

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2096

By: Roberts of the House

and

Fisher of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Teachers' Retirement System; amending 70 O.S. 1991, Section 17-108, as amended by Section 46, Chapter 239, O.S.L. 1993, and 17-116.2, as last amended by Section 1 of Enrolled House Bill No. 2540 of the 2nd Session of the 44th Oklahoma Legislature (70 O.S. Supp. 1993, Section 17-108), which relate to administration of the Oklahoma Teachers' Retirement System; requiring compliance with certain provisions of the Internal Revenue Code; imposing requirements upon the System for purposes of compliance; establishing Retiree Medical Benefit Fund; modifying provisions related to Teachers' Deposit Fund; providing for rollover contributions from governmental retirement plans; prescribing requirements related to Retiree Medical Benefit Fund; modifying provisions with respect to service credit for certain absence; requiring election; providing for continued contributions; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-102.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

The retirement system shall satisfy the applicable qualification requirements for governmental plans as specified in Sections 401 and 414(d) of the Internal Revenue Code of 1954 or 1986, as amended from time to time and as appropriate for a governmental plan (hereinafter referred to as the "Code"). In addition to other Code provisions otherwise noted, and in order to satisfy the applicable requirements under the Code, the retirement system shall be subject to the following provisions, notwithstanding any other provision of the retirement system law:

(1) The Board of Trustees shall distribute the corpus and income of the retirement system to the members and their beneficiaries in accordance with the retirement system law.

(2) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement system law.

(3) All benefits paid from the retirement system shall be distributed in accordance with the requirements of Code Section 401(a)(9) and the regulations thereto. In order to meet these requirements, the retirement system shall be administered in accordance with the following provisions:

(a) The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence.

(b) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(c) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Code.

(4) The Board of Trustees or its designee may not:

(a) determine eligibility for benefits,

(b) compute rates of contribution, or

(c) compute benefits of members or beneficiaries,

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Code Section 401(a)(4).

(5) Benefits paid from the retirement system shall not exceed the maximum benefits permissible under Code Section 415.

(6) The Board of Trustees may not engage in a transaction prohibited by Code Section 503(b).

(7) To the extent required by Code Section 401(a)(31), the retirement system shall allow members and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-102.3 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Tax-Sheltered Annuity program provided by Section 17-101 et seq. of this title shall satisfy the applicable qualification requirements for grandfathered governmental tax-sheltered annuity programs as specified in 26 U.S.C. Section 403(b) and the relevant regulatory provisions and guidance related thereto. In order to satisfy these requirements and guidelines, the Teachers' Retirement Tax-Sheltered Annuity program shall be subject to the following provisions, notwithstanding any other provision of the law governing the Oklahoma Teachers' Retirement System:

(1) The Board of Trustees shall administer and distribute the corpus and income of the Tax-Sheltered Annuity Program to members and their beneficiaries pursuant to the applicable requirements under 26 U.S.C. Section 403(b), relevant regulatory provisions and guidance under 26 U.S.C. Section 403(b), and in accordance with the law governing the Oklahoma Teachers' Retirement System.

(2) All benefits paid from the retirement system shall be distributed in accordance with the applicable requirements of 26 U.S.C. Sections 403(b)(10) and 401(a)(9) and the regulations thereto.

(3) To the extent required by 26 U.S.C. Sections 403(b)(10) and 401(a)(31), the retirement system shall allow members and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

(4) To the extent required under 26 U.S.C. Section 403(b)(11) and the regulations thereto, distributions under the Tax-Sheltered Annuity Program shall only be paid when the member attains the age of fifty-nine and one-half (59 1/2) years, separates from service, dies, becomes disabled, or in the case of hardship.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 17-108, as amended by Section 46, Chapter 239, O.S.L. 1993 (70 O.S. Supp. 1993, Section 17-108), is amended to read as follows:

Section 17-108. Each local school district, or state college or university, or State Board of Education or State Board of

Vocational Education, or other state agencies whose employees are members of the Teachers' Retirement System shall match the contributions of members whose salaries are paid by federal funds. These funds shall be remitted at the same time as the regular contributions of members are remitted to the Teachers' Retirement System of Oklahoma and deposited in the Retirement Benefit Fund.

All the assets of the retirement system shall be credited according to the purpose for which they are held to one of ~~nine~~ ten funds, namely: The Teachers' Savings Fund, the Retirement Benefit Fund, the Interest Fund, the Permanent Retirement Fund, the Expense Fund, the Suspense Fund, the Reserve for Investment Fluctuations Fund, the Teachers' Deposit Fund, ~~and~~ the Membership Annuity Reserve Fund and the Retiree Medical Benefit Fund.

(1) The Teachers' Savings Fund shall be a fund in which shall be accumulated the regular contributions from the compensation of members, including interest earnings prior to July 1, 1968. Contributions to and payments from the Teachers' Savings Fund shall be made as specifically provided in each plan available within the retirement system.

(2) The deductions provided for in the plans within the retirement system shall be made notwithstanding that the minimum compensation provided for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and payment of salary or compensation, less said deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The employer shall certify to the Board of Trustees on each and every payroll, or in such other manner as said Board may prescribe, the amounts to be deducted, and each of said amounts shall be deducted, and when deducted shall be paid into said Teachers' Savings Fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

(3) Following the termination of membership in the retirement system for any member who has been absent from service for five (5) years in any period of six (6) consecutive years, the Teachers' Savings Fund Account of such member shall be closed and the amount due the member as provided in Section 17-105 of this title shall be paid upon the filing of formal application. At the time such membership is terminated the amount due the member as provided in said Section 17-105 of this title shall be transferred to the Suspense Fund.

(4) Upon the retirement of a member an amount sufficient to pay his annuity benefit for a two-year period shall be transferred from the Teachers' Savings Fund to the Retirement Benefit Fund; an amount sufficient to pay his annuity benefit for one (1) year shall be transferred each succeeding year thereafter. Should a member who has retired under Option 1 die, the balance of money he had in Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund for payment to his beneficiary or estate.

(5) Retirement Benefit Fund.

(a) After August 2, 1969, there shall be transferred from the Teachers' Savings Fund and the Membership Annuity Reserve Fund for those members drawing retirement benefits from the Teachers' Retirement System of Oklahoma an amount necessary to provide the monthly annuity payments and pension payments. In addition the fund shall consist of monies received from any state dedicated revenue, monies received from state appropriations, monies received from federal matching funds, and the residue of the interest on investments after the requirements of Section 17-107 of this title have been fully met. The Retirement Benefit Fund shall consist of an amount of money necessary for the making of retirement payments to retirees.

Should a member have deposits in the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund and wish to receive monthly retirement benefits on such deposits, the actuarial equivalent of a two-year period and each succeeding fiscal year thereafter shall be transferred to the Retirement Benefit Fund. The member may choose any of the plans available in the Teachers' Retirement Act

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as a method of receiving monthly retirement benefits on the money he has on deposit in the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund. The monthly retirement benefits paid from the Teachers' Deposit Fund or the Tax-Sheltered Annuity Fund shall be in addition to the regular retirement benefits and the money transferred from the Teachers' Deposit Fund or Tax-Sheltered Annuity Fund shall not be matched by the State of Oklahoma.

(b) From the Retirement Benefit Fund shall be paid all monthly retirement benefits.

(c) At the death of a retired member who has retired under the Maximum Plan of Retirement, Option 1 or Option 4, the balance of money the member has in the Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund and the amount due the beneficiary or his estate under Option 1 or Option 4 shall be paid from the Retirement Benefit Fund.

(d) At the death of both a retired member and the retired member's spouse, who had retired under Option 2 or 3, any balance in the Teachers' Savings Fund shall be transferred from the Teachers' Savings Fund to the Retirement Benefit Fund.

(e) At the death of a retired member who had retired under Option 5, the balance of any monies the member had in the Teachers' Savings Fund shall be transferred to the Retirement Benefit Fund for the purpose of making a lump-sum settlement to the beneficiary or his estate. Providing that if the surviving spouse elects to receive the balance under the Maximum Plan of Retirement or Option 1 the member's money, if any, on a monthly basis, constituting actuarial equivalent of two (2) years' payments, and each year thereafter the annual actuarial equivalent, shall be transferred from the Teachers' Savings Fund for the purpose of paying monthly retirement benefits to the spouse under this option.

(6) The Interest Fund is hereby created to facilitate the crediting of interest to the various other funds to which interest is to be credited. All income, interest and dividends derived from the deposits and investments authorized by this act shall be

paid into the Interest Fund. On June 30, each year, interest shall be transferred to the other funds as herein provided.

(7) The Permanent Retirement Fund shall consist of the accumulated gifts, awards, and bequests made to the retirement system, and transfers from the Suspense Fund, the principal of which is hereby held and dedicated as a perpetual endowment of the retirement system and shall not be diverted or appropriated to any other cause or purpose unless specifically provided for in such gifts, awards or bequests.

(8) The Expense Fund shall be the fund from which the expense of administration and maintenance of the retirement system shall be paid. The Board of Trustees shall cause to be prepared and adopt annually an itemized budget showing the amount required to defray the expenses for the ensuing fiscal year.

(a) Transfers to and payments from this fund shall be made as follows:

1. From the Interest Fund.
2. From any dedicated revenue.
3. From appropriation by the Oklahoma Legislature.

4. All monies for the operation of the Teachers' Retirement System of Oklahoma shall be paid from the Expense Fund upon the approval by the Board of Trustees and the checks signed by two people designated to sign such checks by the Board of Trustees of the Teachers' Retirement System of Oklahoma.

(9) The Suspense Fund shall be comprised of amounts transferred to the fund as provided in this section and Section 17-105 of this title and obligations of the retirement system to any member or person which cannot be legally discharged.

(10) The Reserve for Investment Fluctuations Fund shall be the fund in which eight percent (8%) of the investment earnings and the realized profits from the sale or exchange of securities shall be deposited each year until an amount equal to two percent (2%) of the total investments shall be accumulated, and such fund shall thereafter be maintained at such level. Upon proper resolution by the Board of Trustees transfers may be made from

this fund to reimburse the investment account of other funds wherein a deficit shall have accrued.

(11) Teachers' Deposit Fund.

~~(a) Any member may make additional direct deposits or request, prior to the first a pay period of the current school year, that his employer make additional deposits for him, for tax-sheltered annuity purposes. Provided However, the amount deposited does shall not exceed the employees member's "Exclusion Allowance" the employee is permitted by the Federal Internal Revenue Code, which as defined in Section 403(b)(2) of the Internal Revenue Code of 1986, as amended, and applicable federal regulations. All such deposits shall be credited to the member's account in the Teachers' Deposit Fund for the purchase of a tax-sheltered annuity. The amount thus accumulated, or any portion thereof, with interest at a rate fixed by the Board of Trustees, not to exceed the rate of interest earned, may earnings, shall be used upon the member's retirement, separation from service, death or disability to purchase:~~

~~1. As a deposit in the Retirement Benefit Fund for the purpose of providing an annuity in addition to his regular service retirement allowance at the time of retirement; or~~

~~2. A member may withdraw any part or all of the money he has in the Teachers' Deposit Fund with all or any part of the interest at the last interest paying date.~~

~~Providing that any teacher who has been a member of a retirement system of another state, upon becoming a member of the Teachers' Retirement System of Oklahoma, may deposit in this fund all or part of the accumulated contributions received by him upon his withdrawal from the said retirement system.~~

~~(b) The additional annuity provided from said deposits shall not be matched by the employer. Such deposits, together with interest, may be refunded to the member at retirement or to his beneficiary or estate in the event of death of the member prior to retirement. Such deposits shall also be refunded in the event of the withdrawal of the accumulated contributions of the member prior to retirement. The amount a member accumulates in the~~

Teachers' Deposit Fund, not including interest, may be used to pay distributions in the case of hardship as provided in Section 403(b)(11) of the Internal Revenue Code of 1986, as amended, and applicable federal regulations.

(12) The Membership Annuity Reserve Fund is composed of teachers' contributions and state matching funds for those members who retired before August 2, 1968. From this fund there shall be transferred the actuarial equivalent necessary to pay retirement benefits for a period of two (2) years and thereafter the actuarial equivalent necessary to pay retirement benefits for one (1) succeeding year.

(13) Collection of Contributions.

(a) The collection of members' contributions shall be as follows:

1. Each employer shall cause to be deducted on each and every payroll or claim of a member for each and every payroll claim period subsequent to the date of establishment of the retirement system the contribution payable by such member as provided in this act. With each and every payroll or claim the employer shall deliver to the treasurer of said employer warrants issued to the employees as shown to be due by said payroll or claim, together with a warrant or warrants in favor of the Teachers' Retirement System as shown by said payroll or claim.

2. The treasurer or disbursing officer upon delivery of the warrants and a true copy of the payroll or claims as provided above shall register said warrants as provided for the registration of other school warrants, and shall deliver to the employer warrants issued in favor of the employees, and shall deliver warrants issued in favor of the Teachers' Retirement System and the copy of the payroll or claims to the school district superintendent as designated by the Board of Trustees. For the purpose of collecting contributions of teachers in the public schools, the superintendent of a school district is hereby designated to receive the Teachers' Retirement warrants from the treasurer or proper disbursing officer of the several school districts for the purpose of transmitting such warrants and

payroll or claims to the Executive Secretary of the Teachers' Retirement System of the State of Oklahoma. Any college or university or other educational institution or agency operated in whole or in part by the state shall have the amount retained or deducted from the funds regularly appropriated by the state for the current maintenance for such educational departments and institutions.

3. For the purpose of enabling the collection of the contributions of the members of the retirement system to be made as simple as possible, the Board of Trustees shall require the secretary or other officer of each employer-board or agency, within thirty (30) days after the beginning of each school year, to make a list of all teachers in its employ who are members of the retirement system, certify to the correctness of this list, and file the same with the Executive Secretary of the Board of Trustees of the Teachers' Retirement System. If additions to or deductions from this list should be made during the year such additions or deductions shall likewise be certified to the Board of Trustees of the Teachers' Retirement System.

4. The State Treasurer shall furnish annually to the Board of Trustees a sworn statement of the amount of the funds in his custody belonging to the retirement system. The records of the Board of Trustees shall be open to public inspection and any member of the retirement system shall be furnished with a statement of the amount of the credit to his individual account upon written request by such member, provided the Board of Trustees shall not be required to answer more than one such request of a member in any one (1) year.

5. Failure of any superintendent, officer, or other person to discharge the duties imposed upon him by this act shall render him or his bondsman liable for any loss occasioned thereby to the Teachers' Retirement System or the employees of the school district, or both.

6. On a showing by the Teachers' Retirement System that a warrant, voucher or check issued to it has, for any reason, been lost or never received, after ninety (90) days from the date of

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issue or from transmittal for payment, it shall be the duty of the issuing authority forthwith, without any indemnifying bond or other requirements, to issue a duplicate thereof in lieu of that which was lost, to the Teachers' Retirement System; and the Teachers' Retirement System shall save harmless any school district or agency of state government making payment under the provisions hereof to the State Teachers' Retirement System if the original warrant, voucher or check is later presented for payment and same is paid after a duplicate warrant, voucher or check has been issued and paid to the Teachers' Retirement System, and any loss sustained therefrom shall be charged to the Interest Fund.

(14) Rollover Contributions from other Governmental Plans.

Any member may purchase credit for service, to the extent specified in the retirement system law, with rollovers or direct transfers from another governmental retirement plan demonstrated to be qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended from time to time. Rollovers or direct transfers in excess of the amount necessary to purchase such service credit shall not be allowed.

(15) Retiree Medical Benefit Fund.

The Retiree Medical Benefit Fund shall be maintained as a subaccount under the Retirement Benefit Fund. The Retiree Medical Benefit Fund is composed of all assets contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance benefits described in Section 1316.3 of Title 74 of the Oklahoma Statutes. All allocated assets and the earnings thereon in the Retiree Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits pursuant to Section 1316.3 of Title 74 of the Oklahoma Statutes. The Retiree Medical Benefit Fund shall be administered in accordance with the requirements under Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. An amount necessary to pay the health insurance premiums for retired members as provided by Section 1316.3 of Title 74 of the Oklahoma Statutes shall be deposited each month into the Retiree Medical Benefit Fund.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 17-116.2, as last amended by Section 1 of Enrolled House Bill No. 2540 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 17-116.2 A. 1. Beginning July 1, 1987, and prior to July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars (\$11,500.00) or on his current minimum average salary plus Two Thousand Dollars (\$2,000.00), whichever is greater. Beginning July 1, 1990, a classified member who retired prior to July 1, 1989, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Nine Hundred Fifty Dollars (\$950.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars (\$9,500.00) or on his current minimum average salary plus One Thousand Dollars (\$1,000.00), whichever is greater. Beginning July 1, 1990, an unclassified member who retired prior to July 1, 1989, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Four Hundred Seventy-five Dollars (\$475.00). No retirement benefit payments shall be made retroactively.

Except for those members retiring because of a disability, the retirement allowance shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees.

2. Beginning July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because

of disability shall receive an annual allowance for life, payable monthly as follows:

- a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or
- b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars (\$25,000.00) prior to July 1, 1995, in an amount equal to:
 - (1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars (\$40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus
 - (2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995, or
- c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00) pursuant to paragraph 1 of

subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

- (1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Twenty-five Thousand Dollars (\$25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus
- (2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995.

B. Except as otherwise provided for in this section, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1992 through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars (\$25,000.00); and

2. Beginning July 1, 1996 through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars (\$25,000.00); and

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of such member.

C. 1. Prior to July 1, 1995, an active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00). Such an election shall be made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars (\$25,000.00) on the effective date of this act shall file the election with the System prior to January 1, 1988. Members whose salaries exceed Twenty-five Thousand Dollars (\$25,000.00) after the effective date of this act shall file the election when the salary exceeds Twenty-five

Thousand Dollars (\$25,000.00). If a member makes such an election, the member shall contribute the following amounts:

- a. beginning July 1, 1992 through June 30, 1993, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00),
- b. beginning July 1, 1993 through June 30, 1994, nine percent (9%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00), and
- c. beginning July 1, 1994 through June 30, 1995, eight percent (8%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00). Except as provided in subsection E of this section, any such election shall be irrevocable.

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995 through June 30, 1997, seven percent (7%) of the regular annual compensation of each member that is in excess of Twenty-five Thousand Dollars (\$25,000.00).

D. For purposes of this act, regular annual compensation shall include:

1. Normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed, such periodic payments shall include payments for staff development or other periodic payments to qualifying employees of the employer;

2. Amounts that would otherwise qualify as salary under paragraph 1 of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary

reduction agreement in order to finance payments to a deferred compensation or tax-sheltered annuity program or to finance benefit options under a cafeteria plan qualifying under the United States Internal Revenue Code, 26 U.S.C., Section 101 et seq.;

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

Excluded from regular annual compensation are expense payments, allowances, payment for unused vacation and sick leave, any payment made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars (\$25,000.00) up to a maximum of Forty Thousand Dollars (\$40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

2. Any changes made pursuant to this subsection shall be irrevocable.

F. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars (\$7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars (\$7,800.00) before his withdrawal shall contribute on the earning ceiling as provided for in this section on his reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars (\$7,800.00) per annum shall, beginning July 1, 1979, contribute on his earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars (\$7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars (\$7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars (\$7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars (\$10,000.00) for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

G. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his earnable compensation as provided for in subsection B of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to

be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump-sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump-sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

- a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.

b. prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost, which means the single sum which would have been paid under existing law at the time the service was performed, plus interest, on the basis of what his annual salary would have been in Oklahoma or out of state, whichever is greater, had he been employed as a teacher. Effective January 1, 1991, the Peace Corps, territorial, out-of-state or noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his contract as a teacher at the time his service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have

been continuous and shall be credited in the aggregate, regardless of fiscal year limitations.

3. Retirement benefits for all service credits purchased pursuant to this subsection shall be determined in accordance with the provisions of paragraph 2 of this subsection.

H. For those members who joined the System prior to July 1, 1992, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This paragraph shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his service credits shall continue to be accumulated during such absence, provided he is not receiving and is not eligible to receive retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years. No member who has less than ten (10) years of

contributory service on July 1, 1994, may make this election after June 30, 1994. Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8) years allowed by this subsection.

K. A member may receive credit for those years of service accumulated by the member while employed by an entity which is a participating employer in the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Oklahoma Department of Wildlife or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, the member shall pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. For purposes of this subsection, creditable service transferred from the Oklahoma Public Employees Retirement System shall include service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

L. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions.

M. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars (\$10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars (\$15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

N. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions and employer contributions as provided in subsection B of this section and Section 17-108.1 of this title. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

SECTION 5. This act shall become effective July 1, 1994.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-L9828

MAH