

ENROLLED SENATE  
BILL NO. 767

By: Hendrick of the Senate

and

Roberts, Monks, Settle and  
Cox of the House

An Act relating to schools and state government; amending 70 O.S. 1991, Sections 17-105, as last amended by Section 15, Chapter 322, O.S.L. 1993, and 17-116.2, as last amended by Section 1, Chapter 92, O.S.L. 1993 (70 O.S. Supp. 1993, Sections 17-105 and 17-116.2) and 74 O.S. 1991, Sections 902, as last amended by Section 31 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, and 913, as last amended by Section 19, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1993, Section 913), which relate to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System; modifying the receipt of certain prior service credit; providing procedures; providing for the payment of certain amounts in certain situations; providing for the delay in a member's normal retirement date in certain situations; providing rules for the normal retirement date; providing for the payment of withdrawn contributions with interest in certain situations; providing for the return of certain transferred contributions with interest in certain situations; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 17-105, as last amended by Section 15, Chapter 322, O.S.L. 1993 (70 O.S. Supp. 1993, Section 17-105), is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement, or for any. Such a retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, whose age and number of years of creditable service total ninety (90) may be retired upon filing a written application for such retirement. The application shall be filed on the form provided by the Board of Trustees for this

purpose, not less than thirty (30) days nor more than ninety (90) days before the date of retirement.

(b) An individual who becomes a member of the Teachers' Retirement System after July 1, 1967, shall be employed by the public schools, state colleges or universities of Oklahoma for a minimum of ten (10) years and be a contributing member of the Teachers' Retirement System of Oklahoma for a minimum of ten (10) years to qualify for monthly retirement benefits from the Teachers' Retirement System of Oklahoma. Provided, however, any individual who was a contributing member of the system for a minimum of ten (10) years and withdrew such individual's accumulated contributions upon termination of employment may repay to the system such contributions with interest as determined by the Board for the purpose of receiving monthly retirement benefits from the system. All repayments made as provided for in this subsection shall be made prior to September 1, 1986.

(c) Any member with ten (10) or more years of Oklahoma teaching service and whose accumulated contributions during such period have not been withdrawn shall be given an indefinite extension of membership beginning with the sixth year following his last contributing membership and shall become eligible to apply for retirement and be retired upon attaining age fifty-five (55).

(d) Members currently teaching in the public schools of Oklahoma past the fiscal year during which age seventy (70) was attained and who have not retired shall be granted the privilege of making up the five percent (5%) contributions, plus interest, for the years taught after age seventy (70). Such member shall be given an indefinite extension of membership and be eligible to retire upon the filing of proper application for retirement as hereinbefore provided.

(2) An unclassified optional member who has retired or who retires at sixty-two (62) years of age or older or whose retirement is because of disability shall have his minimum retirement benefits calculated on an average salary of Five Thousand Three Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance would result, an amount arrived at pursuant to application of the formula prescribed herein.

(3) No member shall receive a lesser retirement benefit than he would have received under the law in effect at the time he retired. Any individual under the Teachers' Retirement System, who through error in stating the title of the position which he held, may, at the discretion of the Board of Trustees, be changed from the nonclassified optional group to the classified group for the purpose of calculating retirement benefits.

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present retirement system, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars (\$150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered. The surviving spouse of any person who made application for the benefit provided for by this paragraph during his lifetime but did

not receive said benefit may submit an application to the system for payment of said benefit for those months during the lifetime of the deceased person that he was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

(4) The value of each year of prior service is the total monthly retirement benefit divided by the number of years of creditable service.

(5) Upon application of a member who is actively engaged in teaching in Oklahoma or his employer, any member who has been a contributing member for ten (10) years may be retired by the Board of Trustees not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, on a disability retirement allowance, provided that it is found by the Board of Trustees after medical examination of such member by a duly qualified physician that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The Board of Trustees shall give due consideration to the conclusions and recommendations in the certified written report of the Medical Board of the Teachers' Retirement System regarding the disability application of such member.

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to teach school shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the point where he may return to teaching. Any member retired before the effective date of this act shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him after the effective date of this act, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

(c) Once each year the Board of Trustees may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place mutually agreed upon by a physician or physicians designated by the Board of Trustees. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees his allowance may be discontinued until he submits to such examination.

(d) Should the Medical Board report and certify to the Board of Trustees that such disabled annuitant is engaged in or is able to

engage in a gainful occupation paying more than the difference between his retirement allowance and the average final compensation, and should the Board of Trustees concur in such report then the amount of his pension shall be reduced to an amount which, together with his retirement allowance and that amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later increased, the amount of his pension may be further modified, provided the new pension shall not exceed that amount of the pension originally granted nor an amount, which when added to the amount earnable by the member, together with his annuity, equals the amount of his average final compensation.

(e) Should a disabled annuitant be restored to active service, his disability retirement allowance shall cease and he shall again become a member of the Teachers' Retirement System and shall make regular contributions as required under this article. The unused portion of his accumulated contributions shall be reestablished to his credit in the Teachers' Savings Fund. Any such prior service certificates on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect.

(7) Should a member before retirement under this act make application for withdrawal duly filed with the Board of Trustees and approved by it, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his individual account in the Teachers' Savings Fund shall be paid to him or, in the event of his death before retirement, shall be paid to such person or persons as he shall have nominated by written designation, duly executed and filed with the Board of Trustees; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars (\$25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and the contributions standing to the credit of such member do not exceed Two Hundred Dollars (\$200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the Board of Trustees, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his membership by withdrawal shall have the interest computed at a rate of interest determined by the Board of Trustees and paid to him subject to the following schedule:

(a) If termination occurs within seven (7) years from the date membership began, no part of such interest accumulations shall be paid.

(b) With at least seven (7) but less than sixteen (16) years of membership, fifty percent (50%) of such interest accumulations shall be paid.

(c) With at least sixteen (16) but less than twenty-one (21) years of membership, sixty percent (60%) of such interest accumulations shall be paid.

(d) With at least twenty-one (21) but less than twenty-six (26) years of membership, seventy-five percent (75%) of such interest accumulations shall be paid.

(e) With at least twenty-six (26) years of membership, ninety percent (90%) of such interest accumulations shall be paid.

In case of death of an active member, the interest shall be calculated and restored to the member's account and paid to his beneficiary.

(8) (a) In lieu of his retirement allowance payable throughout life for such an amount as determined under this section, the member may select a retirement allowance for a reduced amount payable under any of the following options the present value of which is the actuarial equivalent thereof.

(b) A member may select the option under which he desires to retire at the end of the school year in which he attains age seventy (70) and said option shall be binding and cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the Board of Trustees.

Option 1. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 2. A member takes a reduced retirement allowance for life. Upon the death of the member the payments shall continue to the member's designated beneficiary, who must be a spouse, for the life of the beneficiary. The written designation of the beneficiary, who must be a spouse, must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement; or

Option 3. A member receives a reduced retirement allowance for life. Upon the death of the member one-half (1/2) of the retirement allowance paid the member shall be continued throughout the life of the designated beneficiary, who must be a spouse. A written designation of a beneficiary must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Trustees; or

Option 5. A member receives a reduced retirement allowance for life. If the member dies within twenty-five (25) years from the date of commencement of the retirement payments, such payments shall be continued to the beneficiary of the member during the balance of the twenty-five-year period. The written designation of the

beneficiary, who must be a spouse, shall be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement.

(9) The governing board of any "public school", as that term is defined in Section 17-101 of this title, is hereby authorized and empowered to pay additional retirement allowances or compensation to any person who was in the employ of such public school for not less than ten (10) school years preceding the date of his retirement. Payments so made shall be a proper charge against the current appropriation or appropriations of any such public school for salaries for the fiscal year in which such payments are made. Such payments shall be made in regular monthly installments in such amounts as the governing board of any such public school, in its judgment, shall determine to be reasonable and appropriate in view of the length and type of service rendered by any such person to such public school by which such person was employed at the time of retirement. All such additional payments shall be uniform, based upon the length of service and the type of services performed, to persons formerly employed by such public school who have retired or been retired in accordance with the provisions of this act.

The governing board of any such public school may adopt rules and regulations of general application outlining the terms and conditions under which such additional retirement benefits shall be paid, and all decisions of such board shall be final.

(10) In addition to the teachers' retirement herein provided, teachers may voluntarily avail themselves of the Federal Social Security Program upon a district basis.

(11) For those members who joined the System prior to July 1, 1992, upon the death of an in-service member, the system shall pay to the designated beneficiary of the member or, if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the estate of the member, the sum of Eighteen Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the deceased member had ten (10) years or more of creditable service and the death occurred after February 1, 1985, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement in lieu of the death benefit provided for in this subsection. Provided further, if the death occurred after June 1, 1987, and the surviving spouse elects to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement, the retirement benefit shall be determined using the average annual salary of the deceased member during any three (3) of the last five (5) years of participating service, but not to exceed Forty Thousand Dollars (\$40,000.00).

(12) Upon the death of an annuitant who has contributed to the system, the retirement system shall pay to the designated beneficiary of the annuitant or, if there is no designated beneficiary or if the designated beneficiary predeceases the annuitant, to the estate of the annuitant, the sum of Four Thousand Dollars (\$4,000.00) as a death benefit.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 17-116.2, as last amended by Section 1, Chapter 92, O.S.L. 1993 (70 O.S. Supp. 1993, Section 17-116.2), is amended to read as follows:

Section 70-116.2 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 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 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 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.

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. 1. An active member of the Teachers' Retirement System of Oklahoma may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System if:

- a. the member is an active member of the Teachers' Retirement System of Oklahoma, and
- b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be cancelled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Oklahoma Public Employees Retirement System. The

"receiving system" shall mean the Teachers' Retirement System of Oklahoma.

- a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:
  - (1) for members who have accrued at least eight (8) years of credited service with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, but shall not make any projections regarding future salary. For employees who have accrued at least eight (8) years of credited service, the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (2) of this subparagraph, and
  - (2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for members who have accrued at least eight (8) years of credited service, if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the member under subparagraph d of this paragraph.
- b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial

assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

- c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.
- d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall pay any difference.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Notwithstanding this rule and the provisions of paragraph (24) of Section 17-101 of this title, and Section 17-105 of this title, and subsection A of this section, the retirement date of the member who makes an election to transfer service credit as provided in this subsection shall not occur unless the member continues to participate as an active contributing member in the Teachers' Retirement System of Oklahoma for at least one (1) full year after the date of the election. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma

prior to July 1, 1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. If such service is canceled, the years of canceled service credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

M. 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.~~ N. 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.~~ O. 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 3. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 31 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 902. As used in this act:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Agent" means the individual designated by each participating employer through whom System transactions and communication shall be directed;

(8) "Beneficiary" means any person named by a member to receive any benefits as provided for by this act. If there is no beneficiary living at time of member employee's death, his estate shall be the beneficiary;

(9) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(10) "Compensation" means all salary and wages, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer, including maintenance, or any allowance in lieu thereof provided a member as a part of compensation but shall not include compensation or reimbursement for traveling, or moving expenses, or except as otherwise provided in this paragraph, any compensation in excess of Twenty-five Thousand Dollars (\$25,000.00) per annum which shall be the maximum compensation level. An active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars (\$40,000.00) per annum. Such an election shall be made in writing and filed with the System. Any member, who at the time the member was eligible to make an election to increase the member's maximum compensation level 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 increase the member's maximum compensation level if the election is made within three (3) years of the member's initial opportunity to make the election. Any such member making the election shall pay to the System the amount of contribution the member would have paid had the member made the election on January 1, 1988. Any member, who at the time the member was eligible to make an election to increase the member's maximum compensation level chose to increase the compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to decrease the member's maximum compensation level to Twenty-five Thousand Dollars (\$25,000.00) if the election is made within three (3) years of the initial election to increase the maximum compensation level. Upon the receipt of the election to reduce the maximum compensation

level, the Board shall pay to the member the contribution made by the member in excess of the contribution required on a maximum compensation level of Twenty-five Thousand Dollars (\$25,000.00) within sixty (60) days of said election. 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). Any such election by a member shall be irrevocable. Salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. A member who has voluntarily elected to contribute at the maximum compensation level, upon retirement, shall be refunded, pursuant to procedures established by the Board, the employee contributions made on compensation which is in excess of the final average compensation of the member and was not used to determine the member's final average compensation;

(11) "Credited service" means the sum of participating service, prior service and elected service;

(12) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of his support;

(13) "Effective date" means the date upon which the System becomes effective by operation of law;

(14) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer,

but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in this act. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only;

(15) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees as provided in Section 284 of this title. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

- (a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System shall be a member of this System.
- (b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.
- (c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he is ineligible for this System as long as he is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.
- (d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission

Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

- (e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Once such an employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed. Notwithstanding the previous sentence, any employee, who is eligible for membership in the System because of the provisions of this subsection and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989. Each regular legislative session during which a legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service. Notwithstanding the provisions of this paragraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request;

(16) "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this act shall be January 1, 1964;

(17) "Executive Director" means the managing officer of the System employed by the Board under this act;

(18) "Final average compensation" means the average annual salary, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the allowable amounts defined in subsection (10) of this section received during any three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment, or, if participating service is less than three (3) years, the average annual compensation up to but not exceeding the allowable amounts defined in subsection (10) of this section paid to the member during the full period of participating service. Provided, no member shall retire with a final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) unless the member has made the required

election and has paid the required contributions on such salary in excess of Twenty-five Thousand Dollars (\$25,000.00);

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by this act;

(21) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(23) "Military service" means service in the Armed Forces of the United States in time of war or national emergency, as defined in Section 67.13a of Title 72, from which the member was honorably discharged;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in this act, such date being whichever occurs first:

- (a) the first day of the month coinciding with or following a member's sixty-second birthday;
- (b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992;
- (c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90); or
- (d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's fiftieth birthday if the member has at least twenty (20) years of full-time-equivalent employment as a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections;

(25) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

(26) "Participating service" means the period of employment after the entry date for which credit is granted a member;

(27) "Prior service" means the period of employment of a member by an eligible employer prior to his entry date for which credit is granted a member under this act;

(28) "Retirant" means a member who has retired under the System;

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in

which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the Board;

(30) "Social Security" means the old-age survivors and disability section of the Federal Social Security Act;

(31) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

(32) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

(33) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

(34) "Elected service" means the period of service as an elected official; and

(35) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 913, as last amended by Section 19, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1993, Section 913), is amended to read as follows:

Section 913. ~~(1)~~ A. Prior service shall be credited as follows:

~~(a)~~ 1. A member shall receive full credit for employment with any participating employer prior to the entry date of his employer whether or not continuous and whether or not he was employed with a participating employer on such entry date, provided that any member who has retired before the passage of this act shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he subsequently withdrew, unless he has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service shall be with the member and shall be documented in such manner as the Board may direct;i

~~(b)~~ 2. Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed;;

~~(c)~~ 3. Any member who served in the Armed Forces of the United States, as defined in ~~subsection (23)~~ paragraph 22 of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he was a war veteran. Such prior military service credit shall not apply to any person receiving military retirement

benefits other than service-connected disability benefits established by either the military service or the Veterans Administration-;

~~(d)~~ 4. An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him ineligible solely because of his being such an official at the time of his eligibility for membership at the time his employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he would be entitled except for such ineligibility, provided that he either

~~(i)~~ a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his term of office current at the time of his eligibility except for his being an elective state or county official, or

~~(ii)~~ b. within a period of four (4) years after the expiration of his term of office current at the time of his eligibility except for his being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

~~(iii)~~ c. has completed ten (10) years of credited service as of the date of his eligibility for membership except for is being an elective state or county official-;

~~(e)~~ 5. Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Oklahoma Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such system in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age-;

~~(f)~~ 6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such

employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives-;

~~(g)~~ 7. A member of the System shall receive prior service credit for any years of service after January 1, 1975, the member had with a participating employer if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

~~(2)~~ B. Participating service shall be credited as follows:

~~(a)~~ 1. A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked-;

~~(b)~~ 2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his accumulated contribution on deposit with the fund; however, the leaves of absence shall not be credited except that involuntary furloughs established by Office of Personnel Management rules shall be credited-;

~~(c)~~ 3. Any member who has served in the Armed Forces of the United States, as defined in ~~subsection (23)~~ paragraph 22 of Section 902 of this title, shall be granted participating service for those periods of active military service during which he was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his accumulated contributions on deposit with the fund-;

~~(d)~~ 4. A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited-;

~~(e)~~ 5. Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service-;

~~(f)~~ 6. Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than \$1.00 up to \$500	= 1 year participating service
More than \$500 up to \$1,000	= 2 years participating service
More than \$1,000 up to \$1,500	= 3 years participating service
More than \$1,500 up to \$2,000	= 4 years participating service
More than \$2,000	= 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee-;

~~(g)~~ 7. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of participating service credit. The member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984, and shall not be retroactive.

~~(3)~~ C. In determining the eligibility for retirement or vesting purposes only, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded.

~~(4)~~ D. A member may receive credit for those years of credited service accumulated by the member while a member of 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 Teachers' Retirement System of Oklahoma, 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, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

~~(5)~~ E. A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

F. 1. An active member of the Oklahoma Public Employees Retirement System may receive credit for those years of service accumulated by the member while a member of the Teachers' Retirement System of Oklahoma if:

- a. the member is an active member of the Oklahoma Public Employees Retirement System, and
- b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is not transferred to the Oklahoma

Public Employees Retirement System. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be cancelled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

(1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (1) of this subparagraph, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for vested members if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the members under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be

computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall pay any difference.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Notwithstanding this rule and the provisions of paragraph 23 of Section 902 of this title, and subsections (1) and (5) of Section 914 of this title, and subsection B of Section 915 of this title, the retirement date of a member who makes an election to transfer retirement credit as provided in this subsection shall not occur unless the member continues to participate as an active contributing member in the Oklahoma Public Employees Retirement System for at least one (1) full year after the date of the

transfer. Years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, and shall qualify such person as a member of the Oklahoma Public Employees Retirement System before July 1, 1992.

5. Notwithstanding the requirements of Section 17-104 of Title 70 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement credit shall be void and of no effect, and any retirement credited as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

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.

Passed the Senate the 26th day of May, 1994.

President of the Senate

Passed the House of Representatives the 26th day of May, 1994.

Speaker of the House of Representatives

