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

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

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

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

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

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

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

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

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

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

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

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

(8) "Creditable compensation":

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

(b) Includes:

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

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

employer;

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

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

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;

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

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

(9) "Final compensation" means:

(a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or

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

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

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

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

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

computed under early retirement;

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

(15) "Normal retirement date" means:

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

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

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

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

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

(19) "Act in line of duty" means:

(a) A single act occurring or a single thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060;

(b) For employees in hazardous positions under KRS 61.592, a single act occurring which was required in the performance of the principal duties of the position as defined by the job description; or

(c) For employees participating in the State Police Retirement System and for employees who are in hazardous positions under KRS 61.592, a single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;

(20) "Early retirement date" means:

(a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or

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

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

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

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

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

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death***, except when used in reference to the sole beneficiary of a special needs trust***. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

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

(27) "Person" means a natural person***, including a sole beneficiary of a special needs trust who is a single natural person designated by a member as his or her beneficiary in accordance with KRS 61.542***;

(28) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;

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

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543 or 61.543

to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

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

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

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

(34) "Month" means a calendar month;

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

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

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

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

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

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

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

(40) "Accumulated account balance" means:

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

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

(41) "Monthly average pay" means:

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

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

(42) "Special needs trust" means a trust described in 42 U.S.C. sec 1396p(d)(4)(A). Any reference to a trust includes a special needs trust, unless the context otherwise requires.

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

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

(a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);

(b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date; or

(c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.

(2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person ***or the sole beneficiary of a special needs trust***, then the beneficiary may elect to receive:

(a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);

(b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

(c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

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

(e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for:

1. Sixty (60) months certain;
2. One hundred twenty (120) months certain;
3. The actuarial equivalent refund; or
4. The Social Security adjustment option;

that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or

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

(3) If the beneficiary eligible for benefits as provided in subsection (1) of this section are multiple beneficiaries or a trust, ***<u>other than a special needs trust,</u>*** then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial

equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.

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

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

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

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

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

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

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

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

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency,

temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

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

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

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

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

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he or she received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he or she

served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

(13) "Creditable compensation":

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

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or

greater than one thousand dollars ($1,000);

2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;

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

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

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

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by

26 U.S.C. sec. 415;

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

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

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

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

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

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

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

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred

(100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

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

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

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

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

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

(26) "Beneficiary" means the person or persons***,***[~~ or~~] estate***,***[~~ or~~] trust***,*** or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death***, except when used in reference to the sole beneficiary of a special needs trust***. As used in KRS 61.702,

"beneficiary" does not mean an estate, trust, or trustee;

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

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

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

(30) "Person" means a natural person***, including a sole beneficiary of a special needs trust who is a single natural person designated by a member as his or her beneficiary in accordance with KRS 61.542***;

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

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise,

if that date occurs twenty-four (24) or more months after previous contributions;

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

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

(35) "Month" means a calendar month;

(36) "Membership date" means:

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

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

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

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

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

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

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

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

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

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

(41) "Accumulated account balance" means:

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

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

(42) "Volunteer" means an individual who:

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

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

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

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

(45) "Monthly average pay" means:

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

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

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

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

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

(a) Faculty;

(b) Staff responsible for teaching; or

(c) Other individuals employed in an administrative position that is eligible for participation in the Teachers' Insurance and Annuity Association (TIAA) of the Teachers' Retirement System;

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

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

(51) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A). Any reference to a trust includes a special needs trust, unless the context otherwise requires.

➔Section 4. KRS 61.623 is amended to read as follows:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient except as provided by subsection (5) of this section.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an authorization for deposit of retirement payment

form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient shall provide the information and authorization required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new authorization for deposit of retirement payment form and filing the form at the retirement office in Frankfort. The last authorization for deposit of retirement payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a request for payment by check form.

(b) The request shall be approved if:

1. The recipient certifies that he ***or she*** does not currently have an account with a financial institution;~~[or]~~

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program***; or***

3. The recipient is the sole beneficiary of a special needs trust, and the trustee of that trust certifies that a check may be made payable to the sole beneficiary of a special needs trust.

(c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he ***or she*** requested payment by check continue. If the original conditions do not exist, the recipient shall complete an authorization for direct deposit of retirement payment form and file it with the retirement office.

➔Section 5. KRS 61.635 is amended to read as follows:

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

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

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

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have one-half (1/2) of the retirement allowance continued after the member's death to his or her beneficiary during the lifetime of the person.

(5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, the member's beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining monthly payments to the trust of the member. If the estate

is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.

(6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for one hundred eighty (180) months. If the member dies before receiving payments for one hundred eighty (180) months, the member's beneficiary shall receive the remaining payments monthly for the duration of the one hundred eighty (180) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for two hundred forty (240) months. If the member dies before receiving payments for two hundred forty (240) months, the member's beneficiary shall receive the remaining payments for the duration of the two hundred forty (240) months period. However, if the trust is beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.

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

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

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

(9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his or her lifetime an increased retirement allowance based on his or her annual benefit payable for life. The payment shall begin on his or her effective retirement date and continue through the month he or she attains age sixty (60) at which time his or her retirement allowance shall be decreased for the remainder of his or her lifetime.

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

(11) Actuarial equivalent refund. A member who began participating in the system prior to January 1, 2014, may elect to receive a one (1) time lump-sum payment which

shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).

(12) Partial lump-sum option.

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

(b) Survivor rights. A member may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), thirty-six (36), forty-eight (48), or sixty (60) monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his or her beneficiary during the lifetime of the person.

(c) In order to explain the partial lump-sum option to members, the Authority shall:

1. Provide, for all retirement estimates that include the partial lump-sum option, including estimates calculated by a member using an automatic estimator available on the Authority's website, the additional months of service a member would have to be employed in order to recoup the actuarial reduction in his or her monthly retirement allowance from selecting a partial lump-sum option at each payment level; and

2. Prepare and make available to all members and participating employers in the form of a paper or electronic pamphlet or booklet a summary of

the partial lump-sum option, written in a manner that can be understood by the average member and sufficiently accurate and comprehensive to reasonably apprise them of the benefits and potential consequences, including federal tax consequences, of taking a partial lump-sum option.

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

(14) A member of the General Assembly who began participating in the system prior to January 1, 2014, who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky Public Pensions Authority:

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

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

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

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

trust, the following shall apply:

(a) Upon the death of the retired member or beneficiary, the trustee of that trust shall notify the authority of the death of the retired member or beneficiary;

(b) Any retirement allowance payments made to a special needs trust that are not properly payable to the special needs trust shall be returned to the authority and shall not be subject to claims for reimbursement from any state for Medicaid benefits paid on behalf of the beneficiary of the special needs trust under any Medicaid payback provision; and

(c) The authority may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this subsection.

➔Section 6. KRS 61.640 is amended to read as follows:

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

(a) The member was eligible to retire under KRS 61.559(2) or (3), 61.5956(5)(a) or (b), or 61.597(6)(a) or (b);

(b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date or was normal retirement age or older and had at least four (4) years of service credit; or

(c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.

(2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person ***or is the sole beneficiary of a special needs trust***, then the

beneficiary may elect to receive:

(a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);

(b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

(c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

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

(e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for:

1. Sixty (60) months certain;
2. One hundred twenty (120) months certain;
3. The actuarial equivalent refund; or
4. The Social Security adjustment option;

that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or

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

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

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

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

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

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

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

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

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his or her employees, county clerk and his or her employees, circuit clerk and his or her deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, cities, charter county governments, urban-

county governments, consolidated local governments, or unified local governments participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means:

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

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

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

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

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

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

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

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

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

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

(13) "Creditable compensation":

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

(b) Includes:

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

2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;

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

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

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

(c) Excludes:

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

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

3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;

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

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

(14) "Final compensation" means:

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

(b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 78.5520, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;

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

(e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 78.5520, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

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

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

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security

adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852, means:

(a) For a member with service in a nonhazardous position, the sixty-fifth birthday of a member;

(b) For a member with service in a hazardous position who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday; or

(c) For a member with service in a hazardous position who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;

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

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

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or

school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;

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

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

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

(c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;

(d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or

(e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

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

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

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

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death***, except when used in reference to the sole beneficiary of a special needs trust***. As used in KRS 78.5536, beneficiary shall not mean an estate, trust, or trustee;

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

(27) "Person" means a natural person***, including a sole beneficiary of a special needs trust who is a single natural person designated by a member as his or her beneficiary in accordance with KRS 61.542***;

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

(29) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;

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

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

(32) "Month" means a calendar month;

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

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

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

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

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

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

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

(38) "Accumulated account balance" means:

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

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

(39) "Volunteer" means an individual who:

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

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

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

(41) "Nonhazardous position" means a position that does not meet the requirements of KRS 78.5520 or has not been approved by the board as a hazardous position;

(42) "Hazardous position" means a position that meets the requirements of KRS 78.5520

and has been approved by the board as hazardous;

(43) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;

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

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

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

(47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently

disabled to engage in other occupations for remuneration or profit;

(48) "Act in line of duty" means, for employees in hazardous positions under KRS 78.5520:

(a) A single act occurring which was required in the performance of the principal duties of the hazardous position as defined by the job description; or

(b) A single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;

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

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

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

(52) "Monthly average pay" means:

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

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

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

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

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

(56) "Special needs trust" means a trust described in 42 U.S.C. sec. 1396p(d)(4)(A). Any reference to a trust includes a special needs trust, unless the context otherwise requires.

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

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

(a) 1. The member had service in a nonhazardous position and was eligible to retire under KRS 78.5510(2) or (3) or 78.5512(6); or

2. The member had service in a hazardous position and was eligible to retire under KRS 78.5514(2) or (3) or 78.5516(6);

(b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date or in the case of a nonhazardous member, was normal retirement age or older and had at least four (4) years of service credit; or

(c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.

(2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person ***or the beneficiary of a special needs trust***, then the beneficiary may elect to receive:

(a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);

(b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

(c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;

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

(e) If the member began participating prior to January 1, 2014, a monthly benefit payable for a period of one hundred twenty (120) months that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or

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

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

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

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

(6) (a) The beneficiary of a member with service in a nonhazardous position who dies as a result of a duty-related injury may be eligible for benefits based upon

the definitions, criteria, and benefits specified by KRS 61.621.

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

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

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

(2) A spouse qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his or her death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the primary beneficiary of the member's account shall be entitled to a monthly

minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

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

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

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

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

(3) (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All retiree, beneficiary, and survivor monthly allowance payments, except as otherwise provided in paragraph (b) ***or (c)*** of this subsection, shall be made by electronic fund transfer. Except as provided in paragraph (b) ***or (c)*** of this subsection, all monthly payments shall

be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual and natural person.

(b) If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be made to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.

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

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

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

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

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

paragraph.

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

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

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

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

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

(5)~~[(4)]~~ Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The death of the participant;

(b) The death of the alternate payee; or

(c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.

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

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

(a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

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

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

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

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

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

(a) Solely by the participant;

(b) Solely by the alternate payee; or

(c) Equally shared by the participant and alternate payee.

(13)[~~(12)~~] The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, for prospective benefit payments if the order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

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

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

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

final compensation at time of death.

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

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

(4) A member, or a retiree who began participating in the plan prior to January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.400, and who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. A member, or a retiree who began participating in the plan on or after January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.402, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated account balance of the member. ***A trust, including a special needs trust, may be designated as a beneficiary.*** Absent a designation by the member or retiree, the accumulated contributions or accumulated account balance, as applicable based upon the

member's participation date, shall be paid to the member's estate.

(5) A member who began participating in the plan prior to January 1, 2014, who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the accumulated contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. A member who began participating in the plan on or after January 1, 2014, who commences drawing retirement benefits pursuant to KRS 21.402 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the accumulated account balance of the member, may designate a beneficiary who shall receive the balance of the accumulated account balance of the member. ***A trust, including a special needs trust, may be designated as a beneficiary.*** Any benefits received shall be deducted from the accumulated contributions or accumulated account balance. Absent a designation by the member, the balance of the accumulated contributions or accumulated account balance, as applicable based upon the member's participation date, shall be paid to the member's estate.

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

(7) A member who begins participating in the Judicial Retirement Plan prior to January 1, 2014, may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement

allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

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

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

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

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

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

1. Take a refund of the member's accumulated account balance or

accumulated contributions as provided by KRS 21.402; or

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

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

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

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

2. Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during the

member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse; or

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

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect prior to retirement to have the benefits payable under this paragraph paid to an individual dependent child ***or to a special needs trust*** by completing the forms provided by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (5) of this section shall apply to the member.

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

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

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

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

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

shall be continued, as follows:

(a) If the member does not have a disabled child or children, the benefit shall continue until there are no children remaining under the age of twenty-one (21); or

(b) If the member has a disabled child or children, the benefit shall continue until the death of the last remaining disabled child.

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

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

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