards, the school term average shall

1           be eighty (80) hours of work per month, determined by using the number of  
2           months actually worked in a calendar or school year, in the performance of  
3           duty;

4 (22) "Alternate participation plan" means a method of participation in the system as  
5           provided for by KRS 78.530(3);

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

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

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

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

21 (27) "Person" means a natural person;

22 (28) "School term or year" means the twelve (12) months from July 1 through the  
23          following June 30;

24 (29) "Retirement office" means the Kentucky Retirement Systems office building in  
25          Frankfort;

26 (30) "Delayed contribution payment" means an amount paid by an employee for current  
27          service obtained under KRS 61.552. The amount shall be determined using the

1 same formula in KRS 61.5525, except the determination of the actuarial cost for  
2 classified employees of a school board shall be based on their final compensation,  
3 and the payment shall not be picked up by the employer. A delayed contribution  
4 payment shall be deposited to the member's account and considered as accumulated  
5 contributions of the individual member. In determining payments under this  
6 subsection, the formula found in this subsection shall prevail over the one found in  
7 KRS 212.434;

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

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

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

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

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

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

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

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

23 (37) "Accumulated employer credit" means the employer pay credit deposited to the  
24 member's account and interest credited on such amounts as provided by KRS  
25 16.583 and 61.597;

26 (38) "Accumulated account balance" means:

27 (a) For members who began participating in the system prior to January 1, 2014,

1 the member's accumulated contributions; or

2 (b) For members who began participating in the system on or after January 1,  
3 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
4 the combined sum of the member's accumulated contributions and the  
5 member's accumulated employer credit;

6 (39) "Volunteer" means an individual who:

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

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

16 (40) "Nominal fee" means compensation earned for services as a volunteer that does not  
17 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
18 a volunteer from more than one (1) participating employer during a month shall be  
19 aggregated to determine whether the compensation exceeds the five hundred dollars  
20 (\$500) per month maximum provided by this subsection; **and**

21 **(41) "Monthly average pay" means the higher of the member's monthly final rate of**  
22 **pay or the average monthly creditable compensation earned by the deceased**  
23 **member during his or her last twelve (12) months of employment.**

24 ➔Section 8. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to  
25 78.852, 161.220 to 161.716, or any provision of Sections 1 to 7 of this Act to the  
26 contrary, the Kentucky Retirement Systems shall provide the following benefit  
27 adjustments to surviving spouses and dependent children of those members who died

1 prior to the effective date of this Act and whose death was determined by the systems to  
2 be a direct result of an act in line of duty as defined in subsection (19) of Section 1 of this  
3 Act or whose death resulted from a duty-related injury as defined in Section 5 of this Act:

- 4 (1) In the month following the effective date of this Act, the surviving spouse, if the  
5 spouse is receiving a monthly benefit due to a member's death, shall have his or her  
6 monthly benefit increased to the amount specified by Section 2 or 5 of this Act, as  
7 applicable, except that the amount shall not be increased above a level that exceeds  
8 100 percent of the member's monthly average pay when combined with any  
9 dependent child payments from the systems;
- 10 (2) In the month following the effective date of this Act, any dependent child who is  
11 receiving a monthly benefit due to a member's death shall have his or her monthly  
12 benefit increased to the amount specified by Section 2 or 5 of this Act, as  
13 applicable, if the member was not married at the time of death;
- 14 (3) In the month following the effective date of this Act, a surviving spouse who was  
15 married to the deceased member at the time of death but who was ineligible for  
16 monthly benefits payable to the surviving spouse under KRS 16.601 as codified  
17 prior to the effective date of this Act, shall receive the monthly benefit payable to  
18 the surviving spouse in Section 2 of this Act, provided the member's death occurred  
19 on or after January 1, 2017; and
- 20 (4) In the month following the effective date of this Act, any surviving spouse and any  
21 dependent child of a deceased member who is receiving a monthly benefit shall be  
22 eligible for the health benefits specified by Section 6 of this Act.

23 The provisions of this section shall only be construed to provide benefit adjustments to  
24 surviving spouses and dependent children of those members who died prior to the  
25 effective date of this Act and only in situations where the member's death was determined  
26 by the systems to be the direct result of an act in line of duty as defined in subsection (19)  
27 of Section 1 of this Act or resulted from a duty-related injury as defined in Section 5 of

1 this Act.

2       ➔Section 9. The provisions of Sections 1 to 8 of this Act shall not reduce any  
3 benefits payable to any surviving spouse or dependent children of a member who died  
4 prior to the effective date of this Act and whose death was determined by the systems to  
5 be the direct result of an act in line of duty as defined in subsection (19) of Section 1 of  
6 this Act or resulted from a duty-related injury as defined in Section 5 of this Act.

7       ➔Section 10. Whereas protecting and honoring the families of public safety  
8 officers and employees who have given their lives in service to the Commonwealth is a  
9 value held by all Kentuckians, an emergency is declared to exist, and this Act takes effect  
10 upon its passage and approval by the Governor or upon its otherwise becoming a law.