

ENROLLED SENATE
BILL NO. 776

By: Roberts of the Senate

and

Begley, Cox and Toure of
the House

An Act relating to education; amending Section 1, Chapter 300, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-108.2), which relates to the State Board of Education and the State Board of Vocational and Technical Education; providing for amount to be credited against employee contribution amounts for certain members; prescribing credit amounts; providing for division of amounts into monthly installments; providing for retention of certain amounts by Teachers' Retirement System of Oklahoma; requiring certain employers to make payment of additional compensation to employees; providing for applicable taxes; providing that additional compensation not be considered regular annual compensation for retirement purposes; providing additional compensation not be treated as minimum salary for certain purposes; prescribing procedures for preparation of payroll; requiring certain employers to make adjustments to deductions from gross salary paid; providing for applicable taxes; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 300, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-108.2), is amended to read as follows:

Section 17-108.2 A. ~~For~~ If Enrolled Senate Bill No. 902 of the 2nd Session of the 46th Oklahoma Legislature is not enacted as law, for the plan year beginning July 1, 1997 1998, and ending June 30, 1998, and for each plan year thereafter, a teacher employed by any school district or employed by a vocational-technical school district who qualifies for a minimum salary pursuant to the schedule contained in Section 18-114.7 of Title 70 of the Oklahoma Statutes, shall have credited against the employee contribution amount, as applicable to the amount of compensation required to be paid to the teacher as a minimum salary pursuant to Section 18-114.7 of Title 70 of the Oklahoma Statutes, an annual amount based upon qualifying years of service and a percentage of the applicable minimum salary amount as follows:

YEARS OF SERVICE	PERCENTAGE OF MINIMUM SALARY (BACHELOR'S DEGREE)	CREDIT AMOUNT
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0	0.25%	\$60.15
1	0.41%	\$103.41
2	0.57%	\$145.65
3	0.73%	\$188.15
4	0.89%	\$232.34
5	1.05%	\$277.60
6	1.21%	\$322.57
7	1.37%	\$369.78
8	1.53%	\$416.34
9	1.69%	\$465.49
10	1.85%	\$513.65
11	2.01%	\$564.75
12	2.17%	\$614.50
13	2.33%	\$667.55
14	2.49%	\$716.15
15	2.65%	\$770.94
16	2.81%	\$826.81
17	2.97%	\$883.76
18	3.13%	\$941.75
19	3.29%	\$1,000.82
20	3.45%	\$1,060.94
21	3.61%	\$1,122.13
22	3.77%	\$1,184.38
23	3.93%	\$1,247.70
24	4.09%	\$1,312.07
25 or more	4.25%	\$1,377.51

B. If Enrolled Senate Bill No. 902 of the 2nd Session of the 46th Oklahoma Legislature is enacted as law, for the plan year beginning July 1, 1998, and for each plan year thereafter, a teacher employed by any school district or employed by a vocational-technical school district who qualifies for a minimum salary pursuant to the schedule contained in Section 18-114.7 of Title 70 of the Oklahoma Statutes, shall have credited against the employee contribution amount, as applicable to the amount of compensation required to be paid to the teacher as a minimum salary pursuant to Section 18-114.7 of Title 70 of the Oklahoma Statutes, an annual amount based upon qualifying years of service and a percentage of the applicable minimum salary amount as follows:

<u>YEARS OF SERVICE</u>	<u>PERCENTAGE OF MINIMUM SALARY (BACHELOR'S DEGREE)</u>	<u>CREDIT AMOUNT</u>
<u>0</u>	<u>0.25%</u>	<u>\$60.15</u>
<u>1</u>	<u>0.41%</u>	<u>\$103.41</u>
<u>2</u>	<u>0.57%</u>	<u>\$145.65</u>
<u>3</u>	<u>0.73%</u>	<u>\$188.15</u>
<u>4</u>	<u>0.89%</u>	<u>\$233.33</u>
<u>5</u>	<u>1.05%</u>	<u>\$278.76</u>
<u>6</u>	<u>1.21%</u>	<u>\$325.26</u>
<u>7</u>	<u>1.37%</u>	<u>\$372.82</u>
<u>8</u>	<u>1.53%</u>	<u>\$421.44</u>
<u>9</u>	<u>1.69%</u>	<u>\$471.12</u>
<u>10</u>	<u>1.85%</u>	<u>\$521.87</u>
<u>11</u>	<u>2.01%</u>	<u>\$573.67</u>
<u>12</u>	<u>2.17%</u>	<u>\$626.54</u>
<u>13</u>	<u>2.33%</u>	<u>\$680.48</u>
<u>14</u>	<u>2.49%</u>	<u>\$735.47</u>
<u>15</u>	<u>2.65%</u>	<u>\$791.53</u>
<u>16</u>	<u>2.81%</u>	<u>\$848.65</u>
<u>17</u>	<u>2.97%</u>	<u>\$906.83</u>

<u>18</u>	3.13%	\$966.07
<u>19</u>	3.29%	\$1,026.38
<u>20</u>	3.45%	\$1,087.75
<u>21</u>	3.61%	\$1,150.18
<u>22</u>	3.77%	\$1,213.68
<u>23</u>	3.93%	\$1,278.23
<u>24</u>	4.09%	\$1,343.85
<u>25 or more</u>	4.25%	\$1,410.53

C. The state shall pick up and pay the annual amount prescribed by subsection A or B of this section, based upon the conditions prescribed by subsections A and B of this section, to the Teachers' Retirement System. The annual amount prescribed by subsection A or B of this section shall be divided into monthly amounts as may be required in order to give full effect to the credit amount without the necessity of dividing the annual credit amount into twelve (12) equal installments.

~~C. D.~~ If an eligible teacher terminates service prior to June 30, ~~1998,~~ of any applicable plan year, the amounts prescribed by subsection A or B of this section, and ~~appropriated transferred to~~ the Teachers' Retirement System ~~pursuant to Sections 7 and 52 of Enrolled House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature,~~ from the State Board of Education and the State Board of Vocational and Technical Education shall be retained by the Teachers' Retirement System of Oklahoma and treated as an actuarial gain of the System.

~~D. E.~~ If an employing school district has contractually committed to make payment of the employee contributions required by Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title for a member who is eligible for the credit amount prescribed by subsection A or B of this section for the fiscal year ~~beginning July 1, 1997,~~ using funds available to the district and not by effecting the employee contribution through a deduction from the member's gross salary, the district shall pay additional compensation to each of its eligible teachers in an amount equal to the amount prescribed by subsection A or B of this section based upon the number of years of teaching experience of the eligible member.

F. If an eligible member is hired by a school district or a vocational-technical school district and receives compensation for less than one hundred eighty (180) days of service, the district shall determine a pro rata amount of the annual credit amount and shall pay additional compensation to the member equal to the pro rata amount for each month during which the member is employed. The monthly credit amount for such member shall be added to the member's compensation beginning with the first full month during which the member is employed by the district.

G. The amount required to be added to the compensation of the eligible member pursuant to ~~this subsection E of this section~~ shall be subject to any applicable federal or state taxes upon the additional income. ~~The amount by which the employee contribution paid by the employer is reduced as a result of the credit prescribed by subsection A of this section shall be treated by the employer as an amount which does not qualify for the "picked up" contribution provisions of 26 U.S.C., Section 414(h)(2) and shall be treated as subject to all applicable federal taxes until the private letter ruling described by Section 2 of this act provides for a favorable treatment.~~

H. The amount required to be added to the compensation of the eligible member pursuant to ~~this subsection E of this section~~ shall not be treated as regular annual compensation for purposes of Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title or

as salary or fringe benefits for purposes of determining the minimum salary pursuant to the requirements of Section 18-114.7 of ~~Title 70 of the Oklahoma Statutes~~ this title or for purposes of meeting the requirements of any locally adopted salary schedule.

I. The employing district shall prepare its payroll records to reflect that the total employee contribution amount, for the salary not in excess of the applicable minimum salary amount, has been paid pursuant to a combination of the payment from the funds of the employing district and the amount credited to the employee contribution account of the member pursuant to subsection A or B of this section.

~~E.~~ J. If an employing school district has contractually committed to deduct employee contributions required by Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title by effecting the employee contribution through a deduction from the member's gross salary, the district shall decrease the amount of the payroll deduction for such employee contribution by the amount as prescribed in subsection A or B of this section, based upon the number of years of teaching experience of the member. The amount required to be subtracted from the amount by which the employee's gross salary would otherwise be reduced pursuant to this subsection shall be subject to any applicable federal or state taxes. The employing district shall prepare its payroll records to reflect that the total employee contribution amount, for the salary not in excess of the applicable minimum salary amount, has been paid pursuant to a combination of the deduction from the member's salary and the amount credited to the employee contribution account of the member pursuant to subsection A or B of this section.

~~F.~~ If the Teachers' Retirement System of Oklahoma, pursuant to an official action of the Board of Trustees of the System, certifies to the Department of Education that the Internal Revenue Service has issued a favorable ruling in response to the request described in Section 2 of this act regarding the treatment of the credited amount prescribed by subsection A of this section as a contribution eligible for the treatment provided by Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, the amount credited against the employee contribution requirement as prescribed by subsection A of this section shall be reflected in the payroll and accounting records of the employing school district or vocational-technical district as a contribution "picked up" pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and the amount so credited shall be excluded from "gross wages" paid to the eligible member when the statement of taxable wages is prepared for the employee as required pursuant to the Internal Revenue Code.

~~G.~~ The State Department of Education and the Department of Vocational-Technical Education, in cooperation with the Teachers' Retirement System of Oklahoma, shall prepare an instructional brochure which explains the obligations of the employing school district or vocational-technical school district, respectively, regarding the employee contributions "picked up" pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986, as amended. The instructional brochure shall contain an example of the computation of the employee contribution rate upon the applicable portion of salary for hypothetical employees eligible for the credit amount and the computation of the employee contribution rate upon amounts of salary in excess of the minimum salary schedule amount.

~~H.~~ If the private letter ruling described by Section 2 of this act is favorable and supports the "picked up" treatment of the employee contribution credit amount, the brochure, or a supplement

~~to the brochure, shall include a statement that an employer described by:~~

~~1. Subsection D of this section is obligated to treat the credit amount as a "picked up" contribution pursuant to Section 414(h) (2) of the Internal Revenue Code of 1986, as amended, both for purposes of payroll accounting and for purposes of preparing statements of gross wages earned by the employee as required by the Internal Revenue Code. Until the letter ruling is issued, employers responsible for crediting the amounts prescribed by this act shall treat the credit amount as if it did not qualify for the treatment provided by Section 414(h) (2) of the Internal Revenue Code of 1986, as amended, and shall compute federal and state withholding taxes, or other applicable taxes, accordingly; or~~

~~2. Subsection E of this section is obligated to treat the credit amount as a "picked up" contribution pursuant to Section 414(h) (2) of the Internal Revenue Code of 1986, as amended, both for purposes of payroll accounting and for purposes of preparing statements of gross wages earned by the employee as required by the Internal Revenue Code. Until the letter ruling is issued, employers responsible for crediting the amounts prescribed by this act shall treat the credit amount as if it did not qualify for the treatment provided by Section 414(h) (2) of the Internal Revenue Code of 1986, as amended, and shall compute federal and state withholding taxes, or other applicable taxes, accordingly.~~

SECTION 2. This act shall become effective July 1, 1998.

SECTION 3. 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 28th day of May, 1998.

President of the Senate

Passed the House of Representatives the 28th day of May, 1998.

Speaker of the House of Representatives